

Educational Rights and Responsibilities: Understanding Special Education in Illinois

Illinois State Board of Education
Special Education and Support Services
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The Task Force for Accessible Special Education Parent Materials was charged to examine informational and guidance materials from Illinois and other states to determine the most appropriate materials for parents of students who receive special education services. The Task Force then offered recommendations to the Illinois State Board of Education for updates to the parents guide, web resources (online training and videos), and other print resources (brochures, fact-sheets and others).

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Foreword

Education Rights and Responsibilities: Understanding Special Education in Illinois was developed by the Illinois State Board of Education with assistance from the Parent Task Force on Accessible Special Education Materials. — The guide is for parents, teachers, administrators, and others to learn about the educational rights of children who have disabilities and receive special education and related services. — It has been revised to incorporate the changes made to the Individuals with Disabilities Education Improvement Act of 2004 and the Illinois special education rules and regulations which became effective June 28, 2007.

Special education laws and procedures are complicated and can be hard to understand. — This guide will clarify some of the procedures of special education; however, it is not a complete explanation of all the special education laws. — The guide does contain information about many of the most common things readers may want to know.

If you are a parent reading this guide, your child may have been identified as having a disability or may be experiencing difficulties in school. — All students possess differences, learn differently and demonstrate varied abilities. — This is what makes us unique. — Special education is more about ability than disability. What your child can do is far more important than any perceived or actual limitations he or she may be experiencing. Because you know your child better than anyone else, your involvement in the education process is critical. — Your school district wants and needs your involvement in your child's education. — This guide provides you with tips on how to work in partnership with your local school district on behalf of your child. — We hope this information will give you a better understanding of the special education process in Illinois.

This guide is not meant to replace the Explanation of Procedural Safeguards that districts must give to parents of eligible children at specific times during the school year. — If you have any questions about special education rules or regulations, call a consultant at the Special Education and Support Services Division of the Illinois State Board of Education at the toll-free number 1-866-262-6663. — The direct number of the Springfield office is 217-782-5589 and the direct number of the Chicago office is 312-814-5560. — If you have access to the Internet, the ISBE Special Education homepage has many resources and is located at <http://www.isbe.net/spec-ed/default.htm>.



Elizabeth Hanselman

Assistant Superintendent

Special Education and Support Services

Table of Contents

| | |
|--|----|
| Acknowledgements | ii |
| Foreword | v |
| Introduction: How to Use This Guide | 1 |
| Chapter 1: | |
| Child Find | 3 |
| Overview | 4 |
| Screening | 4 |
| Chapter 2: | |
| Response to Intervention (RtI) | 7 |
| What is RtI? | 8 |
| The Role of Parents in an RtI Process | 13 |
| Resources | 14 |
| Chapter 3: | |
| Referral & Evaluation | 15 |
| Definitions | 16 |
| Evaluation and Reevaluation | 20 |
| Independent Educational Evaluation (IEE) | 22 |
| Chapter 4: | |
| Eligibility Categories | 23 |
| Disability Category Definitions | 24 |
| Chapter 5: | |
| Additional Procedures for Specific Learning Disabilities | 29 |
| Overview | 30 |
| Special Education Eligibility Considerations | 31 |
| Chapter 6: | |
| Individualized Education | |
| Programs (IEPs) | 33 |

What is an IEP?..... 34

Who is on the IEP team? 34

IEP Timelines to Remember 35

What an IEP Includes 35

Specifics about IEP Components 36

Other IEP Considerations..... 40

Additional Requirements for Students Who Have a Disability on the Au-
tism Spectrum 43

Parent Tips..... 44

What You Need to Know About Excusal from IEP Attendance..... 45

Changes to the IEP Without a Meeting 45

Chapter 7:

Least Restrictive Environment (LRE)..... 51

Where should students be educated?..... 52

What do some placement options look like?..... 53

What does the research say about inclusive education? 58

What is the General Education Environment? 59

Chapter 8:

Secondary Transition 61

What is Transition and what does it do for students with disabilities?. 62

What are transition services? 63

What are the basic components of the transition plan?..... 66

What is the transfer of parental rights all about?..... 70

Resources 70

Chapter 9:

Behavior Intervention Plans (BIPs)..... 73

Functional Behavioral Assessment (FBA) 74

Behavioral Intervention Plans (BIP) 75

| | |
|---|-----------|
| Chapter 10: | |
| Student Discipline | 77 |
| School Safety | 78 |
| Manifestation Determination Review (MDR) | 78 |
| Removal from the Current Placement for Certain Conduct | 79 |
| Protections for Certain Students Who Are Not Special Education Eligible | 80 |
| Expedited Due Process Hearings | 81 |
| Chapter 11: | |
| Conflict Resolution | 85 |
| Introduction to Conflict Resolution | 86 |
| Key Terms | 86 |
| When a Disagreement Occurs: First Steps | 88 |
| All About Mediation | 90 |
| Formal Dispute Resolution | 92 |
| All About State Complaints | 93 |
| Formal Disputes: Due Process Hearings | 96 |
| Why Should I File for Due Process? | 97 |
| Can a District File for Due Process Too? | 99 |
| Do I Need to Hire a Lawyer or Advocate? | 99 |
| How Do Parents Request a Due Process Hearing? | 100 |
| Stay-Put: How a Hearing Request Affects the Child's Placement | 101 |
| A Note about Hearing Officers and Substitutions | 102 |
| Next Steps: Responses and Insufficiency | 102 |
| The Resolution Process | 103 |
| Resolution Agreements | 105 |
| Setting the Stage: The Pre-Hearing Conference | 106 |
| The Big Event: The Due Process Hearing | 108 |

| | |
|--|-----|
| The Decision & Clarification: The Final Step? Maybe | 109 |
| Court Review of the Decision..... | 110 |
| Conclusion: Conflict Resolution in a Nutshell..... | 111 |
| Chapter 12: | |
| Private Schools..... | 113 |
| Overview of Private School Placement..... | 114 |
| Placement by a Parent on a Voluntary Basis..... | 114 |
| Placement by a Public School District..... | 117 |
| Chapter 13: | |
| School Records..... | 119 |
| Reviewing and Copying Records | 120 |
| Challenging Your Child's Records..... | 120 |
| Age of Majority | 121 |
| Medicaid and Insurance: Parent Consent/Student Records | 121 |
| Chapter 14: | |
| Early Childhood Services | 123 |
| Early Childhood Special Education Services | 124 |
| Transition from Early Intervention..... | 124 |
| IFSP/IEP..... | 126 |
| Chapter 15: | |
| Section 504 of the | |
| Rehabilitation Act of 1973 | 127 |
| Overview | 128 |
| How to File a 504 Complaint:..... | 129 |
| Chapter 16: | |
| The Illinois State Advisory Council on the Education of Children with Disabilities | |
| (ISAC)..... | 133 |
| Appendix A: | |
| Sample Letters for Parents | 137 |

| | |
|--|-----|
| 1. Writing to Discuss a Problem | 138 |
| 2. Requesting an Initial Evaluation for Special Education Services..... | 140 |
| 3. Requesting an Independent Educational Evaluation (IEE) at Public Expense | 142 |
| 4. Requesting Your Child's Records..... | 144 |
| 5. Requesting a Meeting to Review the Individualized Education Program (IEP)..... | 146 |
| 6. Requesting a Change of Placement..... | 148 |
| 7. Requesting Prior Written Notice..... | 150 |
| 8. Requesting Mediation | 152 |
| 9. Informing the School that You Intend to Enroll Your Child in a Private School at Public Expense | 154 |
| 10. Requesting a Due Process Hearing..... | 156 |
| 11. Filing a Complaint with the Illinois State Board of Education | 158 |
| 12. Writing a Follow-up Letter..... | 160 |
| 13. Writing a Positive Feedback Letter..... | 162 |
| 14. Revocation of Consent for Special Education..... | 164 |

Appendix B:

| | |
|--|-----|
| Quick Reference Charts..... | 167 |
| Referral & Evaluation | 168 |
| Eligibility Categories..... | 172 |
| Additional Procedures for Specific Learning Disabilities | 173 |
| Individualized Education Programs (IEPs)..... | 174 |
| Least Restrictive Environment (LRE)..... | 183 |
| Secondary Transition | 184 |
| Behavior | 187 |
| Discipline..... | 188 |
| School Records..... | 191 |

| | |
|--|-----|
| Early Childhood Services | 193 |
| Appendix C: Glossary of Key Terms | 195 |
| Appendix D: Sample Forms | 217 |

Introduction: How to Use This Guide

This guide is written for parents of children who receive or are suspected of needing special education and related services, teachers, education administrators and professionals, and service providers. Special education and related services are supports and services provided to children with disabilities. Certain procedures must be followed to determine if a child is eligible to receive special education services. Those procedures are written in federal and state laws. Special education laws and procedures can be complicated. This guide explains the requirements in a way that relates to all groups—parents, school professionals, and others.

The Guide contains a wide variety of information about special education. Some information may be relevant to you now; other information might be helpful in the future. Whenever you refer to the guide, we hope you'll find it of value in expanding your knowledge of special education. As your knowledge expands, we hope your ability to make decisions that improve your child's academic outcomes increases.

In addition to the main text, we've provided sidebars throughout the book to provide you with important information and other resources. The sidebars are color-coded for specific types of information:

Worth a Look

The main legal provisions that address Child Find are:

20 USC Sec. 1412(a)(3)
34 CFR Sec. 300.111
23 IAC 226.100

A green sidebar will contain additional information and resources for you to review if you're interested in learning more about a topic.

Tips for Parents

Don't forget to write a letter to request an evaluation. Asking for one is not enough!

A blue sidebar will contain tips and suggestions primarily for parents. However, the information contained here can be useful to everyone.

Important Reminder

The determination of eligibility shall be made and the IEP shall be completed in 60 school days (or less) following the date of written consent from the parent.

A red sidebar will contain important information that must be kept in mind when thinking about the topic. This is information that both parents and district people need to remember.

As you learn more about special education and talk to other parents, teachers, and school administrators, the whole process becomes easier and less overwhelming.

The guide now contains a set of quick reference topic charts. An number of sections of this book have a corresponding chart in Appendix B. The charts are formatted as outlined below:

| Topic (Lists the main topic.) | |
|--|--|
| Citation(s) | Lists the citation in federal and/or state law: 34 CFR 300 - Means you can find it in the federal regulations. 23 IAC 226 - Means you can find it in the state regulations. 20 USC 14-- - Means you can find it in IDEA 105 ILCS - Means you can find it in the Illinois School Code (state law) |
| What Does it Mean? | Plain language wording about the law. |
| What Needs to Happen? | A description of the event or events that should occur because of the law. |
| What Parents Need to Know or Do | Tells what the school or the Individualized Education Program (IEP) team should do and contains ideas and tips for parents. |

Finally, Appendix C is a glossary of key terms with their definitions and common acronyms. Refer to Appendix C whenever you run across a special term or phrase that you need to know about in more detail.

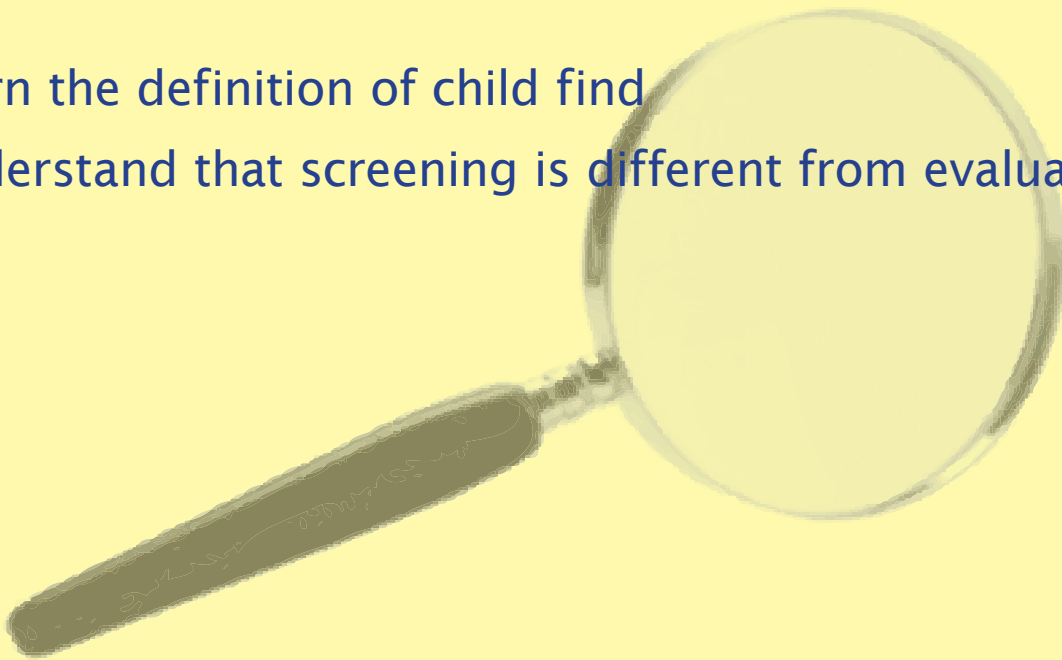
Please keep in mind that the beginning of anything new is always the most difficult time. But we believe that this guide will help you to *begin* understanding this sometimes very complicated process.

Please note the contents of the educational rights guide are not to serve, and should not be construed, as legal advice from the Illinois State Board of Education. If you have specific concerns regarding your particular situation, you should consult with legal or other resources as appropriate.

Chapter 1: Child Find

In this chapter you will:

- learn the definition of child find
- understand that screening is different from evaluation



Overview

Child Find is an ongoing process through which all children, from birth through 21 (i.e., through the day before the student's 22nd birthday), or who may be eligible for early intervention, or who may be in need of special education services are identified, located and evaluated.

Each school district is responsible for actively locating, identifying and evaluating all children who live within the district boundaries who may qualify to receive special education and/or related services. All school districts must have written procedures for child find activities for all school children, including those attending private, charter, and/or religiously affiliated schools. These procedures must describe activities for:

Worth a Look

The main legal provisions that address Child Find are:

20 USC Sec. 1412(a)(3)
34 CFR Sec. 300.111
23 IAC 226.100

- » annual screening of children under the age of five to identify those who may need early intervention or special education services;
- » ongoing review of all children in general education classes;
- » ongoing coordination with early intervention programs like Child and Family Connections, Head Start, local preschools and daycare facilities;
- » coordination and consultation with nonpublic schools located within the district; and
- » referrals of children who might require evaluation for special education from parents, school staff, and representatives from community agencies.

Screening

Screening is the process of reviewing **all** children in a given group with a **set of criteria** for the purpose of identifying certain individuals for evaluations who may be in need of special education. One purpose of screening is to locate children, birth through age 21, (i.e., through the day before the student's 22nd birthday) who may benefit from special education services to maintain satisfactory educational

performance. No child can be determined eligible to receive early intervention/special education and related services based only on the results of a screening procedure.

Screening is different from evaluation. Screening generally means reviewing all children in a given group (all kindergartners, all students who are new to the school district, all 3-year-old children in the community, etc.). It is not specific to an individual child except where it is used by a school district to determine whether a child that has been referred for evaluation is in need of evaluation. All children in the group must be screened with the same assessment process. Screening does not involve administration of assessment instruments which would be used in an evaluation. The district must inform the public of the process for conducting group screenings through school handbooks, newsletters, child find activities, letters, or similar methods. Written parent/guardian permission is not required for this type of screening. Screening results should be shared with the parents/guardians. Screenings are done to determine which students are in need of evaluation. Screening may also occur when a particular child is referred for evaluation for special education in order for the school district to determine if evaluation is necessary.

Special education instruction and related services are available for children with special needs from birth to age 21 (i.e., through the day before the student's 22nd birthday).

Special needs may be in the areas of:

- » Vision
- » Hearing
- » Health
- » Behavior

Or involve skills in:

- » Fine or gross motor
- » Speech/Language
- » Cognitive or learning

Tips for Parents

Here are some suggestions for how you can best make use of the Screening process for your child:

- Ask your child's daycare or preschool teacher if they have concerns about your child
- Ask your child's doctor if they have any concerns about your child
- Consider the advice of friends and family when they have worries about your child
- Call your local school principal or local school district office and ask about having your child attend a School Child Find Screening
- Bring any papers from teachers, doctors or others to the Child Find screening.

Important Reminder

Please share this information with your relatives, friends and neighbors. It is important that parents of young children are aware of the availability of services before school enrollment age.

- » Social and emotional
- » Adaptive or self-help

It is important to locate children with disabilities at a young age so that early help and support can be provided. Studies show that students learn and grow more successfully when they receive help early in their lives. Referrals for evaluation may be made by a parent, community agency, physician, day care provider, teacher or private school employee.

Screening and evaluation, as appropriate, are available at ***no cost*** to the family.

Chapter 2:

Response to Intervention (RtI)

In this chapter you will:

- learn the three parts of a response to intervention process
- learn about progress monitoring and data collection
- understand the role of parents in the process
- learn that parents can request a special education evaluation at any point in the intervention process

What is RtI?

Response to Intervention (RtI) is an approach for redesigning and establishing teaching and learning environments that are effective, efficient, relevant and durable for all students, families and educators. RtI is a general education initiative.

Response to Intervention (RtI) is a process designed to help schools focus on and provide high-quality instruction and interventions to students who may be struggling with learning. An intervention is a specific type of instruction that is used to help with a specific type of problem. Interventions are matched to student needs. Student progress is monitored often to check the effectiveness of the instruction and interventions. The data collected on a student's progress are used to shape instruction and make educational decisions. Use of an RtI process can help avoid a “wait to fail” situation because students get help promptly within the general education environment.

Worth a Look

ISBE has a number of informative resources on RtI. If you're interested in more information on RtI, please go to:

http://www.isbe.net/RtI_plan/default.htm

RtI has three important parts: 1) using a three tier model of school supports, 2) using a problem-solving method for decision-making, and 3) using data to inform instruction.

Part 1: Three-Tier Model of School Supports:

In an RtI framework, resources are determined by a student's needs. This framework is usually shown as a three-tier model (see Figure 1) that uses more and more intense instruction and interventions. The level of intensity of instruction and interventions is determined by how a student responds to the instruction.

As the diagram on page 10 shows, Tier 1 is the foundation. This is the instruction that all students receive in the general education classroom with their general education teacher. It is called Tier 1 instruction or the core instruction. Schools need to make sure that the materials and instructional practices they use are of high quality and have been shown by research to be effective (research-based). Research based interventions are teaching strategies or methods that have been proven to be effective in helping children

learn. Another important issue related to high quality instruction and interventions is the fidelity of using the materials for their intended purpose. Instructional materials are designed and developed for a specific reason and it is important that the materials are used as they are intended.

Schools use a universal or school-wide screening to identify students that are at risk for learning problems with the core instruction and materials. When a screening test shows that a student is at risk for a learning problem, the student may receive extra help in the general education classroom with the general education teacher. The school begins a step-by-step teaching process and uses frequent assessments to determine if the teaching techniques are helping the students. If after a brief period of time, the student does not show enough progress, the teacher will consult with other staff members at the school. Together the team might decide that the best way to help a student who has not progressed in the core instruction, even with extra help, may require Tier 2 interventions.

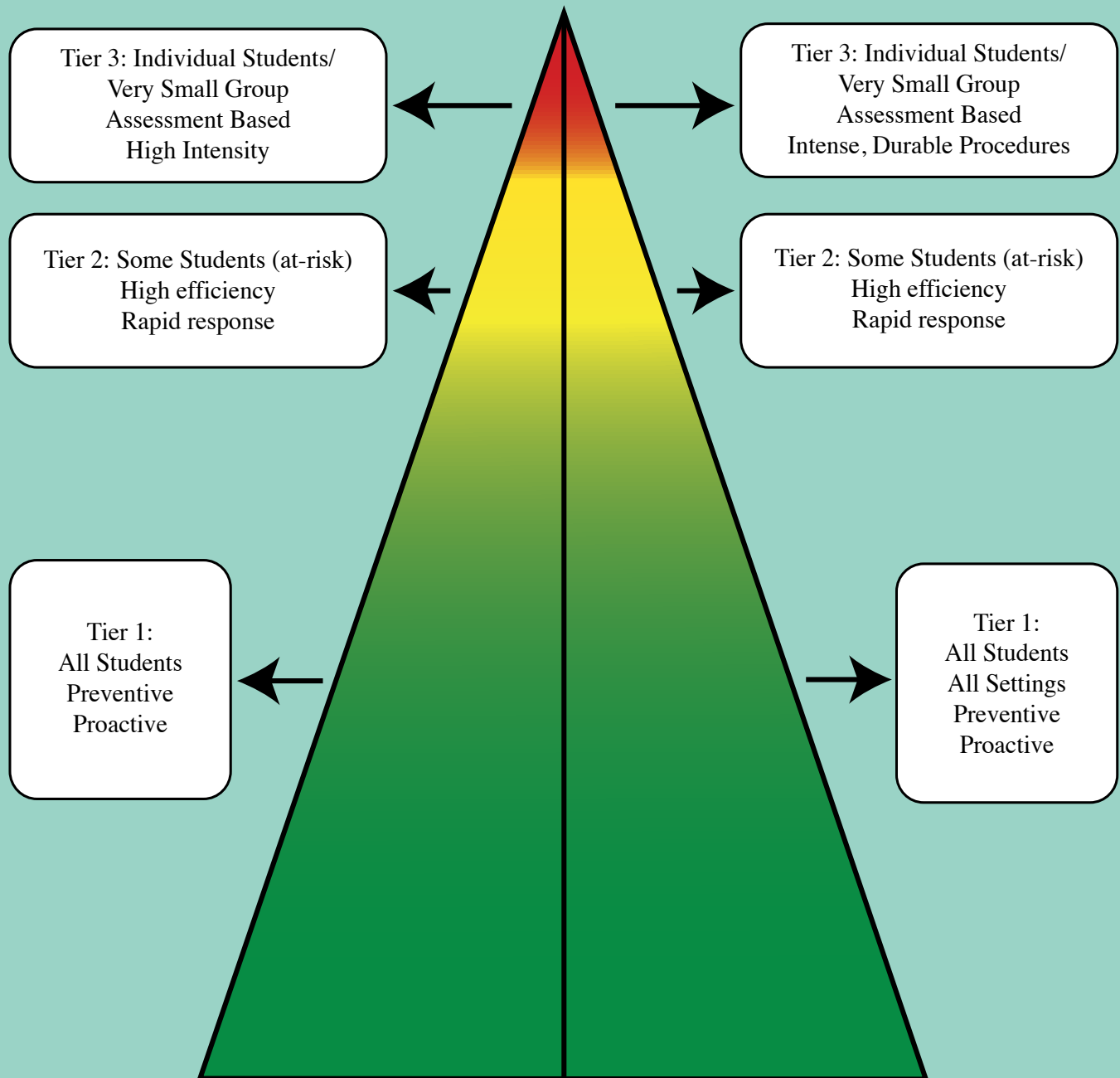
Tier 2 interventions are provided with an increased level of intensity *in addition to core instruction* for small groups of students who show some risk of not meeting grade level standards. With fewer students in a group, an individual student has more opportunities to respond, and the teacher has more opportunities to give immediate and appropriate feedback to each student. The teacher can more easily guide a student along the right course. Tier 2 interventions usually involve additional practice and skill building. There are many different kinds of interventions and instruction that can happen in the classroom, outside the classroom or in small groups.

Tier 3 interventions are an even higher level of intensity from Tier 2 interventions and are also provided *in addition to core instruction*. Tier 3 interventions are typically provided to an individual student or perhaps two to three students at one time by a staff member. Interventions are tailored specifically to meet the needs of each student. Students may move fluidly from tier to tier as a result of their

The Three-Tier Model of School Supports

Academic Systems

Behavioral Systems



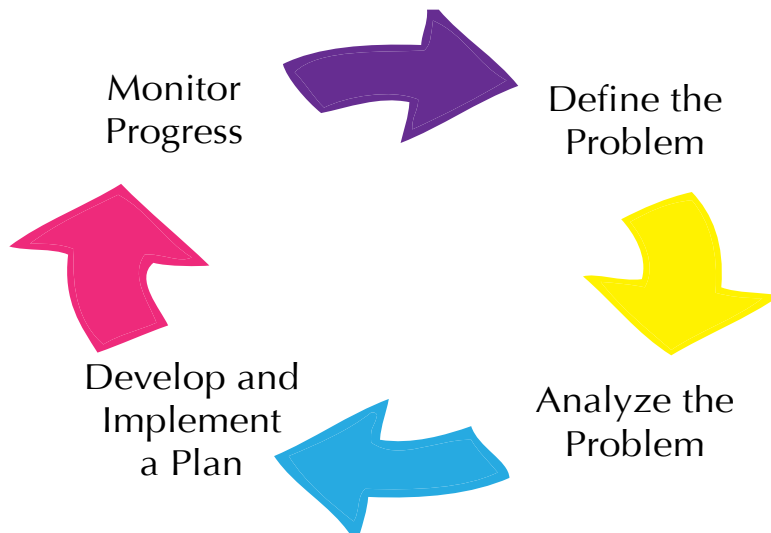
Continuum of School-Wide Instructional & Positive Behavioral Support

Adapted from *Reaching All Students: RtI & SWPBS* (Eber & Sugai, 2009).

response to their interventions.

Part 2: The Problem-Solving Method of Decision-Making

In RtI, the problem-solving method is used to match instructional resources to educational need. The problem-solving method (see below) is as follows:



The steps of problem solving

Adapted from *Response to Intervention: Policy Considerations and Implementation* (Batsche, et al. 2005).

- » **Define the problem:** Determine the gap or difference between what the student is expected to do and what the student is actually doing.
- » **Analyze the problem:** Use information collected from a variety of sources, such as school work, tests, parents' input, etc. to determine why the student may be having problems with learning or behavior.
- » **Develop and implement a plan:**
 - Set a goal that describes the expected improvement in the student's learning;
 - Choose the intervention(s) specific to the problem;
 - Identify how the student's progress will be monitored; and

- Carry out the interventions and check to make sure they are being done correctly.
- » **Monitor Progress:** Collect and use student data to determine if the intervention plan is working or if changes are needed.

Part 3: Using Data to Inform Instruction

In an RtI model, as interventions get more intensive, student progress is monitored more often. Knowing if a student's performance is improving helps the team members plan for the student's learning. A small group of educators familiar with the student and the learning and behavioral expectations and the parent(s) of the student are members of the group that participate in the development and ongoing decision-making of the student's learning plan.

At Tier 1, data are collected and used for screening and benchmarking of all students in important areas such as reading, math, writing and behavior. This means that schools use the information to measure where all students are performing and how much progress they are making. The data also helps schools determine if their core instructional practices are effective for most students. At Tier 2, data are collected to determine whether the extra instruction is making a difference. At Tier 3, data are collected for the same reasons as Tier 2, but are collected more often so that decisions and changes to the student's instruction can be made sooner.

In an RtI model, test materials or other tools used to collect data for screening should be in line with the district's instructional materials and practices. Progress monitoring tests should be similar across all three tiers. Additionally all of the screening and progress monitoring tools should be scientifically, research-based. The information collected from the screening and progress monitoring materials are used to help the team answer the following questions about the student's learning:

- Is the student making progress?
- Are the current interventions helping the student

learn in the identified problem area?

- Is the student making enough progress to close the gap in the identified area?
- If the interventions are no longer provided, is the student able to continue to make progress? If not, can the current interventions be continued with general education resources?

The Role of Parents in an RtI Process

Parents are important partners in all aspects of their child's education. In an RtI process, school teams should involve parents from the beginning. Concerns about a student experiencing academic and/or behavioral difficulties are presented by the child's teacher to a building-level team. The building team consists of school staff who review available student information and collect additional information from the parents to gain a better understanding of the student's needs. As the process continues, parents should be active members of the team and participate in the problem-solving process.

If your child is identified as being at risk for learning or behavioral difficulties, to be involved you can:

- » Attend team meetings. Remember, you are the expert regarding your child!
- » Ask what interventions are being used for academic and/or behavioral problems.
- » When possible, use the same strategies or interventions at home.
- » Ask the school what formal guidelines they are using for progress monitoring.
- » Ask your school to provide you with regular progress monitoring reports.
- » Praise your child for any progress or general improvement in the area(s) of concern.

- » When possible, make suggestions for strategies or interventions based on what you know works well at home.
- » Always ask questions when things are not clear!

If you believe that your child is in need of special education services, you have the legal right to ask that the school evaluate your child to determine whether he or she is eligible to receive special education services. ***You can ask the school to evaluate your child at any time, regardless of where your child is at in the RtI process.***

Resources

The Illinois State Board of Education offers a wide variety of resources and support on RtI practice. Please go to:

http://www.isbe.net/RtI_plan/default.htm

In addition, we also recommend the following items for further information on RtI:

A Family Guide to Response to Intervention (RtI) (*The Parent Information Center of New Hampshire*).

(Available at <http://www.parentinformationcenter.org/images/RTI%20Booklet%20PQ.pdf>)

Response to Intervention: Policy Considerations and Implementation (*Batsche, et al 2005*).

The ABCs of RtI: Elementary school reading, a guide for parents (*Mellard, D., McKnight, M., & Deshler, D.*)

(Available at http://nrcl.org/free/downloads/ABC_of_RTI.pdf)

Chapter 3:

Referral & Evaluation

In this chapter you will:

- learn what “date of referral” means
- learn the timelines for the school to make a decision about conducting an evaluation
- see what areas or “domains” are included in an evaluation assessment
- learn how often the district must conduct a reevaluation
- get information on independent educational evaluations

Definitions

A *“referral”* in the context of special education services is a process asking the school district to evaluate a student to decide if the student qualifies to receive special education services. A referral can be made either by the school district (through a teacher or other school personnel involved in the student’s education) or by a parent or guardian. The referral is a required first step before an evaluation can take place.

The *“date of referral”* is the date of written parental consent for an evaluation. Screening procedures shall not be considered an evaluation.

Within 14 school days after receiving the written request, the district will decide whether to evaluate the child or not. If the district determines an evaluation is warranted, then the district must provide the parents with the paperwork to provide formal written consent.

If the district determines that the evaluation is not necessary, it must notify the parent in writing of the decision not to evaluate and the reasons for the decision.

The district must advise the parents of their right to request a due process hearing to challenge its decision.

Parents need to submit a request for evaluation to have their child considered to be eligible for special education services. It is best to put your request in writing.

Not all referrals result in an evaluation being conducted.

To be eligible to receive special education services, the child must have a disability that impacts educational performance. Please see Chapter 5, “Eligibility Categories” for further information.

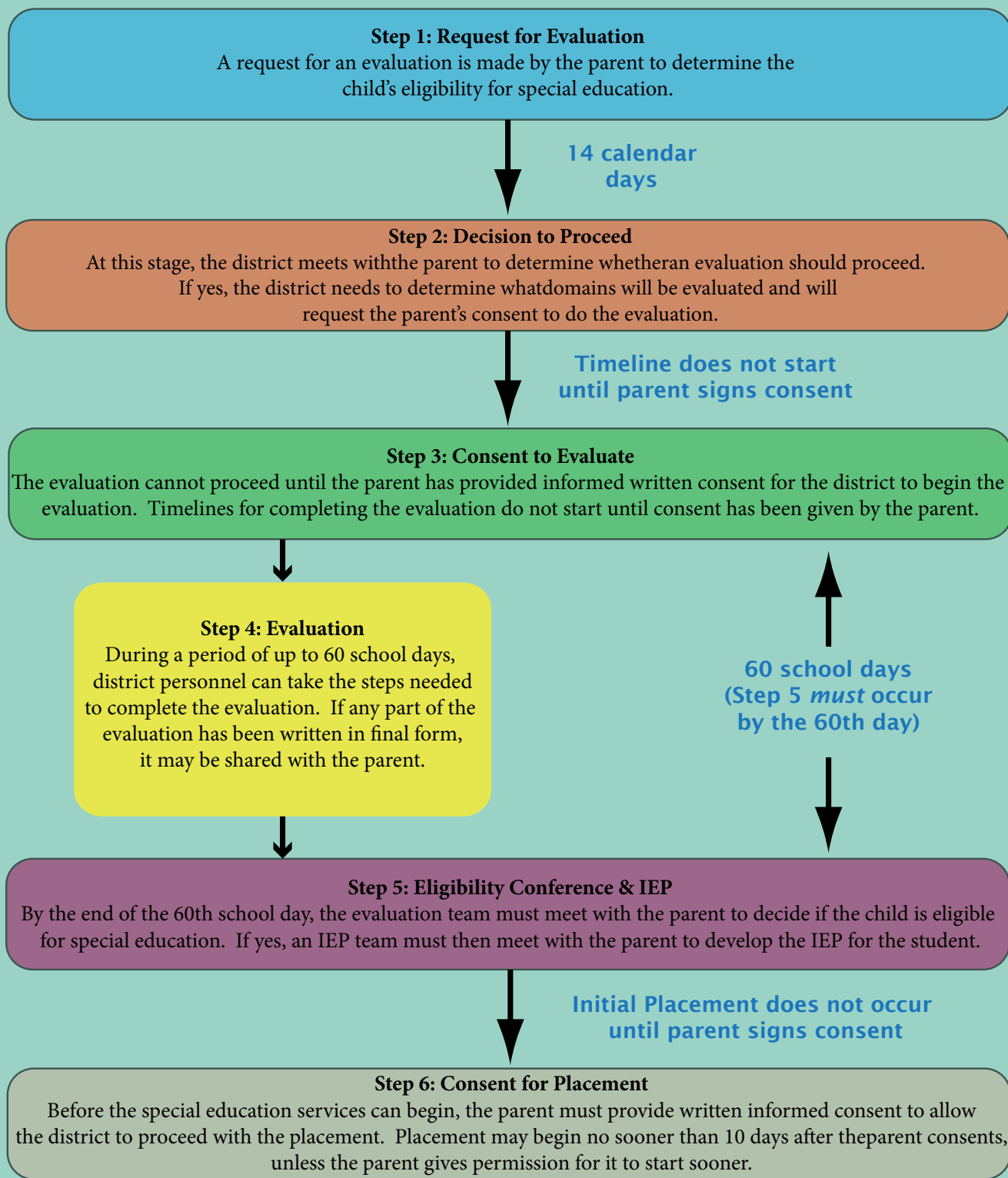
Requests for evaluation may be made by a parent of a child, an employee of a State educational agency, another State agency, a local school district, or a community service agency.

Tips for Parents

Don’t forget to write a letter to request an evaluation. Asking for one is not enough!

Keep a copy of the letter. If possible, it is best to have someone at the school sign and date that the school received the letter, or to send it certified mail, return receipt requested.

Initial Eligibility: Step by Step



Parent Involvement in the Referral Process

Both state and federal laws and regulations governing the administration of educational programs for students with disabilities have recognized the important role of parents in the special education process. Parents and school personnel should establish a positive relationship with shared goals and a common understanding of the child's needs at home, at school, and in the community. It is essential that parents and schools work cooperatively together to improve student performance. Below you will find some tips to help you with parent involvement.

Be an active participant in your child's education:

- » Inform yourself about what help is available in or through your child's school.
- » Talk to other parents, teachers, doctors, and community providers.
- » Find resources like the ISTAC Parents, Parent Mentors, ISBE, Parent Training, Information Centers (PTIs) and Equip for Equality's Special Education Clinic.
- » Be able to talk about your child's strengths and needs.
- » Learn about your child's legal rights.
- » Participate in the meetings that look at information to decide if your child is eligible to receive special education services.
- » Attend and be prepared to participate in the Individualized Education Program (IEP) meetings. Parents are key decision makers and an equal member of the IEP team.
- » Ask questions if you do not understand terms, language, or other things that happen during your child's meeting(s).
- » Call, email, or request a meeting if you are worried about how your child is doing at school.

In addition:

- » Share letters, reports, or other materials that can help the school understand your child and provide appropriate services to your child. This information could be from teachers, doctors, or community agencies. Be sure to keep a copy of these items for your records.
- » Start a file or log in which you write important dates and milestones of your child's learning. This will also be a good place to record the results of important conversations and meetings you have had with teachers and others regarding your child's

Parent Involvement in the Referral Process

progress. A binder works great!

- » Send emails or letters confirming important conversations regarding your child and/or promises made with respect to what the school will or will not do.
- » Always put in writing any important requests to the school, including requests for an evaluation (as well as requests for IEP meetings and records).
- » Keep a copy of all letters that you send.
- » Whenever possible send your correspondence by certified mail, return receipt requested to assure delivery of the letter, or hand carry the letter and request a receipt.
- » Keep printed copies of important e-mail messages to or from the school.
- » Keep all papers and letters from the school that you feel are important such as IEPs, samples of your child's work, and notices regarding the dates of meetings. Keep these documents in your file.
- » Develop an ongoing working relationship with those persons who are responsible for providing services to your child. Get to know the names and responsibilities of all those working with your child.
- » Communicate positive information as well as concerns.

Evaluation and Reevaluation

Evaluation is defined regulations as procedures used to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

The school district must assess the child in all areas of suspected disability including:

- » academic performance
- » health
- » vision
- » hearing
- » social & emotional status
- » communication
- » motor abilities
- » general intelligence
- » functional performance
- » other areas as needed.

Important Reminder

Often these areas are called “**domains**” for purposes of the evaluation.

Public agencies are prohibited from using a measure or assessment for purposes different from the purpose for which the measure was designed.

Assessments are provided and administered in the child’s native language or mode of communication to get accurate information on what the child knows and can do.

The school district must use a variety of assessments, tools, and strategies to conduct the evaluation.

When conducting an initial evaluation, a child must be tested in all areas of suspected disability.

Data gathered from evaluations are used to assist in the development of the IEP.

Assessments should be valid and reliable for their designed purposes.

Assessments must be administered by personnel who are trained to do so.

Assessments and other evaluation materials used should be administered:

- so as not to be discriminatory on a racial or cultural basis, and
- in the child's native language or other mode of communication.

Parent written informed consent must be obtained before the evaluation can be conducted.

Information from parents should be included as part of the evaluation.

Information should be collected through a variety of approaches (observations, interviews, tests, curriculum-based assessment, and so on) and from a variety of sources (parents, teachers, specialists, peers, and the child).

Parents should be given a copy of the conference report and recommendations.

Parents should be informed of their right to obtain an independent educational evaluation (IEE) at district expense if they disagree with the evaluation findings.

The evaluation should yield information on what the child knows and can do academically, developmentally, and functionally.

This applies when evaluating all children including those:

- for whom English is not the native language;
- who communicate by signing;
- who use alternative augmentative communication; and
- who use other means to communicate.

Please note the following:

- IDEA prohibits basing eligibility determination or special education programming upon the results of only

Important Reminder

The determination of eligibility shall be made and the IEP shall be completed in 60 school days (or less) following the date of written consent from the parent.

one test, measure, or assessment procedure. A variety of tools must be used.

- As a parent, you can agree or disagree to any or all of the testing.
- Think about what the child knows and can do. Examine how the child learns and demonstrates knowledge.
- It is not enough to conduct a thorough examination of what a child cannot do when making decisions about educational programming.

The Big Picture: Reevaluations

Reevaluations must occur at least once every 3 years, unless the parent and the school district agree that a reevaluation is unnecessary based on the existing information on the student. If the district believes that a reevaluation is unnecessary, a parent still has the right to request that the reevaluation go forward. (20 U.S.C. 1414(a)(2)) (34 CFR 300.303).

Independent Educational Evaluation (IEE)

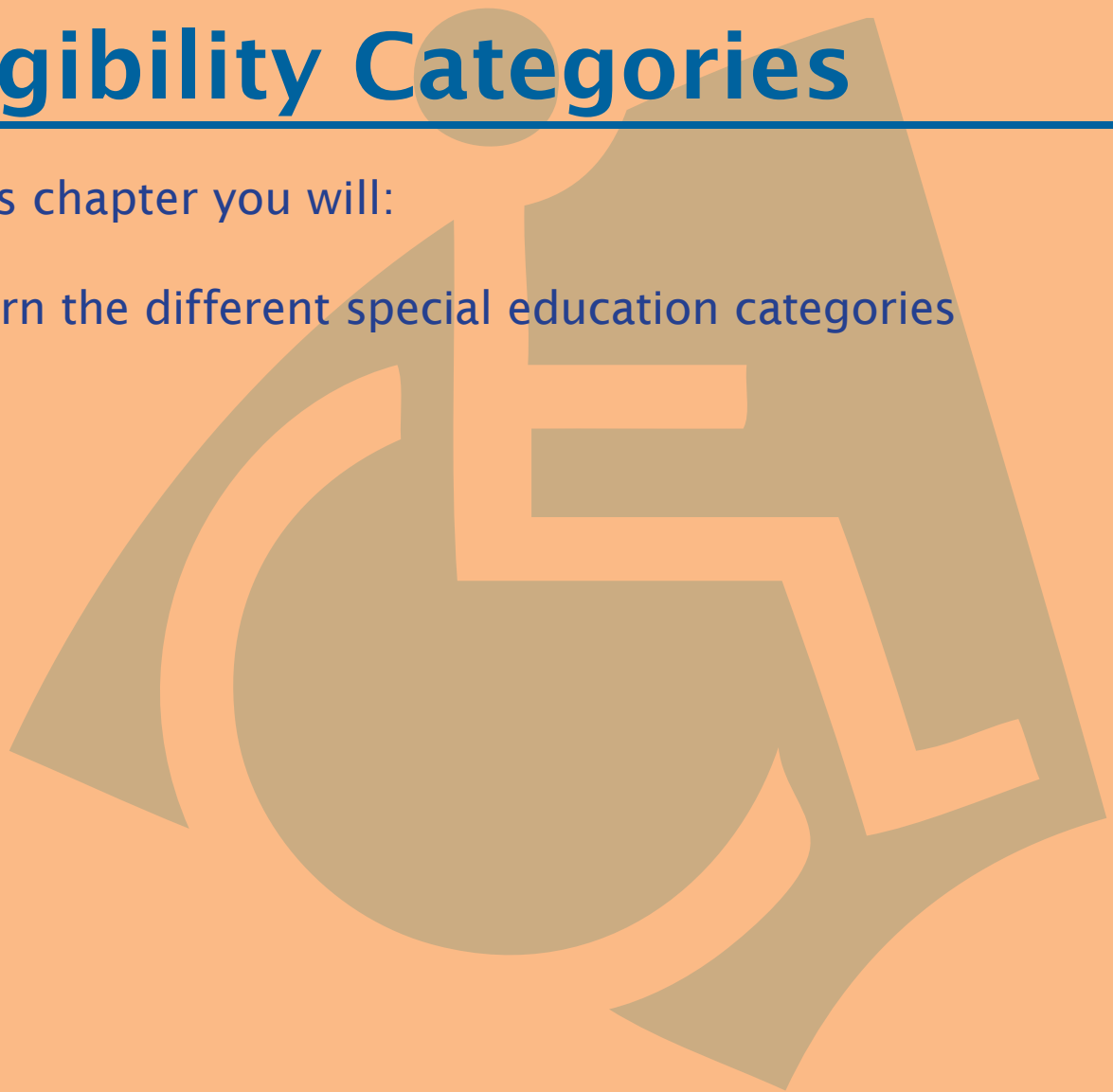
Sometimes parents may have a reason to believe that the evaluation does not provide an accurate picture of their child's abilities/areas of needs. In those cases, parents can request in writing that a new evaluation be completed by an outside person or agency (someone not employed by the district). The district is free to agree to the evaluation or to deny the request. The district must provide its answer within five (5) calendar days of the parents' request. If the district denies the request, it is required to initiate a due process hearing in order to allow a due process hearing officer to decide whether the evaluation should occur. (See Section 11 for more information on due process hearings.)

Chapter 4:

Eligibility Categories

In this chapter you will:

- learn the different special education categories



IDEA lists different disability categories under which children may be eligible for services. For a child to be eligible for services, the disability must affect the child’s educational performance. Students may qualify for services under one or more categories. These categories do not tell the whole story of the student. Categories alone do not identify where the student will go to school or determine what kind of services they need.

A child may not be identified as a “child with a disability” just because he or she speaks a language other than English and does not speak or understand English well. A child may not be identified as having a disability just because he or she has not had enough instruction in math or reading.

Disability Category Definitions

Unless otherwise stated in the definitions below, the following 14 special education eligibility categories are found at 34 CFR 300.8.

| Autism |
|---|
| Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child’s educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child’s educational performance is adversely affected primarily because the child has an emotional disability. In addition, autism shall include, but not be limited to, any Autism Spectrum Disorder that adversely affects a child’s educational performance. |

Cognitive Disability

Cognitive disability means significantly below average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.

Deaf-Blindness

Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Deafness

Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance.

Developmental Delay

A delay in physical development, cognitive development, communication development, social or emotional development, or adaptive development (may include children from three through nine years of age). (23 IAC 226.75)

Emotional Disability

An emotional disability means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- An inability to learn that cannot be explained by

Worth a Look

34 CFR 300.8 uses the term "mental retardation" to describe children with below average intellectual functioning and deficits in adaptive behavior. Illinois has chosen to use the term "cognitive disability" when describing such children. (See 23 IAC 226.75 under the definition of "Disability.")

intellectual, sensory, or health factors.

- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- Inappropriate types of behavior or feelings under normal circumstances.
- A general pervasive mood of unhappiness or depression.
- A tendency to develop physical symptoms or fears associated with personal or school problems.
- Emotional disability includes schizophrenia.

Hearing Impairment

A hearing impairment is one that is either permanent or fluctuating and that adversely affects a child's educational performance, but that is not included under the definition of deafness.

Multiple Disabilities

Multiple disabilities means a combination of various impairments that cause such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

Orthopedic Impairment

An orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

Other Health Impaired

Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that result in limited alertness with respect to the educational environment, that:

- Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and
- Adversely affects a child's educational performance.

Specific Learning Disability

Specific learning disability—Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

Important Reminder

Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of cognitive disability, of emotional disability, or of environmental, cultural, or economic disadvantage

Speech or Language Impairment

Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

Traumatic Brain Injury

Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies

to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

Visual Impairment

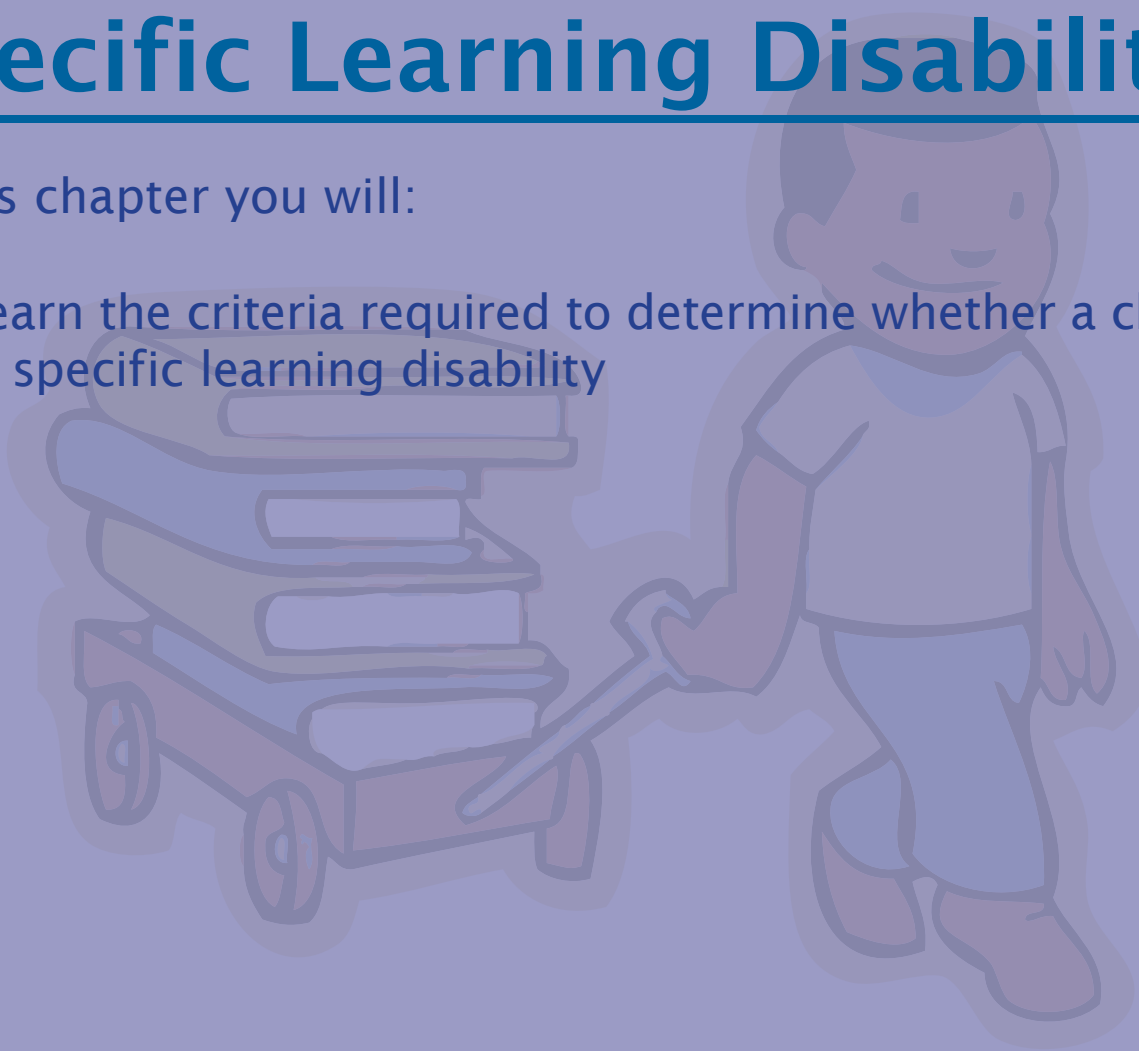
Visual impairment includes any type of sight problem which, even with glasses/contacts, adversely affects school performance. Children with visual impairments can be further described as partially sighted or blind based on the degree of visual impairment and their educational needs.

Chapter 5:

Additional Procedures for Specific Learning Disabilities

In this chapter you will:

- learn the criteria required to determine whether a child has a specific learning disability



Overview

IDEA 2004 expanded the specific learning disability determination to require States to adopt criteria that

- does not require the use of a severe discrepancy between intellectual ability and achievement in determining whether a child has a specific learning disability;
- must permit school districts to use an educational process based on the child's response to scientific, research-based instructional interventions; **and**
- may permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability.

Schools in Illinois shall, no later than the beginning of the 2010-2011 school year, implement the use of a process that determines how the child responds to scientific-research-based interventions as part of the evaluation procedure.

SLD may manifest itself in the imperfect ability to:

- » listen
- » think
- » speak
- » read
- » write
- » spell
- » do mathematical calculations

SLD can include conditions such as:

- » perceptual disabilities
- » brain injury
- » minimal brain dysfunction
- » dyslexia

- » developmental aphasia

SLD does not include learning problems that are primarily the result of:

- » visual, hearing, or motor disabilities
- » mental retardation
- » emotional disturbance
- » environmental, cultural, or economic disadvantage

IEP teams cannot determine that a child has an SLD if the child's learning problems primarily result from:

- » lack of appropriate instruction in reading
- » lack of appropriate instruction in math
- » limited English proficiency

Special Education Eligibility Considerations

Within a scientific, research-based intervention process, such as RtI, school teams are able to use student progress data collected at each tier to document a student's response to scientific, research-based interventions as part of the special education evaluation process. Evaluation to determine special education eligibility may occur at any tier, although it typically occurs within Tier 3 when a student either:

- Does not respond to the most intensive interventions or
- Responds to the interventions but is not able to maintain his/her performance if the intensity level is decreased or the interventions are faded.

It is also important to note that a parent may request a special education evaluation at any point during the intervention process. The use of the RtI process cannot delay the evaluation, if needed. The district must fully consider the parents' request and decide whether or not to conduct the evaluation. The district must then notify the parents in

Worth a Look

The procedures for addressing eligibility under the category of SLD can be found at 23 IAC 226.130.

writing of its decision and the reasons for that decision.

State special education regulations require that by the 2010-2011 school year, school districts must use an RtI process as part of the special education evaluation process when a specific learning disability (SLD) is suspected. After using an RtI process for this purpose, a district may also, but is not required to, use a severe discrepancy between intellectual ability and achievement as part of the evaluation process for determining whether a child has a SLD. However, they will not be able use severe discrepancy alone to determine eligibility.

ISBE recognizes that some districts are currently further along in the implementation of RtI and may implement this process prior to the 2010-2011 school year. Additionally, the RtI process may be used as part of the evaluation process for students considered for eligibility in other disability areas.



Chapter 6:

Individualized Education Programs (IEPs)

In this chapter you will:

- learn the parts of an IEP
- learn who is on an IEP team
- discover tips and things to remember when working on the IEP
- understand the additional requirements the team must consider when writing an IEP for a student who has a disability on the autism spectrum
- learn that changes can be made to an IEP without a meeting
- know what “prior written notice” is and learn when schools are required to provide it
- learn what happens if a parent revokes consent to provide special education to a student

What is an IEP?

Once it is determined that a student meets the criteria to receive special education and related services, an Individualized Education Program (IEP) will be developed. An IEP is a written statement of the educational program designed to meet the student's needs and is developed by a team. The IEP includes a detailed description of what will be done to give the student the extra help needed. The IEP will change based on the student's needs—it is like a road map showing where the student is and where he or she is going.

Who is on the IEP team?

The following individuals are required to attend all IEP meetings:

- **Parent(s)** - Parents are equal participants.
- **Student** – The student may attend and participate if the parent(s) decide he/she should be present.
- **General Education Teacher** - The IEP team must include a general education teacher who has knowledge of the curriculum and may be responsible for implementing the IEP, if the child is, or may be, participating in the general education environment.
- **Special Education Teacher** - There must be a special education teacher on the IEP team who is responsible for implementing the IEP.
- **School Administrator** - This person must know about the general education curriculum and be able to ensure that the IEP is implemented and has the authority to commit resources.
- **Evaluation Personnel** - This person must be someone who can explain evaluation and/or test results.
- **Others with knowledge or special expertise about the student** - The parents or the school may bring oth-

Important Reminder

Required members may be excused from part or all of the meeting only if you and the school agree in writing. If you agree to excuse a member, that person must give written input to you and the team before the meeting.

er people to the IEP meeting such as community service providers, advocates, lawyers, a friend for support etc. The law says these people must have some knowledge or special expertise about your child, but the determination of whether the person has special knowledge is up to the parent.

IEP Timelines to Remember

- The IEP meeting must occur within 60 school days from the date of the referral.
- The IEP meeting must occur within 30 days after the team determines that the student is eligible to receive special education and/or related services.
- The IEP must be reviewed at least once a year; however, an IEP meeting can be convened at any time to discuss changes or revisions.
- Parents must be informed of their child's progress on IEP goals *at least as often as parents of nondisabled children*.

Important Reminder

"Date of referral" means the date of written parental consent for evaluations.

What an IEP Includes

- Present levels of academic and functional performance
- Annual goals
- Measurements of progress and how progress will be shared
- What special education and related services will be provided
 - » how often they will be provided (frequency)
 - » how long they will be provided (duration)
 - » where they will be provided (location)
 - » who will provide the services
- How the child will access the general education cur-

riculum

- The modifications or supports that will be provided
 - » in the classroom
 - » to and from school
 - » in the school building
 - » for school functions (field trips, sports, prom, playground, etc.)
- Assessment information (which assessments will be administered, any accommodations to the assessments)
- A description of any assistive technology, including training, the student or staff may need
- Special training or support that the student, the parent and school staff need in order to ensure the student is provided FAPE
- A discussion of whether the student needs additional help and support when school is not in session (Extended School Year Services [ESY]), and
- Beginning when the child turns 14½, appropriate transition services, including postsecondary services and supports.
- The placement of the child that will implement the IEP. (For more information on the proper factors to consider in the placement decision, please see Chapter 7, “Least Restrictive Environment.”)

Specifics about IEP Components

Present levels of academic and functional performance

These describe how the student is doing in different areas and how the student uses what he/she learned throughout the day. This part of the IEP should describe how the student’s disability affects his or her participation in the general education curriculum and how the student performs

in academic and nonacademic settings.

Annual goals

A goal is something that can be obtained within a school year. Data should form the basis for instruction and the goals should be written to allow access to the general curriculum and other activities during or after school. Goals must be measurable, identify who will be responsible for working on them, and identify how progress will be reported to parents.

Benchmarks or short-term objectives

Short-term objectives are the steps toward meeting the goals. A short term objective is something that can be attained within a reporting or grading period. Each benchmark or short-term objective should list the steps necessary to achieve the goal by the end of the school year.

Progress toward goals

The IEP should include information about how the school will measure the student's progress and when reports to the parents will be issued. The measurement should be clear enough so that parents can understand whether their child is being successful or not.

Special education and related services

These services and supports assist the student to advance toward the annual goals, progress in the general curriculum, participate in extracurricular and nonacademic activities, be educated and participate with all children. The IEP should include any additional training or support needed by the parents, educators, and paraprofessionals.

Participation in the general curriculum

The IEP must explain how the child's disability affects

his/her participation in the general education setting and other school activities. If a student is removed from any part of the general curriculum, a statement explaining the reason(s) why must be part of the IEP. Adaptations or modifications can be used to support student success in the classroom.

Statewide assessment

All children with disabilities must be part of state and districtwide assessments with appropriate accommodations, including English language proficiency, where appropriate. The IEP team decides whether the student should be given state and/or district assessments, with or without accommodations; or if the student should take the alternate assessment.

Worth a Look

A wide range of information on the Illinois Alternate Assessment is available on the ISBE website at: <http://www.isbe.net/assessment/iaa.htm>.

If the IEP team decides that the child should take the Illinois Alternate Assessment (“IAA”), the IEP must include:

- An explanation of why the child cannot take the regular test
- The participation criteria has been met by a “Yes” response to the two (2) statements in the IAA Participation Guidelines (see Appendix D)
- A statement explaining how the student will be assessed

Frequency, location, and duration of services

This is the “what, when, where, and for how long: part of the IEP. Each of the services the student needs should be written into the IEP and indicate: 1) how long or how often each session will last (the number of minutes); 2) where the services will be provided (i.e., general education classroom, a resource room, or another setting such as the community); and 3) when the services will begin and end.

Transition

For students who will reach the age of 14½ during the school year, the IEP must document a statement of transition service needs that focuses on the student's course of study and goals to address those needs. Transition services are a coordinated set of activities that focuses on improving academic and skill achievement to prepare for life after school. The goals should include the needs for: training, education, employment, and independent living, where appropriate. Transition services may include academic instruction, related services, postsecondary education, vocational training, supported employment, community experiences, daily living skills, and work evaluation. Transition plans must include the student's strengths, preferences, and interests. The student must be invited to the IEP meeting.

In preparing for the meeting, parents should:

- Think about what the child needs to learn to help them be successful after graduation
- Help students explore work and career options while still in high school
- Decide what skills the young person needs to live and work in the community after high school
- Make connections with education and training programs, colleges, agencies, and support services
- Assist in the selection of classes and services that might help the child be successful in his/her adult life
- Learn what agencies provide services to adults with disabilities in the community and invite them to the IEP meeting.

(Please see Chapter 8 for more information on transition.)

Transfer of rights at age of majority

The rights and responsibilities for special education ser-

vices that are given to parents will belong (or transfer) to the student at age 18. The district must inform the parents and student of the student's right to delegate decision-making to another adult individual. At least one year before turning 18, the parents and the student will receive notices in writing from the school about the change. The district must document that the parents and the student received the notice and were told about the transfer of rights. The school must provide the student with a Delegation of Rights form (see ISBE form 34-57k located at www.isbe.net/spec-ed/pdfs/nc_deleg_34-57k.pdf). The school must use the ISBE form or one that is substantively the same.

The Delegation of Rights:

- May be terminated by the student at any time
- Will remain in effect for one year
- Must be signed by the student and the designee
- Can be renewed each year

Extended school year services (ESY)

These are special education and related services that 1) are provided to a student with an IEP beyond the normal school day/year, 2) are stated in the student's IEP, and 3) are provided at no cost to the parents of the student. The decision about what services will be provided should be individually based on the needs of the student. Loss of knowledge/skills or an extraordinarily long time in re-learning skills (regression/recoupment) can be part of, but not the only reason for determining ESY. No single factor can determine ESY, and ESY services may not be limited to particular categories of disability. ESY services may not be the same as services provided during the regular school year. The IEP team determines what services are provided during the ESY term. ESY services can be provided in school, at home, or in the community.

Other IEP Considerations

In addition to the required parts of the IEP described in the previous section, the following components can also be part of the IEP. The decision to add one or more of the following pieces will depend on the nature of the child's disability and how it impacts the child's performance in school.

Behavior

If a child's behavior gets in the way of his/her learning or the learning of other students, then the IEP team should consider the use of positive behavioral interventions and supports. (See also Chapter 9: "Behavioral Intervention Plans.")

The IEP of a student who requires a behavioral intervention plan (BIP) shall:

- summarize the findings of the functional behavioral assessment;
- summarize prior interventions implemented;
- describe any behavioral interventions to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors;
- identify the measurable behavioral changes expected and methods of evaluation;
- identify a schedule for a review of the interventions' effectiveness; and
- identify provisions for communicating with the parents about their child's behavior and coordinating school-based and home-based interventions.

Limited English Proficiency (LEP)

The language needs of a student who has difficulty understanding and speaking English must be considered by the IEP team. The IEP must include a statement as to the languages or modes of communication in which special

education and related services will be provided, if other than or in addition to English. The IEP should also note any English language learning services the student may require, along with necessary support services.

Braille

For a student who is blind or visually impaired, the school shall provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child. For a child who is functionally blind or visually impaired to the extent that Braille instruction is determined necessary, the IEP team must consider the student's reading and writing skills, the student's communication needs, the student's use of reading and writing media, and the student's future needs for instruction in Braille or the use of Braille

Communication needs

The communication needs of the student must be considered by the IEP team. An IEP shall be considered "linguistically and culturally appropriate" if it addresses the language and communication needs of a student as a foundation for learning, as well as any cultural factors that may affect the student's education. For students who are deaf or hard of hearing, the IEP team must consider the student's language and communication needs and opportunities for direct communications with peers and professional personnel. The needs must address the student's language and communication mode. The IEP team must consider the student's academic level and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

Assistive technology

The term “assistive technology” encompasses a broad range of devices from “low tech” (e.g., pencil grips, splints, paper stabilizers) to “high tech” (e.g., computers, voice synthesizers, Braille readers). These devices include the entire range of supportive tools and equipment from adapted spoons to wheelchairs and computer systems for environmental control. Assistive Technology is technology used by individuals with disabilities in order to perform functions that might otherwise be difficult or impossible. Consideration should be given to the needs of the student for assistive technology devices and services. The IEP team must decide if the student needs assistive technology devices and services in order to receive a Free, Appropriate, Public Education (FAPE).

Additional Requirements for Students Who Have a Disability on the Autism Spectrum

Recent changes to the Illinois School Code now require IEP teams to consider additional factors for students who have a disability that falls within the Autism Spectrum. If the student has a disability on the autism spectrum (which includes autistic disorder, Asperger’s disorder, pervasive developmental disorder not otherwise specified, childhood disintegrative disorder, and Rett syndrome, as defined in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition [DSM-IV, 2000]), the IEP team shall consider all of the following factors:

- The verbal and nonverbal communication needs of the child.
- The need to develop social interaction skills and proficiencies.
- The needs resulting from the child’s unusual responses to sensory experiences.
- The needs resulting from resistance to environmental change or change in daily routines.

Worth a Look

The new requirements with regard to children with autism can be found in Section 14-8.02(b) (105 ILCS 5/14-8.02(b)).

- The needs resulting from engagement in repetitive activities and stereotyped movements.
- The need for any positive behavioral interventions, strategies, and supports to address any behavioral difficulties resulting from autism spectrum disorder.
- Other needs resulting from the child’s disability that impact progress in the general curriculum, including social and emotional development.

Parent Tips

IEP Questions—Things to Think About

- What has the student learned this year?
- What are the student’s strengths and interests?
- What are the concerns for the student’s education?
- What should the student learn next?
- What does the student want to learn next?
- What are the supports and services the student needs to make progress on her goals?

What Parents Can Do Before the Meeting

- Make sure you know who will be at the meeting
- If the meeting time doesn’t work for you, request a different time or date
- Share any medical, psychological, or other assessment information
- Have a list of priorities
- Write down any questions you might have

Some districts offer special assistance (such as child care) so that parents can participate in the IEP meeting. If you need support to attend your child’s meeting, ask your principal, special education teacher, or administrator for help.

If you want to learn more about your rights and respon-

Tips for Parents

If someone you want isn’t on the list of attendees, ask (in writing) that the person participate.

sibilities, ask your school for information about organizations that offer support for parents of students with disabilities. Ask if your school offers training about special education issues. You can find information about special education on the ISBE website at <http://www.isbe.net/spec-ed/html/parents.htm>.

Your school should give you the help you need to play an active role in your child's education, including an explanation of what options you have if you disagree with a decision made by the IEP team.

What You Need to Know About Excusal from IEP Attendance

Changes to IDEA in 2004 now make it possible for members of the IEP team to be excused from an IEP meeting. The important thing to remember is that excusal can only occur if the parent and the district agree to excuse the team member from the meeting.

- Team members do **NOT** have to attend if their area is not discussed **IF THE PARENTS AGREE IN WRITING**.
- Team members can be excused when the parent and the school agree.
- Team members may be excused if they submit their input in writing to the IEP team (including the parents) before the meeting.

Important Reminder

Excusal of a team member can only occur when the parent and the district agree.

Worth a Look

The rules regarding excusal of IEP team members from the IEP meeting can be found at 20 USC Sec. 1414(d)(1)(C) and 34 CFR 300.321(e).

Changes to the IEP Without a Meeting

After the annual IEP meeting for a school year, parents and the school district can agree to make changes to the student's IEP without holding a meeting. A written document may be developed to amend or modify the child's current IEP. Parents should make sure they understand and agree to any proposed changes and insure that the change is documented.

If changes are made and the IEP is rewritten, the school

must ask parents to sign a form that states that they understand that the IEP has been changed. The school must make sure that the IEP team knows about the changes and must give an updated copy to the parent. 34 CRF 300.324(a)(4)(ii).

Prior Written Notice

There are certain times when the school must put in writing its decisions about the child's education and state the reasons for those decisions. This written communication is called *prior written notice*. Parents have the right to receive prior written notice whenever the school wants to do something or refuses to do something such as:

- Evaluate the child
- Change the child's disability category
- Change the child's educational placement,
- Change the way in which the child is provided a free, appropriate public education (FAPE), or
- Terminate special education and related service in response to a parent's revocation of consent for special education placement.

Sometimes the school tells parents about its decision over the telephone, in a meeting, through an email, or in a conversation. However, even if the school informs the parent in one of these ways, the school still must provide the parents with prior written notice before it can proceed.

Revocation of Consent

If the parent agrees to allow the school district to make the student eligible for special education and related services, the parent has the right at any time to revoke consent for special education services. However, it is very important for the parent to understand that if consent for special education is revoked, **the school district must terminate all special education services**. As a result, the student will be considered a general education student and will no longer receive any services set forth in the student's IEP.

In order to revoke your consent for special education, Illinois law permits the parent to do so either in writing or orally (Federal law only allows you to revoke in writing). But to ensure that the revocation is received by the district, it is highly recommended that the parent provide the revocation in writing, or follow up the oral revocation with a short letter confirming that the parent has revoked consent for special education. A sample letter showing how to provide revocation in writing is provided at the end of the book, in Appendix A. The parent's revocation of consent, whether orally or in writing, should be directed to either the district's superintendent, the district's director of special education or the person supervising the student's IEP team (e.g., the case manager).

Once the parent has provided revocation of consent to the district, the district must provide the parent with prior written notice to tell you exactly when the services for the student will end. Though the law does not explain the exact time when the district must provide the parent with its notice to end services, it's recommended that the parent follow up with the school district if the notice has not been provided to him/her within ten days of revoking consent for services.

The Big Picture: Revocation of Consent

Once the district has provided the parent with written notice in response to revocation, the district must terminate all special education services to your child. Almost all the rights and protections the parent possessed as a parent of a student with a disability will also end.

If the parent later decides that the decision to revoke was a mistake and the district has already terminated special education services for the student, the district may need to evaluate the student all over again before the student's special education services can be re-started. There is no guarantee that the student will receive the same services that were in place before the parent revoked consent. (See Chapters 3 and 4 for more information on the steps required for evaluation.)

If a parent revokes consent for services, the school district may not take steps to override the consent or to reach an agreement with the parent to change the parent's mind. Thus, a district is prohibited from filing a due process hearing request or requesting state-sponsored mediation to address the parent's revocation.

Parent Participation in Meetings

School districts are required to ensure parent participation in the discussions regarding their child's evaluation. School districts are also required to ensure parent participation in the meetings to determine eligibility and plan the child's IEP. This means that the local school district must contact parents in a timely manner to set a meeting time that is mutually convenient.

There are different types of meetings that are held for different reasons—evaluations, eligibility determination meetings, annual reviews to develop the IEP for the coming year, transition, change in placement, and others. You can read other sections of this guide to get more details about the specific type of meeting in which you are interested.

The following are some ideas parents can use to increase their involvement in school meetings:

Before the Meetings

- Tell the school if you have difficulty speaking or understanding English or if you are deaf and could use an interpreter or translator to understand what is said at the meeting.
- Prepare a folder to take to the conference that contains: (a) your child's current IEP and progress report, (b) information you want to share about your child; (c) questions, (d) paper on which to take notes, and (e) any other information you want to discuss.
- Review your child's school records, reports, IEPs and any other information you have that will be helpful during the meeting. Ask your child about his/her concerns and suggestions too.
- Request and review copies of any evaluations or draft goals that may be discussed at the meeting.
- Write down questions, concerns, and any suggestions you have regarding special education, related services, or placement.
- Prepare a statement about your child, including positive things that he /she can do. Sometimes your child is able to do certain tasks at home that have not yet been demonstrated at school.
- Plan to have your child attend the meeting to speak about what he/she likes about school and what he/she would like to learn. If 18 years of age or older, your child has the right to decide if he/she will attend, unless you have obtained legal guardianship.
- Invite other people to the meeting who might help you feel at ease or who have im-

Parent Participation in Meetings

portant information to share about your child. It often helps to have someone with you to take notes at the meeting, so that you can focus on the meeting itself. Let the school know whom you have invited.

During the Meetings

- Introduce yourself and your child. Give your child a chance to talk about what is important to him/her. Make certain that you talk about your child's strengths and needs. You may want to read a prepared statement, mentioned above.
- Ask the other IEP team members to introduce themselves by name and job title. You have the right to ask that any person present who was not listed on the school district's meeting notice be excused from the meeting. *Please note that the district does not have to honor this request if the person is relevant to the discussion.*
- Maintain a positive attitude.
- Try to stay focused.
- Take notes on discussions, recommendations, follow-up items, and scheduled dates/appointments.
- Ask school personnel to explain terms, language or statements that are unclear.
- Set a regular time to contact the teacher to discuss your child's progress.
- Ask to schedule an additional meeting if your questions and concerns cannot be answered in one meeting.

After the Meetings

- Follow through on any commitments you made during the meeting.
- Add documents from the meeting to your files.
- Contact the teacher periodically to see how the program is going.
- If you are not in agreement with what occurred at the IEP meeting, be certain to write a statement of disagreement to be attached to the IEP.

Chapter 7:

Least Restrictive Environment (LRE)

In this chapter you will:

- discover what an educational placement is and learn what some of the options look like
- find out what research says about inclusive education
- learn the definition of general education environment

Where should students be educated?

The decision about where the student should receive services is called educational placement. The IEP team, which includes parents, decides the educational placement and services for the student. This is called “placement.” Decisions are made at least once a year at the IEP meeting and are based on the student’s individual needs. The IDEA presumes that the first placement option considered for each child with a disability is the general education classroom in the school that the child would attend if he/she did not have a disability. The team must also consider what extra supports the student needs that will allow the child to be successful in his or her educational placement.

Examples of services that could be provided to support students are: assistive technology, positive behavior strategies, modified assignments, a paraprofessional, study breaks, or preferential seating. There are many kinds of services and supports that could be included in the IEP.

If the IEP team decides that a general education class on a full-time basis is not the most appropriate setting for the student, then they can consider other options like resource rooms, special classes, special schools, or home/hospital instruction. Free appropriate public education (FAPE) includes three general areas: general education, nonacademic activities and extracurricular activities. To exclude your child from any of these three without following procedural safeguards would be a denial of FAPE.

- The IEP must include an explanation when the student is educated or separated from students who do not have disabilities for any school sponsored activity.
- The school must provide the student equal access to nonacademic and extracurricular services. Students with disabilities must have an equal opportunity to participate in all activities sponsored by the school (transportation, clubs, music, athletics, and other activities).
- The student should be placed in the school he/she

would attend if not disabled or in an age-appropriate setting as close as possible to the student's home unless the child's needs, as determined by the IEP team, require placement elsewhere.

What do some placement options look like?

Education placement decisions are made based on student's needs and **may** include the following locations (*this is not an exhaustive list*):

General education

The student receives specially designed instruction with supplementary aids and services in the general education classroom. This could include, but not be limited to, modifications to the regular curriculum, co-teaching (general education teacher and special education teacher team teaching in the same classroom), special education training for the general education teacher, computer assisted devices, note takers, physical arrangements of the classroom, peer supports, related services provided in the general education setting, grading modifications, and/or classroom or individual aides.

Important Reminder

A student with a disability should not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

Resource Room (Special Class)

The student receives specially designed instruction through a special education class for less than half of the school day. The student is included, to the maximum extent appropriate, in general education classes.

Self-Contained Room (Special Class)

The student receives specially designed instruction through a special education class for the majority of the school day. The student is included, with support (using some of the above methods) in those parts of general education classes when appropriate.

Separate Day School (Special School)

The student receives specially designed instruction in a special school. The student is included in those parts of general education classes that are appropriate.

Residential Program (Special School)

The student receives specially designed instruction in a special school and lives on the grounds of the residential program.

Home/Hospital Program

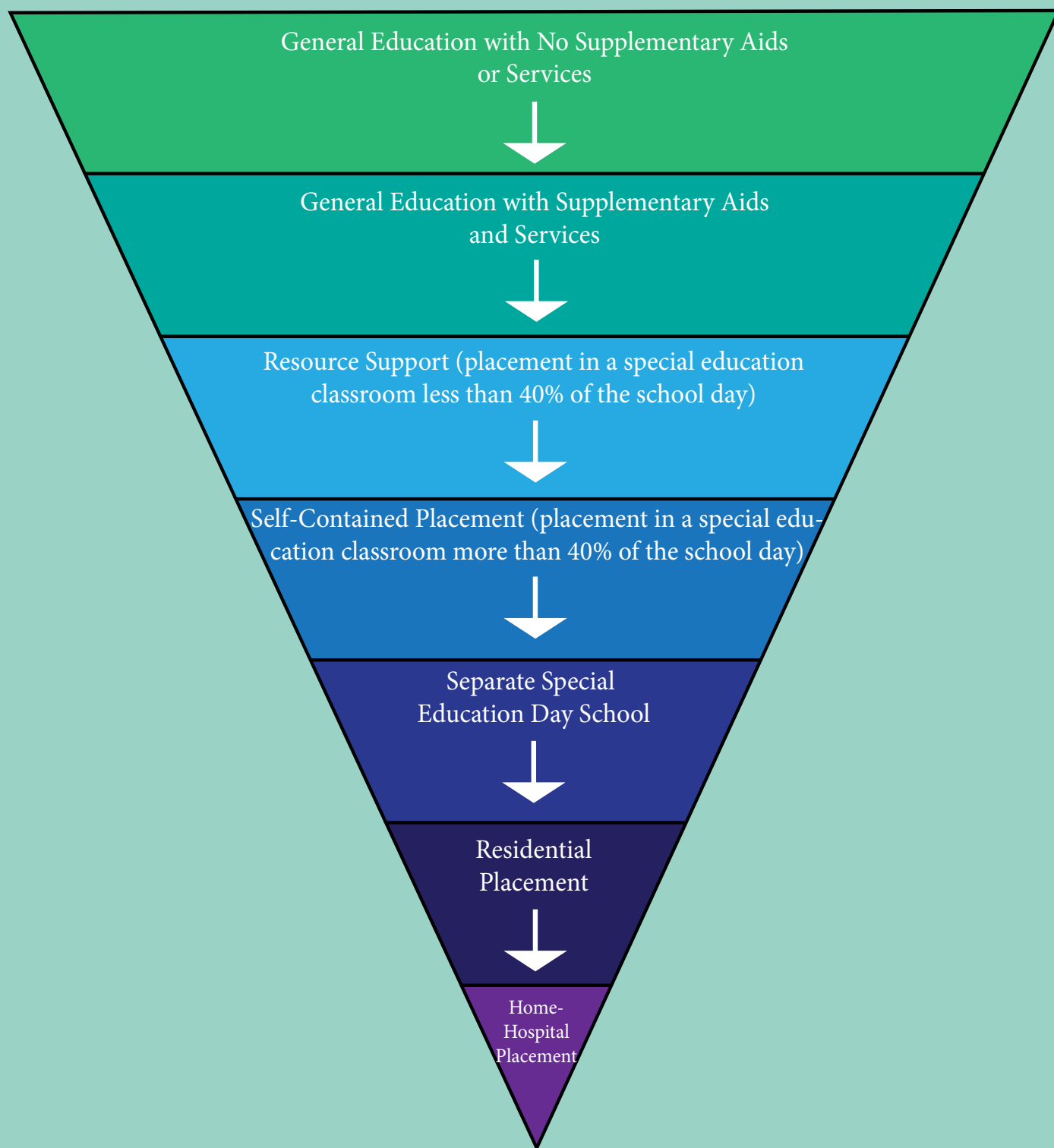
The student, with extraordinary needs that cannot be met by public schools, receives specially designed instruction at home or in the hospital.

Schools may not make placement decisions based solely on factors such as the following:

- » Category of disability;
- » Severity of disability;
- » Configuration of delivery system;
- » Availability of educational or related services;
- » Availability of space; or
- » Administrative convenience.

Funding concerns cannot be used as a reason for not providing appropriate programs or services. If funding is a problem, your local school district must explore other ways of serving your student.

The Placement Continuum



The Big Picture: LRE, IEPs & Placement

- * *IEP GOALS SHOULD BE WRITTEN BEFORE MAKING A DECISION ON PLACEMENT.*
- * *GOALS SHOULD BE WRITTEN TO SUPPORT THE STUDENT'S NEEDS. THEY SHOULD NOT BE WRITTEN TO REFLECT THE SERVICES AVAILABLE IN A SPECIFIC PLACEMENT*

Supplementary aids and services can include changes in:

- instructional strategies
- social or behavioral support
- environment
- assessment (testing)
- staff support

Instructional strategies can include:

- teaching to a student's learning style
- differentiating instruction (teaching to meet the needs of all children in the classroom)
- providing hands-on activities
- using technology to support teaching and learning
- providing one-to-one instruction

Environmental supports can include:

- assigning special seating
- providing space for movement or breaks
- helping student maintain an uncluttered space
- providing study carrels

Behavioral supports can include:

- implementing a positive behavioral intervention plan
- facilitating friendships
- providing rest breaks
- conducting a functional behavioral analysis
- providing counseling or social skills training
- modifying behavioral expectations for the student so he/she is not punished for behaviors caused by the disability
- modifying the environment to reduce stimuli that are known to trigger the student's behavioral problems, such as excess noise or crowded hallways

Staff supports can include:

- training
- collaboration time between general education and special education teachers
- co-taught classrooms
- use of paraprofessional staff
- assistance to the teacher with curriculum and test modifications

Assessment (testing) accommodations can include:

- reading the test to the student
- additional time
- fewer questions
- allowing the student to give answers orally
- highlighting key directions

What does the research say about inclusive education?

"Placement in inclusive programs led to academic gains for students with disabilities, including improved performance on standardized tests, mastery of IEP goals, grades, on-task behavior and motivation to learn."

National Center for Education Restructuring and Inclusion, 1995

"Students with cognitive disabilities educated in inclusive classes test higher on literacy measures than students educated in separate special education classes."

Buckley, Bird, Sacks & Archer, 2000

"Placement in inclusive classrooms does not interfere with the academic performance of students without disabilities with respect to the amount of allocated time and engaged instructional time, the rate of interruption to planned activities and students' achievement on test scores and report card grades."

York, Vandercook, MacDonald, Heise-Neff & Caughey, 1992

The National Association of School Psychologists (NASP) recognized the following benefits when children with disabilities are part of the life and activities of a school:

- Typical peers serve as models for children with disabilities.
- Natural friendships develop within the child's home community.
- Children with disabilities learn new academic and social skills within natural environments, facilitating generalization of skills.

- All students learn to value diversity.
- General education classrooms are better able to meet the needs of all students as a result of additional instructional resources, staff development for general and special educators, a more flexible curriculum, and adapted instructional delivery systems.

There are other benefits, too, including:

- Students without disabilities develop an appreciation and acceptance of individual differences, including their own.
- Students are better prepared for adult life in an inclusive society.
- Students without disabilities have opportunities to master activities by practicing and teaching others.
- Students also have the opportunity to participate in alternative learning experiences, such as peer tutoring, cooperative learning groups, specific strategies instruction, individual remediation, small group instruction, specific language/listening developmental activities, and differentiated instruction.
- There is increased collaboration among school staff and increased parent participation.
- A wider variety of interventions and modifications are attempted with students.
- Teaching methods, techniques, and strategies are enhanced.
- Expectations are higher for children with disabilities—and so is their achievement.

What is the General Education Environment?

The United States Department of Education explained that the term encompasses regular classrooms and other settings in schools such as lunchrooms and playgrounds in which children without disabilities participate.

Worth a Look

The Federal requirements for Least Restrictive Environment may be found at 34 CFR 300.320.

Placement is not an either/or decision, where children are either placed in a general education classroom or they're not. The intent is for services to follow, or go with, the child, not for the child to follow services.

Chapter 8:

Secondary Transition

In this chapter you will:

- learn what is included in a transition plan
- get information about questions to ask the student to help in planning for his/her future
- find out about the transfer of rights at age 18
- learn about the Delegation of Rights form and where to complete it
- find out what happens if the student receives a regular diploma
- learn about student participation in a graduation ceremony while maintaining the right to continue special education services
- get informed on student participation in the home-based support services program authorized by the Developmental Disability and Mental Disability Services Act

Leaving high school is the beginning of adult life for all students. For students with disabilities, choices and decisions about the future may be more complex and may require a great deal of planning. State regulations require transition planning and the implementation of a transition plan to start by the time a student reaches 14½ years of age, or younger, if appropriate. This transition plan becomes an official part of the student's Individualized Education Program ("IEP").

The student and his or her family are expected to take an active role in preparing the student to take responsibility for his or her own life once school is finished. It is critical that families and their students understand that a student's entrance into adulthood and exit from high school means that the right or entitlement to special education services and a free and appropriate public education ends. Where once school provided a centralized source of education, guidance, transportation, and even recreation, after students leave school, they will need to organize their own lives and needs and navigate among an array of adult service providers and federal, state, and local programs. This can be a scary task and the student and his/her family need to be prepared. Families provide a critical support system for their children especially during the transition to adulthood. Active participation and partnership with the IEP Team can assist families in bridging the gap between school and adult service systems and pave the way to a successful transition to adulthood for their student.

What is Transition and what does it do for students with disabilities?

Transition planning is a great opportunity for families/guardians and students to take a leadership role in setting goals and directions for the future. Transition planning:

- begins at age 14½ in Illinois and continues until the student graduates or reaches age 22;
- prepares students for life after high school;

- helps students plan for and choose high school courses;
- helps students decide what skills they need to develop to live and work in their community after high school;
- gives students the opportunity to explore work and career options while still in high school;
- helps students and families make connections with education and training programs, colleges, agencies and support services for after high school to continue working toward goals; and,
- helps students and the entire IEP team learn about student interests, what works and doesn't work in their lifestyle, their skills and talents, and who can help in achieving specific student goals.

What are transition services?

Transition services are a coordinated set or group of activities for a student that fits together like a puzzle. The full picture of the puzzle is the student's life after high school. The transition plan should be designed to help each student access a variety of transition services, activities, and supports that will help them move from school to adult life activities including post-secondary education, vocational training, employment, adult education, adult services, and independent living.

Transition services are intended to prepare students to move from the world of school to the world of adulthood. In planning what types of transition services and activities a student needs, the IEP Team considers areas such as postsecondary education or training, employment, and adult living. The transition services themselves are a set of activities that are based on the student's strengths, preferences, interests and needs.

The pieces of the transition services puzzle may include, depending on the child's needs:

Instruction

Instructional support the student might need in specific areas to complete courses for graduation, succeed in the general curriculum (e.g., tutoring), placement in advanced classes, gain the skills he or she needs (e.g., social skills training, preparation for college entrance exams, self-determination skill training, etc.), and could also include teacher developed accommodations, curriculum adaptations, peer tutoring or adult basic education.

Community experiences

These are provided in community settings by schools or other agencies including (but not limited to) job site training, job shadowing, work experiences, banking, shopping, transportation, counseling, and recreation.

Related services

The student may need to benefit from special education or to enter the adult world (e.g., transportation, social services, medical services, rehabilitation technology) and /or linkages to related services he/she might need after high school.

**Development of employment and other post- school
adult living objectives**

These include services that lead to a job or career (e.g., career planning, guidance counseling, person-centered planning, job placement, job try-outs) and activities like registering to vote, filing taxes, renting a place to live, accessing medical services, and accessing adult services such as Social Security Income (SSI).

Daily living skills

Skills adults need as a foundation for everyday life including self-care, independent living, money management,

maintaining a home, health care, etc. – if appropriate.

Functional vocational evaluation

Used to find out what kinds of talent, aptitudes and job skills a student has (e.g., situational work assessment, work samples, work adjustment programs, aptitude tests, series of job try-outs—if appropriate).

How can families, parents and guardians help begin planning for the future?

Parents, families and guardians can assist the transition planning team by helping to find answers to the follow questions:

What are the student's...

- » Long-range employment and life goals?
- » Interests and talents?
- » Learning styles?
- » Positive personality traits?
- » Achievements?
- » Social skills?
- » Work experiences (paid, volunteer, at home, at school, in the community) and where might he/she like to work?
- » Specific challenges and strategies for dealing with them?
- » Needs for accommodations and support?
- » Options after high school (college, trade school, military, employment, living arrangements, healthcare, recreation, etc.)?

Why is it important for students to participate in their IEP planning and meeting?

Participating in planning for life after high school builds

Tips for Parents

Families should take time to discuss these agencies and find out who they are and why their participation in the IEP meeting could be critically important to the student's future success.

student confidence and responsibility and helps parents transition to new roles as guides and mentors for their student as they step back and let their student take on a more active, decision-making role.

Must the school district have parent consent to invite post-school service agencies to the IEP meeting?

IDEA 2004 requires the school district to invite a representative of any agency outside of the school district that might be an important support or linkage for the student to be successful in his/her post-school goals. However, before inviting any agency representative, the school district must obtain the consent of the parent or the student if he/she has reached the age of majority (18) to extend the invitation.

What are the basic components of the transition plan?

Age-appropriate transition assessment

The Division on Career Development and Transition (DCDT) of the Council for Exceptional Children defines transition assessment as the "...ongoing process of collecting data on the individual's needs, preferences, and interests as they relate to the demands of current and future working, educational, living, and personal and social environments. *Assessment data serve as the common thread in the transition process and form the basis for defining goals and services* to be included in the Individualized Education Program (IEP)" [Sitlington, Neubert, and Leconte. (1997) in *Career Development for Exceptional Individuals*, 20, 69-79].

The National Secondary Transition Technical Assistance Center (NSTTAC) has prepared some guidance under the direction of the Office of Special Education Programs (OSEP). In regard to the selection of assessment tools they recommend that district staff:

- become familiar with the different types of transition

assessments and their characteristics

- select methods that assist students by helping them answer the following questions:
 - » Who am I?
 - » What do I want in life, now and in the future?
 - » What are some of life's demands that I can meet now?
 - » What are the main barriers to getting what I want from school and my community?
 - » What are my options in the school and community for preparing me for what I want, now and in the future?
- select approaches that are appropriate for students in terms of cognitive, cultural sensitivity, and language comfort (including parent and student interviews/questionnaires)
- always interpret and explain assessment results in formats that students and families can understand easily

Must a district obtain parental consent in order to complete a transition assessment?

Parent consent is not required for age-appropriate transition assessments. 34 CFR §300.302 states that “screening for instructional purposes is not an evaluation....screening of a student by a teacher or specialist to determine appropriate instructional strategies...shall not be considered to be an evaluation for eligibility...”

Measurable post-school goals

These are the result of high school – what the student will achieve after leaving high school. Post-school goals are:

- based on student strengths, preferences and interests
- shaped, refined and updated by the use of age-appropriate transition assessments

- written using results-oriented terms such as “enrolled in”, “will work”, “will attend”, “will live”, and descriptors such as “full-time” or “part-time”

Measurable post-school goals are written for the following areas:

- Education and/or training
 - » Education – community college, university, technical/trade/vocational school
 - » Training – vocational or career field training, independent living skill training, apprenticeship, on-the-job training, job corp., etc.
- Employment
 - » Paid employment (competitive, supported, sheltered)
 - » Non-paid employment (volunteer, in a training capacity)
 - » military
- Adult Living (if needed)
 - » independent living skills, health/safety, financial/income, transportation/mobility, social relationships, recreation/leisure, self-advocacy/future planning

Specific Transition Services

Course of Study is list of courses or instructional program of study for the student. The course of study should be in the IEP and should align with the student’s post-school goals. There are two important questions to consider for course of study:

- Does a post-secondary goal require a certain minimum requirement of courses, e.g., college bound, trade school bound, district graduation requirements, etc.?
- Does a post-secondary goal require or benefit from the successful completion of specific high school classes, e.g., a future chef planning to take and completing all

cooking related classes, a future child-care provider planning to take and completing relevant classes in Family and Consumer Science, etc.

Transition Services are the coordinated set of activities that focus on improving the academic and functional achievement of the child to facilitate movement from school to post-school. The components of the coordinate set of activities include instruction, related services, community experiences, development of employment and post-school adult living objectives, and, if appropriate, daily living skills and functional vocational evaluation.

What is the Summary of Performance (SOP) and when do you get one?

When a student's eligibility for a free and appropriate public education (FAPE) ends either because the student is graduating with a regular diploma or reaching the maximum age of eligibility (22), the school district must provide the student with a summary of his/her academic achievement (e.g., academic successes, etc.) and functional performance (e.g., works skills, accommodations, social skills, self-determination skills, etc.) and include recommendations on how to assist the student in meeting his/her post-secondary goals.

- The SOP is prepared and provided to the student during the final year of high school.
- The SOP can also include input from the student and/or family expressing their point of view about successes and support needs related to post-school goals.

Whose responsibility is it to give the SOP to outside agencies, such as employers?

The SOP is for the student and/or family's use. Similar in use to a resume, the SOP is a portable, user-friendly document that provides a summary of the student's academic achievement and functional performance, as well as recommendations regarding accommodations, services, link-

ages and/or activities that will help the student successfully transition or move into their post-school goals. Therefore, the school district would keep a copy but has no responsibility to share this document with outside agencies.

What is the transfer of parental rights all about?

When a young adult reaches the age of 18 in Illinois, they have truly become an adult in the eyes of the law and have the right to make their own decisions. According to IDEA 2004, at least one year before a student reaches the age of 18, the school district must inform the parent(s) and student of the rights under the federal and state regulations that will transfer from the parent to the student upon turning 18. This means that unless other arrangements have been made by the family, e.g., guardianship – the student has the right to make the final decisions about his/her education.

Delegation of rights – another option

Worth a Look

The School Code provision that discusses delegation of rights is Section 14-6.10, found at 105 ILCS 5/14-6.10. You can also find a sample delegation of rights form on the ISBE website at http://www.isbe.net/spec-ed/pdfs/nc_deleg_34-57k.pdf.

During the 2007 legislative session, Illinois added language to the school code (23 IAC 14-6.10) that allows a student to retain independent legal status while delegating his/her right to make educational decisions. According to the added requirement, a student who has reached the age of 18 can choose to sign a Delegation of Rights to choose their parent or other adult to represent them and assist in making decisions about his/her education. This delegation applies only to educational decisions and can be ended by the student at any time. The school district must provide a copy of the Delegation of Rights to the parent and student during the IEP meeting in the year that the student turns 17.

Resources

<http://www.dd.illinois.gov/LocalAgency.cfm>

Home-Based Support Services Program – Follow this link to find your local Developmental Disability Local Coordination Agency or call 1-888-DD-PLANS or 1-866-376-8446

(TTY).

<http://www.isbe.state.il.us/spec-ed/html/total.htm>

The Illinois State Board of Education, Special Education Services secondary transition webpage provides access to a great variety of resources, tools and information related to secondary including the Transition Outreach Training for Adult Living (TOTAL) modules.

http://www.isbe.state.il.us/iicc/pdf/arc_family_manual.pdf

The ARC of Illinois Family Manual for Transition to Work and Adult Services.

http://www.illinoisworknet.com/vos_portal/residents/en/Jobs/Prepare/Skills/

Illinois WorkNet provides access to a wealth of resources and information about working in Illinois.

http://www.isbe.state.il.us/iicc/pdf/transition_resources.pdf

This link will take you to a list of selected web addresses for transition-related information and resources.

http://www.isbe.state.il.us/spec-ed/html/ta_projects.htm

Illinois State Board of Education Technical Assistance Projects.

The Big Picture: Transition Planning

Effective transition planning is the result of teamwork over the course of the student's time in the education system. Don't wait until graduation or age 22 to think about what your student wants to do. DO provide support and mentoring to assist your student to make a plan for him or her self. DO ask your family, friends, neighbors, school teachers and counselors to help you along the way. Do use networking as a way to find out what options might be available for life after high school and how to access them.

Chapter 9:

Behavior Intervention Plans (BIPs)

In this chapter you will:

- learn what a functional behavioral assessment (FBA) is and how it is used
- find out what a behavior intervention plan (BIP) is and what it should include

| ORGANIZING AND PARTICIPATING IN CLASS | |
|---------------------------------------|------------------------------|
| Name: _____ | |
| Date: _____ | |
| Setting: _____ | |
| | 3 = Most of the time |
| | 2 = Occasionally |
| | 1 = Rarely |
| Baseline Data _____ | Post Intervention Data _____ |
| Brings Materials | 3 2 1 |
| Comes Prepared | |
| Ask Appropriate Questions | |
| Listens to Others | |
| Begins Assignments on Time | |
| Works Steadily | |
| Contributes to Class Discussion | |
| Accepts Criticism | |
| Does Well on Tests | |
| Intervention(s) _____ | |
| _____ | |
| _____ | |

If a student's behavior keeps interrupting his or her learning, or the learning of other students, the school district and parents should work together to understand the reason for the behavior, and plan ways to help the student learn more appropriate ways of behaving. One way of doing this is for the IEP team to develop a Behavioral Intervention Plan (BIP). A BIP is a tool that can help to:

- Understand the meaning, or function, of behavior,
- Understand what may be causing the behavior to happen,
- Understand ways to change the environment to support the student's needs, and
- Plan how to teach the student appropriate behavior.

Functional Behavioral Assessment (FBA)

The first step in developing a good behavior plan is to conduct a Functional Behavioral Assessment, or FBA. The FBA is a process to improve understanding of problem behavior in order to identify what skills need to be taught, and to develop a better behavior plan. The process includes observation, interviews and data collection to identify when, where and why the behavior is occurring.

The FBA is used to answer the question "what function does this behavior have for this student?" The answer to that question is either to get something (such as attention, rewards, sensory stimulation) or to avoid or escape something (such as a difficult task, anxiety, boredom). Identifying the function guides the development of a plan which can help the school teach missing skills and make changes so that the need for the behavior no longer exists.

A good FBA should include a hypothesis about the function of the behavior, based on the following information:

- An objective description of the behavior
- The places or situations where the behavior happens
- The places or situations where the behavior does not

happen

- Events that happen just before the behavior
- Events that happen just after the behavior
- Additional information, including the student's health, medication, and strengths

Behavioral Intervention Plans (BIP)

The IEP team uses the information from the FBA to develop a plan to:

- teach replacement behaviors which have the same function as the problem behavior;
- make changes to the situations that contribute to the behavior; and
- teach other missing skills which increase the likelihood of the appropriate behavior happening.

It's important to remember that the purpose of a Behavior Intervention Plan (BIP) is not to outline punishments, but rather to define what the adults will do differently to better support the needs of the student.

A BIP should include the following information:

- A summary of the FBA, identifying the function of the behavior
- The strengths of the student
- What replacement behavior will be taught, including:
 - » how the new behavior will be taught
 - » who will be responsible for teaching the replacement behavior
 - » how long it will take to teach, and
 - » how staff will reinforce the appropriate behavior.
- Additional supports that will be provided, including any schedule changes, additional services, tutoring for

Worth a Look

The rule requiring a BIP to be included in an IEP for students who require behavior intervention can be found at 23 IAC 226.230(b).

missing skills, etc.

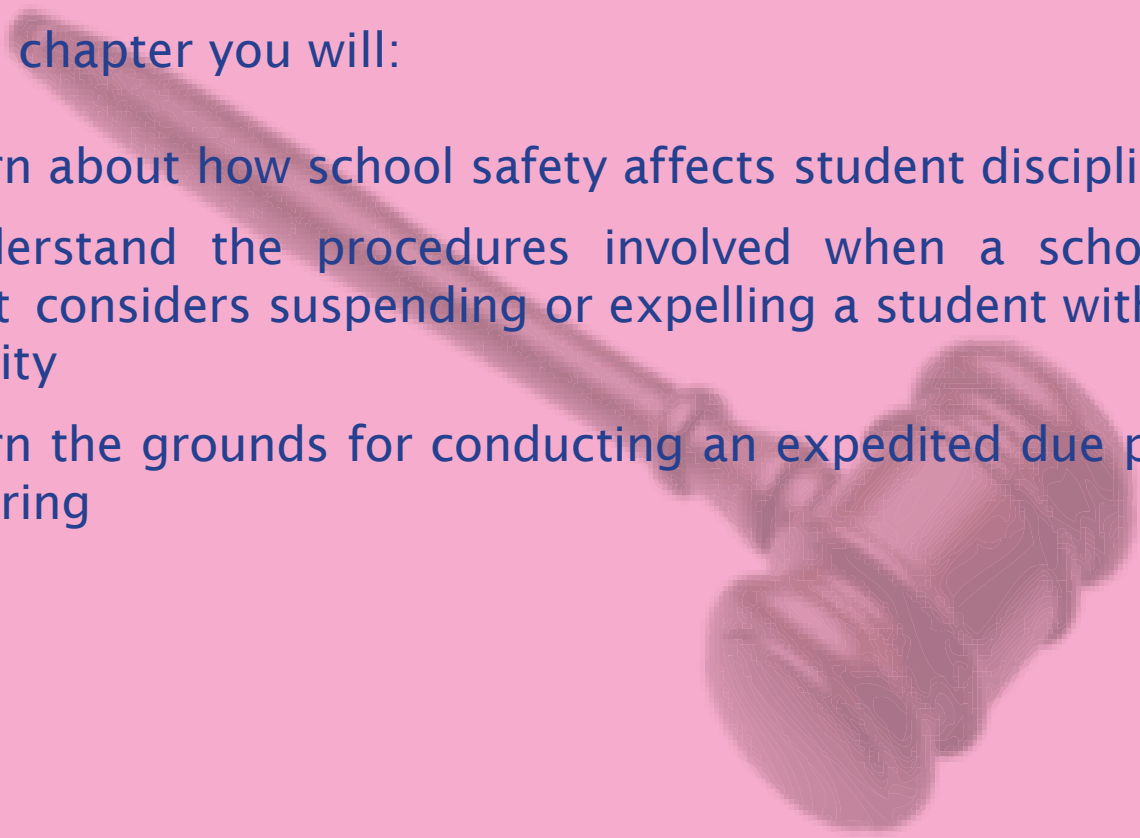
- What data will be used to decide if the plan is succeeding
- How the school will communicate with the student's family

Chapter 10:

Student Discipline

In this chapter you will:

- learn about how school safety affects student discipline
- understand the procedures involved when a school district considers suspending or expelling a student with a disability
- learn the grounds for conducting an expedited due process hearing



School Safety

Schools are responsible for keeping students and staff safe. If any student behaves in a way that is dangerous for themselves or others, the school's first priority must be to deal with that danger and keep everyone safe.

Special education laws cannot hinder school safety. A student with a disability can receive the same punishments as other students, with one exception – a suspension beyond 10 days. A student with a disability cannot be disciplined more severely than other students for breaking the same rule. If a student without a disability can be suspended for up to three days for breaking a specific rule, a student with a disability cannot be suspended for more than three days for breaking the same rule.

Finally, schools have a right and a responsibility to report crimes to the police. The schools do not need to get a parent's permission before reporting a crime.

Manifestation Determination Review (MDR)

Every student, whether or not the student has an IEP, may be suspended up to 10 school days per year for violations of student conduct. When a student faces a suspension that could result in removal from education for more than 10 consecutive school days, or when the suspension would cause the student to exceed 10 school days of suspension for the school year, the district is required to conduct a Manifestation Determination Review ("MDR") with members of the IEP team and the parent.

An MDR is conducted to decide if the student's disability was the primary cause of the incident in question. The two possible outcomes of an MDR are:

- The student's disability IS the primary cause for the incident. In this case, the district may NOT discipline the student (i.e., impose a suspension or expulsion on the student in accordance with procedures required for all students in the district), or

- The student's disability IS NOT the primary cause for the incident. In this case, the student may be recommended for suspension or, in the case of expellable conduct, recommended for an expulsion hearing before the appropriate school district authorities.

When an MDR team looks at the issue of whether the student's disability was the principal cause of the conduct, the team must look a range of information including:

- The student's IEP and placement;
- Information about the incident;
- Further observations of the student; and
- Any further relevant information supplied by the parent or the school district.

The information will be used by the team members to answer two required questions:

1. Was the conduct caused by or had a direct and substantial relationship to the student's disability?
2. Was the conduct the direct result of the school district's failure to implement the IEP?

If the answer to **either** question is "yes", then the team must find that the student's disability caused the conduct and may not recommend the student for further discipline, such as a suspension or expulsion.

Removal from the Current Placement for Certain Conduct

In certain situations, the school district may be entitled to remove the student from the current setting, regardless of whether the student's conduct was caused by the disability. In such situations, the student may be removed for up to 45 *school days* to an "Interim Alternative Educational Setting" (or "IAES"). The IAES may be any educational setting other than the current one that is capable of implementing the student's IEP.

Important Reminder

If the team determines that the conduct was caused by the student's disability, the team must also review the student Behavioral Intervention Plan (BIP) to determine if it addresses the conduct appropriately. If the student does not have a BIP, the team will need to develop one. See Chapter 9 for more information on BIPs

There are three primary situations in which a school district may remove the student are:

1. Where the student's conduct involves a weapon (such as a gun or a knife);
2. Where the conduct involves the sale, use or possession of an illegal drug or a controlled substance at school, on school premises or at school function sponsored by the school district or a state education entity (such as the ISBE or IHSA); or
3. Where the student inflicts serious bodily injury on another person at school, on school premises, or at a school function sponsored by the school district or a state education agency.

In such cases, the school district may remove the student immediately to an IAES, regardless of whether an MDR has occurred.

In addition, the school district may also remove a student to an IAES for up to 45 school days for conduct that puts the student or others at serious risk of harm (even if no physical injury occurs). However, before the removal can occur, the school district must obtain the order of a special education due process hearing officer. (See the next section for more information.)

Protections for Certain Students Who Are Not Special Education Eligible

Worth a Look

The provisions concerning the rights of students who are not yet eligible for special education services can be found at 20 USC Sec. 1415(k), as well as 34 CFR 300.534.

In some very limited cases, the procedures described in the previous sections may apply to students who are not receiving special education services at the time of the disciplinary incident. It's important to note, though, that this situation typically involves a very specific set of facts.

A school district will be required to do a manifestation determination review for a student who is not eligible for special education if the district is "on notice" that the student may be eligible for special education services. This means that the district would have some reason to believe

that the student might be eligible for special education *prior* to the incident.

For example, let's say a student had been already referred for an evaluation prior to the incident, and the parent and district evaluation team had not yet decided whether the student was eligible for special education. In this case, the district would probably be required to do an MDR before suspending the student beyond 10 school days or moving forward with an expulsion hearing.

In addition to the example in the previous paragraph, a school district might be required to do the MDR when a parent had provided the district with a written concern to the district that the student might require special education. Also, if a district supervisor over special education services had received a written concern from a teacher or other district people about specific patterns of behavior, an MDR might be required even though the student was not yet eligible for special education.

Expedited Due Process Hearings

If a dispute arises between a parent and the school district over a disciplinary matter affecting a student with a disability, it may be possible for an Impartial Due Process Hearing Officer to decide the matter. Though a full discussion of due process hearings is covered in the next chapter, it is worthwhile to discuss expedited hearings right now.

Expedited hearings can be requested on three grounds:

1. A parent can request an expedited hearing if he/she disagrees with the district's conclusions in the MDR (i.e., whether the conduct in question is the result of the child's disabling condition).
2. The parent can request an expedited hearing if he/she disagrees with the district's decision to move the child to an interim alternative educational setting as a result of conduct involving a drug or weapon, or where the conduct resulted in serious bodily injury to another student or a member of the school staff.

Important Reminder

In order for a district to be on notice that a student who is not receiving special education may require an MDR, the district must have received this "notice" **before** the incident occurred.

Tips for Parents

Expedited hearings are requested only to challenge the decisions of the school district concerning (a) the district's conclusion that the student can be suspended or expelled after an MDR, or (b) to challenge the district's choice of an IAES.

If you, as a parent, want to challenge *the facts* surrounding your child's suspension or expulsion, please consult with legal counsel to determine what, if any, action can be undertaken by you.

Worth a Look

For a more complete discussion of hearing procedures in general, please read Chapter 11: Conflict Resolution.

A sample letter for requesting an expedited hearing can be found in Appendix A at the end of the book. You can also find a sample ISBE form for requesting a due process hearing in Appendix D.

3. The district can request an expedited hearing if it believes that the child's conduct was dangerous and that his/her continued presence in the current setting is substantially likely to result in injury to other students, school staff, or the child.

When filing for an expedited hearing, one should follow the guidelines described in Section 11 for filing a standard hearing request. However, you should also state in your request that you are requesting an expedited hearing.

Rather than describe all the details of an expedited hearing here, you should simply be aware of the significant differences between an expedited hearing and a standard due process hearing. Unless a specific difference is noted here, you can simply review the information on standard hearings for more details on how the expedited hearing will occur.

The big differences between expedited hearing and standard due process hearings are as follows:

- Unlike the standard hearing which allows the parties up to 30 days to work out their differences in a "Resolution Process" (see page 103), the parties are given only fifteen days to complete the resolution session in an expedited hearing. The parties must have their first resolution meeting within 7 calendar days of the initiation of the hearing.
- Parties may use Mediation (see page 90) instead of the Resolution Process to discuss potential settlement of the dispute, but the Mediation cannot delay the hearing timelines.
- In an expedited hearing, the hearing must begin within 20 *school* days and the hearing may not exceed two days in length.
- The hearing officer is given 10 school days from the end of the hearing to render the decision.
- During the period of time while the hearing is going on, the student may still be required to attend the

placement designated by the district as a result of the disciplinary incident. In other words, the usual rules for “stay-put” (see page 101) do not apply and the new placement is considered the “stay-put” as opposed to the last agreed-upon placement.

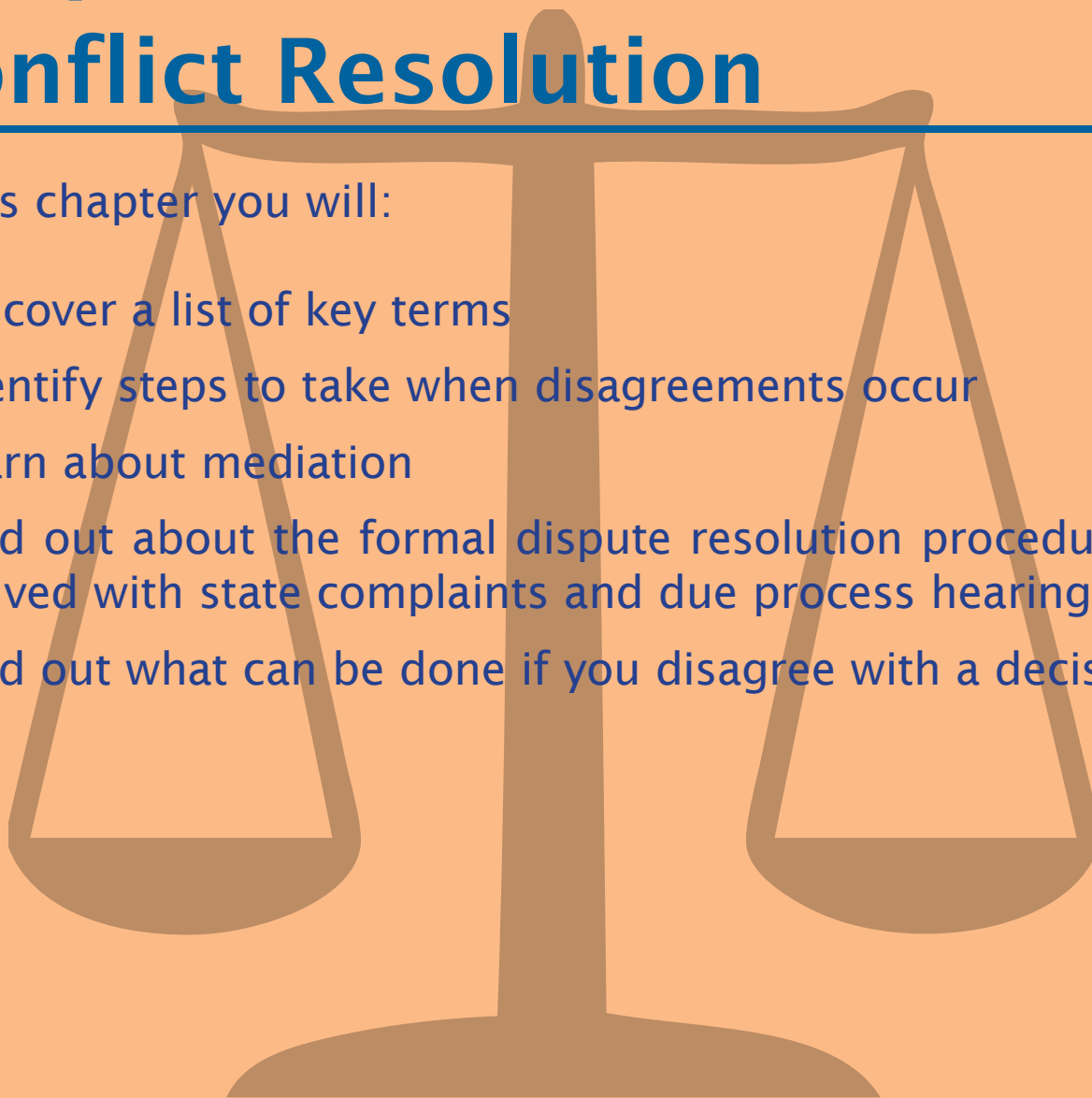
Please keep these important differences in mind if you decide to file for an expedited hearing. As you can see, the timelines are generally shorter than is usually the case in a standard hearing.

Chapter 11:

Conflict Resolution

In this chapter you will:

- discover a list of key terms
- identify steps to take when disagreements occur
- learn about mediation
- find out about the formal dispute resolution procedures involved with state complaints and due process hearings
- find out what can be done if you disagree with a decision



Introduction to Conflict Resolution

Parents and school districts want their children to be successful. In the area of special education, success usually happens because parents and school districts have become partners in providing an education for the child. As you know by now, almost everything that happens in special education (evaluations, IEPs, and other things) occurs because the parents and the school districts agree to them and work together as partners to make them happen. Still, even the best of partners can have disagreements about things.

This chapter is going to describe what should be considered and done if a disagreement happens. Some of the information in this chapter will even help in those times when you *think* a disagreement may be right around the corner. We'll describe some informal things you can do to resolve a disagreement, and some formal things that you may need to think about if you can't get your differences resolved informally. We'll supply you with some important terms you need to know, followed by a description of what you can do to handle a disagreement if it happens. Finally, we'll provide you a detailed description of the steps involved in each of the formal dispute resolution systems.

In the following pages, we will often describe the situations in which a parent files for a hearing or a complaint against a school district. This is because well over 75% of the complaints and hearing requests are initiated by parents. However, the information contained in the following sections is designed to provide *everyone* with useful tips for managing conflict.

Key Terms

In order for this chapter to make sense, it's important for you to understand some key terms before going on in this chapter. These terms will be used several times in the material that follows. Feel free to come back to this section if you can't recall the meaning of a term.

Mediation

The formal process of conducting a meeting led by a mediator (see “All About Mediation” on page 90) to resolve a disagreement between a family and a district about the services and supports needed by a student with disabilities. A mediation can occur whether a formal complaint or due process hearing request is on file or not.

Mediation Agreement

A formal written document drafted by a mediator that describes the agreements reached by the parties to a mediation. A mediation agreement must be signed by both sides and can be enforced in a court of law if one party does not do what’s required in the agreement.

State Complaint

A formal process where a person brings a written complaint to the ISBE, claiming that the school has done something that is not appropriate for the student’s education. A complaint can result in a letter of finding that requires the district to correct something that is not appropriate for the student.

Settlement Agreement

A written document, signed by the family and the district, that describes what the parties must do in order to resolve an existing disagreement. A settlement agreement may occur outside mediation or the resolution process (see below).

Due Process Hearing

A formal hearing that occurs if a parent (or occasionally a district) files a complaint requesting a due process hearing. The hearing may involve attorneys and advocates for each side and will result in a legally binding, written deci-

Important Reminder

Requesting a due process hearing is usually the only way the child can be maintained in the current placement if a disagreement occurs over the district’s proposed placement. A state complaint will not freeze the placement. See page 101 for more information.

sion that can be appealed to a court of law.

Resolution Process

This is a mandatory process that occurs following the filing of a due process hearing request. The process requires the parties to meet to discuss the dispute and explore ways of resolving the dispute without a hearing. The process normally does not involve an impartial person (like a mediator) and cannot involve attorneys unless the parent chooses to bring an attorney to the meeting.

Resolution Agreement

A formal written document that describes any agreements the parties have reached during the resolution process. The agreement must be signed by both the family and the district. The agreement can be cancelled within the 3 business days if a party decides the agreement is unacceptable. The agreement can be enforced in a court of law if a party is not following the terms of the agreement.

When a Disagreement Occurs: First Steps

If you believe that there is an actual or potential dispute occurring between the parent and the school district, there are several things that can be done (in most cases) before a due process hearing or state complaint has to occur. Before deciding that a dispute requires the assistance of an outside party, it's important to ask yourself a few questions:

Do the parties understand what each one is trying to do?

If the parent doesn't completely understand what the district is providing to the child, it's very important that the parent ask questions. Asking questions will not only help to define the problem, it may also assist the district in understanding why the parent may not agree with what the district is doing.

Let's say, for example, that you are a parent and you believe your child requires more services than the district has offered. Does the district know why you believe more services are necessary? Being able to understand your position is, very often, the key to resolving a problem before it turns into a big dispute. If you are a parent, be prepared to explain why you believe your child needs something different than what the district has offered. It's usually difficult for the district to see your side of the story if you can't provide an explanation for your point of view.

On the flip side of the coin, if you work for the district, does the parent understand fully why the IEP team is recommending the placement? As a district member of the IEP team, it's equally important to ask questions of the parent if you sense that the parent may not be understanding the reasons for your recommendations.

Are there other acceptable options?

Is there any chance of "meeting half-way"? Sometimes the key to resolving a disagreement is finding a so-called "third option" that both sides would find acceptable. Again imagining the viewpoint of a parent, let's say the district has offered your child 30 minutes per week of speech services, but you would prefer 60 minutes of speech. Would 45 minutes a week be a possible option that is acceptable to both you and the district? Is 45 minutes an appropriate amount to provide to your child? If 45 minutes is both appropriate for your child and acceptable to you and the district, why not "meet half-way" and use this option instead of going to hearing? It's going to be very important to decide whether there might be other acceptable options in order to know how to handle a disagreement if it happens.

**If we can't work it out among ourselves,
would mediation help?**

If your discussions can't hammer out an agreeable solution to the problem, you might still have an option short of fil-

Important Reminder

Mediation is a completely voluntary process. Both the parent and the district need to agree to participate in mediation before a mediation can take place.

ing a complaint or a due process hearing request, unless you are requesting that stay-put placement applies. As will be discussed soon, mediation is an option that can be used to resolve disagreements whether or not a complaint or hearing request has been filed. The use of a mediator can be a very effective way of helping parties to work out their differences.

The use of the first steps described above is simply an *option*. They should not be understood as absolute requirements that you must use each and every time that a dispute occurs. Still, they are options that should be viewed seriously as a way for you to avoid the time and expense of a due process hearing or state complaint. However, there may be situations where going through the first steps will simply not work (examples would include cases where timing is important or where the tension is so high that reaching an informal agreement would be nearly impossible). It is always important to think about the situation and the kind of problems when deciding to use one or more of the first steps described here.

All About Mediation

Worth a Look

The rules for conducting mediations in Illinois can be found at 23 IAC 226.560.

As we described just above, a mediation can take place whether or not you have a pending complaint or hearing request. Mediation is a voluntary process designed to help parties reach agreements to resolve potential disputes. As a voluntary process, both the parent and the district have to agree to engage in a mediation. If you both agree to do it, all that's required to set it up is a phone call to the ISBE Mediation Coordinator at 217-782-5589.

Important Reminder

Because each mediation is individualized to suit the needs of the parties, you may find that your mediation will differ in some ways from the process described in this guide.

Once a mediation has been arranged, ISBE will appoint a mediator, who will then arrange the time and place for the mediation meeting. The mediator is a person specially training to understand special education matters, but who is not an employee (or has an interest in) working for either side. The mediator's only focus will be to find a way to work out an agreement with the parties that will work to the benefit of the child.

Prior to the mediation, the parties cannot discuss their points of view or issues with the mediator. Once the meeting begins, the mediator will generally ask each side to discuss the issues and what their opinions are about how the issues should be resolved. The mediator will then work with the parties to identify where the parties have areas of agreement and whether each party can find agreeable options to resolve the dispute. The mediator may ask to speak with you individually (in a private place without the presence of the other party) so that you can feel free to discuss your options with the mediator. At other times, the mediator will want to discuss matters with both parties present. In general, the mediation meeting will take 2 to 3 hours, but may take more time depending on the number of issues that need to be discussed.

If an agreement can be reached between the parties on all (or even some) of the issues, the mediator will then help the parties to write up a mediation agreement (see page 87). The mediation agreement will outline exactly what each party must do and (if necessary) set specific timelines for the completion of the things in the agreement. Once the language of the agreement has been set down in writing, you and a representative of the district will be expected to sign the agreement. *If either side refuses to sign the agreement, the agreement will have no legal effect.* As we described above, once a mediation agreement is signed, you will have a legally binding document that can (if needed) be enforced in a court of law if the agreement is not put into effect.

Important Points to Remember About Mediation

1) It's a voluntary process.

Mediation is a completely voluntary process. So mediation will only happen if both you and your school district agree to participate. But more importantly, *any agreement you reach is also voluntary.* Even if the mediation meeting happens, you do not have to sign the final agreement if it's not something to which you agree.

2) Mediation is confidential.

One of the most important ground rules in mediation is the requirement that everything said in the mediation is confidential. In other words, you should feel free to say anything that will assist in reaching an agreement because what you say cannot be used in another context. This is very important if you're also facing a due process hearing because it means that anything you say at a mediation cannot be used as evidence against you at hearing. But confidentiality is a two-way street. You will not be able to use statements by the other party in the hearing either.

3) The agreement is a binding document.

As we stated earlier, a mediation agreement is legally-binding similar to a contract. Because it's legally-binding, this means that you would have the ability to go a court of law to enforce the terms of the agreement if something is not being done, or not being done correctly.

Formal Dispute Resolution

You have a major disagreement about a child's educational program. You've tried to work out your differences through conversations and informal negotiation. You've even tried to work out an agreement with the help of a mediator. At the end of it all, your major disagreement is still there. What do you do?

In most cases, once you have exhausted all the things described above, it is generally time to consider using a *formal* process for having your dispute resolved. There are two formal processes currently available in Illinois: state complaints and due process hearings.

The biggest difference between the things described in the earlier sections and the things we're about to describe is this: a person other than the parent and the district will now decide how to resolve the issue. In informal procedures, the parent and the district are trying to work out the matter among themselves. But in formal dispute resolutions, you are giving over your dispute to another person

to decide it for you. In the case of state complaints, it is a complaint investigator who works for ISBE. In the case of due process hearings, it is an independent person known as an “impartial hearing officer.”

The next section will discuss state complaints, while the following section will discuss due process hearings. Finally, we’ll try and tie all of this up by providing you with a table that compares state complaints with due process hearings, so that you can choose the best option for your situation if you need to use a formal process.

All About State Complaints

The state complaint process is a procedure that is established under both the Federal and State special education laws and rules. In a state complaint, a person who has knowledge of the educational issues concerning the child may file a written complaint with the ISBE. The complaint sets out who the child is (or in some cases children are), the facts that have led to the dispute and the suggestions for how the situation needs to be fixed. A sample complaint letter is provided in Appendix A to give you an idea of what a state complaint letter might look like.

Once ISBE receives the complaint, the complaint will be assigned to an investigator. The investigator is an employee of ISBE with expertise in special education issues. The investigator may do some or all of the following things in reaching a final determination:

1. Contact the person or organization to clarify the issues described in the complaint;
2. Request documentation from you to support your claims;
3. Contact the district to find out the district’s position concerning the claims;
4. Request documentation from the district to support its position or positions;
5. Set up interviews with the complainant and others

Worth a Look

The procedures for State Complaints can be found at 23 IAC 226.570.

who have direct knowledge of the issues in the complaint; and

6. If necessary, perform an on-site investigation at the school.

Much of the investigation can be done by telephone and mail, although the investigator may visit the district and meet with the complainant in person in order to reach a thorough decision, if the investigator believes it's necessary.

It's important to note that although the complainant has a right to present the case to the investigator, there is not a right to question district personnel or to "argue" the case in front of the investigator. Unlike a due process hearing (described below), parties will not be allowed (or required) to participate in a formal hearing to present the case, supporting evidence or witnesses. All procedures in the complaint will be handled by the investigator alone.

In addition to these steps, the investigator may work with you and the district to find a mutually-acceptable agreement to resolve the issue or issues in the complaint. This process, called "early resolution", is a voluntary process designed to help find an acceptable solution to the problem without requiring the formal issuance of a decision by ISBE. However, if the parties and the investigator cannot find an acceptable agreement to resolve the issue, the investigator will go forward with a full investigation and make a final decision in the case.

The investigator has 60 calendar days from the date ISBE receives the complaint to reach a conclusion. In rare circumstances, however, the investigation can be extended beyond 60 days by the investigator. The conclusion reached by the investigator is called a "letter of finding". As the name suggests, the investigator will issue a decision in the form of a letter. This letter will outline the issues investigated, the facts found by the investigator, a determination of whether those facts comply with the law and regulations, and finally an order describing what the district needs to do in order to meet the requirements of the law

and regulations. A copy of this letter will be issued to the complaining party and to the district.

One unique aspect about State Complaints is the fact that a person may not only file a complaint about a single child, but can also file a complaint claiming a *systemic* problem (in other words, that a district's practices are not appropriate for a whole group of children). But there are also important differences between State Complaints and Due Process Hearings, which are another way to obtain a ruling over a special education dispute. And though Due Process Hearings will be discussed in more detail in the next section, it is useful to look at some of the differences and similarities between the two at this point.

| Action | State Complaints | Due Process Hearings |
|---|------------------------|--|
| Filed with whom? | ISBE | Local School District |
| Filer must be parent or guardian? | No | Yes |
| Concerning more than one student? | Yes | No (rare exception for siblings served in same placement) |
| Time limit to file after an alleged violation has occurred | One year | Two years |
| Mediation available? | Yes | Yes |
| Timeline for completion | 60 calendar days | 75 calendar days (regular hearing request with full resolution session timeline) |
| Timeline extensions? | Yes | Yes |
| Stay-put (what placement is maintained pending the final decision)? | No | Yes |
| Use of evidence | Yes | Yes |
| Decision maker | Complaint Investigator | Due Process Hearing Officer |

| Action | State Complaints | Due Process Hearings |
|------------------|------------------|----------------------|
| Right of Appeal? | No | Yes |
| Attorneys Fees | No | Yes |

Another important difference between Complaints and Due Process is also shown in the table above. If you file a complaint, you are permitted to include any issue that has arisen within one calendar year of the date you file your complaint. However, if you choose to file for a due process hearing, you are permitted to raise any issues that have occurred up to *two* calendar years prior to the filing of your due process request. This difference is set out in IDEA. This factor may also help you to decide whether a complaint or a due process hearing is the best route to take in resolving the issues with your district.

With this information in mind, we need to turn to the procedures associated with due process hearings.

Worth a Look

The principal rules on due process hearings in Illinois can be found at 105 ILCS 5/14-8.02a and 23 IAC 226.600 through 226.675. Citations to more specific rules on the various parts of the due process system can be found in the following sections of this Chapter.

Formal Disputes: Due Process Hearings

Due Process Hearings are the most formal way to have a dispute between a parent and a school district decided. In general terms, due process hearings have a number of similar features to court proceedings. Just like a court of law, due process hearings can involve formal arguments (often made by lawyers), witness testimony and the use of documentary evidence to make the case for one side or the other. And, just like court, a decision maker (called an “Impartial Hearing Officer” in the case of due process hearings) renders a written decision that is legally binding both parties.

There are two types of due process hearings in Illinois: general and expedited hearings. The following information describes the procedures associated with general due process hearings. Expedited hearings, which focus on issues dealing with student misconduct and discipline, are discussed in the previous chapter dealing with student discipline. (See “Expedited Due Process Hearings” on

page 81.)

In Illinois, about 90% of all due process cases are filed by parents. This is because parents have a much larger range of issues for which they can file a hearing request. Because of this fact, the following sections are mainly written from the parent's perspective. But school districts can certainly gain important insights on due process by reviewing these sections as well.

Why Should I File for Due Process?

Parents are provided much broader reasons for filing a hearing request than school districts. For this reason, most of the information provided in this section deals with the more common situation of a parent filing a hearing request against a school district.

It would take pages to describe all the possible situations where a parent might need to file for a due process hearing. In fact, this manual itself is a guide to help you decide whether you are facing a situation that might require you to file a hearing request. However in most cases, it would be a good idea for you (as a parent) to ask yourself several important questions before you begin to make a hearing request:

Have the district and I explored other options to resolve our differences?

For many people, due process hearings should be viewed as a "last resort." Due process hearings can be very expensive in terms of time and money and should be used only when you believe you have no other option to obtain the help you believe your child needs.

Tips for Parents

Just because the term "last resort" is used does not mean that there won't be situations that may require you to file a due process hearing request very quickly. You will need to consider the particular situation you're facing to decide whether you need to file a hearing request immediately or wait until other steps have been taken.

Can I present a case that makes sense to a hearing officer?

The hearing officer (the person who will decide the case) may have training in special education but will have no idea about the history of your case prior to getting your hearing request. You will need to figure out if you can present a clear story that's understandable to the hearing officer. If the hearing officer can't understand what your issues are or why you believe you are right, it will make it much harder for the hearing officer to rule in your favor.

Do the records support the position I'm taking?

Before filing a hearing request, it's always a good idea to review the IEPs and other school records you have to see if they back up your story. Documents like IEPs, evaluations and other records in your child's student file are extremely important to the hearing officer. If they suggest a different story than the one you have, the hearing officer may have difficulty agreeing with your account of the facts.

Are there witnesses who will back up my understanding of the facts?

Another important source of information to a hearing officer is what witnesses may say on your behalf. Witness testimony is a big part of due process hearings. If the witnesses, particularly those who will testify to support your case, don't have information to back up your story, it will be difficult to get a hearing officer to support your position.

It's important for you to think about all these questions before deciding to undertake a due process hearing request. A hearing request can be an expensive and time-consuming process, so thinking through these questions will help in your decision to go forward with a hearing request.

Can a District File for Due Process Too?

A local school district can file for due process against a parent in two situations:

- when a parent refuses to provide consent for an evaluation, and
- when the district refuses to grant a parent's request to obtain an independent evaluation of a child paid for by the district.

If a district initiates a due process hearing against a parent, it will write ISBE a letter requesting the appointment of a hearing officer. The letter will describe the reasons for the district's hearing request. In addition, the district will provide the parents with a copy of the letter it sends to ISBE.

Do I Need to Hire a Lawyer or Advocate?

There is nothing that prevents a parent or school district from presenting his or her own case at a Due Process Hearing, but parties frequently choose to use either an attorney or a non-attorney advocate to represent them in the hearing. There is a great deal of formality to a due process hearing, and in many ways, a due process hearing has a lot of the look and feel of a courtroom proceeding. For this reason, parties will often seek the expertise of someone with familiarity in special education law to represent them in this process.

If you're a parent using an attorney, it's important for you to keep in mind that your attorney's fees can be recovered from the district if you prevail in the hearing (and the result isn't appealed by the district to a court of law). However, the law has increasingly made it clear that "prevailing" means obtaining a favorable decision from the hearing officer on a major issue in the case. Without a favorable decision from a hearing officer, it is almost certain that the fees you pay to an attorney cannot be recovered from the district.

If you are interested in working with an attorney but can-

Worth a Look

The rules describing when a district can file for due process are outlined at 34 CFR 300.300(a)(3) (when a parent refuses to consent to an evaluation) and 23 IAC 226.180 (when a parent requests an independent evaluation).

Worth a Look

In very limited situations, a school district can seek attorneys fees against a parent. The right of a district to seek attorneys fees is limited to situations where the district can show that the parent filed for due process to harass the district or for so-called "frivolous" reasons (i.e., that the parent knew in advance that he or she had no real basis for filing for due process). In the vast majority of cases, a parents' legitimate beliefs that they have a good faith due process dispute with a school district will not be considered frivolous. For more information, check out 34 CFR 300.517(a)(1)(ii).

not find one on your own, please contact the Due Process Coordinator at ISBE for a listing of attorneys who may be able to assist you.

Worth a Look

ISBE’s website has a form that parents may use when filing a request for due process at http://www.isbe.net/spec-ed/pdfs/dp_parental_19-86a.pdf. A sample letter requesting a due process hearing can also be found in Appendix A. A copy of the ISBE form that parents can use to file for due process is also found in Appendix D.

How Do Parents Request a Due Process Hearing?

If you decide to proceed with a due process hearing, your request for the hearing needs to be filed with the Superintendent of your local school district. And even if your child is receiving services from a special education cooperative, you still must file your request with the local district Superintendent.

You have a couple of options when writing out your hearing request: you may either use a form obtainable from ISBE’s website or you can write a letter. The ISBE form can be found on the internet at this address: http://www.isbe.net/spec-ed/pdfs/dp_parental_19-86a.pdf.

The online form permits you to simply type the information on the form. Once completed, simply print out the form on your computer printer, sign it, and send it to your local Superintendent. Alternatively, you can simply print the blank form and fill in the requested information by hand. In either case, please provide complete information to all the questions on the form. If you need additional space, don’t hesitate to attach additional pages to the form.

If you choose to write up your request in the form of a letter, you should attempt to provide all the information that is requested on the ISBE form. At a minimum, your hearing request needs to contain the following information:

- Your name and contact information (phone, mail address and, if you wish, a fax number and email address);
- the name of your child and the name of the school your child attends;
- a statement of the issues you believe require the hearing officer to consider;
- a statement of the facts that are relevant to the issues in

Worth a Look

The rules describing what information needs to be included in a due process hearing request can be found at 34 CFR 300.508(b).

the case; and

- the remedies or orders (to the extent you know what they are) that you would want the hearing officer to enter to resolve the case.

It is essential for you to include all this information in your hearing request. Under IDEA, failure to include all the required information could subject your request to *dismissal* by the hearing officer. Once completed, you will need to sign your letter and send it to the local Superintendent.

When the district receives your request, the district has five calendar days to forward your request to ISBE. Within three calendar days of receiving the request from the district, ISBE will appoint a hearing officer and mail both you and the district a written notice of who the hearing officer is.

Stay-Put: How a Hearing Request Affects the Child's Placement

When a party files a due process hearing request, the request triggers what is known as “stay-put” under both the Federal and State law. “Stay-put” is a provision designed to make sure that no changes are made to your child’s placement until issues that might affect the placement have been decided by a due process hearing officer. “Stay-put” requires a district to maintain the last placement the parties agreed to prior to filing for due process.

Because of the “stay-put” provision, it may be important that you make your decision to file for due process as soon as possible after an IEP meeting in which you are strongly opposed to the recommended placement. A district can proceed with a placement within 10 calendar days of an IEP meeting if you do not make a formal objection to the placement. Therefore, if you wait until after the placement has been implemented to file for due process, it may be difficult to go back to the previous placement as the “stay-put” placement.

Worth a Look

The “stay-put” provision in IDEA can be found at 34 CFR 300.518(a).

A Note about Hearing Officers and Substitutions

Worth a Look

The rules guiding the substitution of hearing officers can be found at 105 ILCS 5/14-8.02a(f-5).

When ISBE receives a hearing request from a local district, a hearing officer is selected based on a fixed rotation that is maintained in a computer database at ISBE. Each hearing officer currently serving in Illinois is either an attorney or an educational professional. However, it must be noted that no one can serve as a hearing officer in Illinois if they are an employee of a local school district, a special education cooperative, a regional office of education or ISBE. Each hearing officer has received comprehensive training and ongoing training in special education law and special education practices.

It is important for you to remember that the hearing officer functions in many of the same ways that a judge does in a court of law. In the same way that a court operates, you cannot discuss your case with the hearing officer without the presence of a representative of the district (likewise, a district representative cannot discuss the case without your presence). The only exception to this rule is when you are contacting the hearing officer for the purpose of scheduling a meeting with the hearing officer and the district or scheduling the hearing itself.

When parties receive notice of the hearing officer appointment, you will receive a short description of the hearing officer’s professional background and work history. This information should be able to assist you in deciding whether you want to exercise your right to request a *substitution* of your hearing officer. Under Illinois law, both you and the district have a right to request one hearing officer substitution in the case. Please note that if you decide to substitute your hearing officer, you must do so in writing within *five calendar days* of receiving your written notice of the hearing officer. Your substitution request may be directed to the Due Process Coordinator at ISBE.

Next Steps: Responses and Insufficiency

A number of things may happen very quickly after you file your hearing request with the local school district. Under

both IDEA and the Illinois School Code, the district may do one or both of the following things:

1) Provide a written response to the hearing request

Within 10 calendar days of receiving your request, the district may provide you and the hearing officer with a written response to the hearing request. A written response, however, is not required if the district has already provided you with “prior written notice” of its actions that led you to file your hearing request. In many cases, the IEP and Notice of Conference Recommendations you receive at the end of an IEP meeting is considered to be “prior written notice”.

2) File a Notice of Insufficiency

Also within 10 calendar days of receiving your request, the district may file “Notice of Insufficiency” with you and the hearing officer. A Notice of Insufficiency is basically a request by the district to have your request dismissed because it lacks the required information for a hearing request. If you made sure to include all the information described earlier in writing up your hearing request, a hearing officer is likely to refuse dismissing your hearing request.

The Resolution Process

Since 2004, IDEA now requires parties to attempt to discuss potential settlement of due process disputes. This procedure is called the Resolution Process and is now a mandatory part of all hearing requests. This procedure allows parties up to 30 calendar days following the initiation of a due process hearing to explore solutions for resolving the dispute without a full-blown hearing.

Within 15 days of the district’s receipt of your hearing request, one of three things **must** occur:

1) Conduct an initial resolution meeting

By the 15th day, you and the district must have an initial meeting to discuss your hearing request. This initial

Worth a Look

The rules guiding the response to a hearing request and challenging the hearing request for insufficiency can be found at 34 CFR 300.508.

Worth a Look

The rules guiding the Resolution Process can be found in both Federal and State law. The Federal rules can be found at 34 CFR 300.510, while the State provisions can be found at 105 ILCS 5/14-8.02a(g-20).

Important Reminder

Unless **both** the parent and the district agree in writing not to conduct the Resolution Process, both parties **must** participate in the initial meeting. A party's failure or refusal to participate in the initial meeting could either significantly delay the Due Process Hearing, or possibly result in the dismissal of the hearing request by the hearing officer. In limited circumstances, the refusal to participate in the resolution process can also result in an order granting some of all of the requested remedies in the hearing request. Please see 105 ILCS 5/14-8.02a(g-20) for more information.

Important Reminder

If you and the district decide to use Mediation instead of the Resolution Process, it may delay the timeline for completing the Due Process Hearing. Under Federal law, the timelines for completing the hearing will not trigger until the Mediation has been completed, even if the Mediation extends beyond the 30-day timeline for completing the Resolution Process.

meeting (and other meetings that may occur over the next 15 days) is designed for you and the district to discuss your request, the facts surrounding the request, and ways that you and the district might work out an agreeable solution to the problem or problems. The initial meeting must include you, a district representative with authority to sign an agreement with you, and any members of your child's IEP team who have knowledge of the facts concerning your hearing request. You may also bring an advocate or an attorney with you, but if you bring an attorney, the district will be allowed to bring theirs.

2) Agree to use Mediation instead of the Resolution Process

By the 15th day, you and the district can also agree to conduct a Mediation with an ISBE-appointed mediator in place of the Resolution Process. Both you and the district must agree *in writing* to use the mediation option. If you do agree to the Mediation, your written agreement should be given to the hearing officer and the Mediation Coordinator at ISBE as soon as possible.

3) Agree to waive the whole process

Both parties can agree to bypass the whole process, so long as both agree to do so in writing by the 15th day following the district's receipt of your hearing request. If the parties agree not to do either the Resolution Process or a Mediation, they will need to provide the hearing officer with a copy of the agreement as soon as possible. If the parties agree to waive the Resolution Process, the hearing procedures will begin immediately.

If the parties conduct the resolution process, please keep the following points in mind:

- **You have until the 30th calendar day following your filing of your hearing request to complete the process.** Up until the 30th day, the parties can meet again to discuss further possibilities of resolving the dispute. You also can discuss issues by phone or by mail.
- **Discussions during the Resolution Process are NOT**

confidential. Unlike Mediation, the discussions the parties have during the resolution process are not confidential and could be used as evidence during a due process hearing. It's therefore very important that you keep this in mind when deciding to go forward with the Resolution Process.

- **You can continue to explore settlement of your dispute after the close of the Resolution Process.** Even if you do not reach an agreement before the end of the 30-day timeline for the Resolution Process, you can continue to discuss possible solutions to the dispute with the district up until the actual Due Process hearing has begun. However, if you reach an agreement after the 30th day, the rules applying to written agreements in the Resolution Process (see below) will not apply unless your hearing officer has ordered an extension of the timeline for the Resolution Process.

Resolution Agreements

So what happens if you reach an agreement with your district on the issues that led to your hearing request? Any agreement you reach with the district during the Resolution Process *must* be put in writing. Also, the agreement must be signed by you and the district representative for the agreement to be valid.

One aspect about a Resolution Agreement that you need to remember is that you have up to three *business* days (i.e., Monday through Friday except for State and Federal holidays) to void the agreement. This means that you can choose, essentially, to erase or invalidate the agreement so long as you advise the district of this decision in writing. If you choose to do so, the agreement will have no effect.

Please remember these important points about Resolution Agreements:

- **Try and ensure the Agreement is detailed about everything needed to resolve the dispute.** When writing up the Agreement it's important to make sure that the

Worth a Look

The rules on Agreements reached through the Resolution Process can be found at 34 CFR 300.510(d) and (e).

Important Reminder

Either party can revoke the terms of a Resolution Agreement so long as it is done in writing within 3 *business* days of the Agreement.

Agreement describe in detail what you and the district need to do and *when it needs to be completed*. For example, if a new IEP needs to be written to provide more speech services to your child, the Agreement should describe how much service the district will provide in the IEP and when the IEP meeting needs to occur.

- **The Agreement is legally enforceable.** Assuming that neither you nor the district has exercised your right to void the agreement within three business days, the Agreement is a legally binding agreement on both you and the district. This means that if needed, you can go to court (either State or Federal) and ask a judge to enforce the agreement if something is not being done, or something is being done incorrectly.

Setting the Stage: The Pre-Hearing Conference

If you can't reach an agreement in the Resolution Process, the hearing procedures will go forward at the 30th day or at whatever earlier date the parties agree to terminate the Resolution Process. If this happens, the hearing procedures will begin. Under Illinois law, the hearing officer must render a decision in the case within 45 calendar days of the start of the hearing procedures unless extensions of time have been ordered by the hearing officer. The hearing officer can only grant extensions of time at the request of one party or the joint request of both parties.

The next major step in the process concerns a meeting called the Pre-Hearing Conference. This is a meeting run by the hearing officer in order to outline how the hearing will be conducted, what the issues will be, who will likely be called as witnesses and what documents each side is likely to use as evidence at hearing. The hearing officer will schedule the Pre-Hearing Conference with you and the district in advance and will provide you with a written notice of the time and location of the meeting. It is also common for such meetings to be conducted by phone.

After you file your hearing request with the district, you will receive a packet of information from ISBE that includes

Worth a Look

The rules guiding the procedures for the pre-hearing conference can be found at 105 ILCS 5/14-8.02a(g-40).

Important Reminder

Extensions of time to complete the hearing can be granted by the hearing officer if one party requests a delay in the hearing. However, if both sides submit a joint request for an extension of time, the hearing officer must grant it. See 105 ILCS 5/14-8.02a(h) and 23 IAC 226.640(b).

information on the Pre-Hearing Conference and how to prepare for it. Once the hearing officer has set the date for the Pre-Hearing Conference, you should review the materials you receive from ISBE carefully in order to prepare for the Conference. The hearing officer will inform you about any deadlines associated with the Pre-Hearing Conference and when you will need to submit information to the hearing officer and the district.

When preparing for the Pre-Hearing Conference, it is helpful for you to keep a few things in mind:

- **Be prepared!** Make sure you have met the deadlines of the hearing officer and that you have done a thorough job providing the hearing officer with the information requested. Before the Pre-Hearing Conference, it's always a good idea to sit down and review your Pre-Hearing Conference materials so you are prepared to address any questions the hearing officer may have.
- **Are the issues I raised in my hearing request clear?** It is not uncommon for the hearing officer to ask for clarification about the issues in the case. In order to be ready to answer such questions, it's a good idea to re-read your hearing request and ask yourself whether a person who doesn't know about your situation would understand what you said in your hearing request.
- **Do all the witnesses I plan to bring to the hearing have something relevant to say?** Often, questions will be raised about why one or more of your witnesses are being called by you. Be prepared to describe to the hearing officer what the witnesses will likely discuss at the hearing and whether the witness's testimony is relevant to your issues.
- **Are all the documents I'm thinking about submitting at the hearing relevant to my case?** In the same manner as witnesses, questions may also be raised about whether some of the documents you may use at hearing are relevant to the issues in your hearing request. You may need to explain the relevance of one or more documents during the Conference.

The Big Event: The Due Process Hearing

At your Pre-Hearing Conference, the hearing officer will set a final date for the hearing to take place. At the earliest, the hearing will take place 14 days after your Pre-Hearing Conference, but the Hearing Officer can set a later date if the timelines permit. It is not uncommon for the hearing officer to set more than one day for the hearing, especially if there are a large number of issues the hearing officer must decide.

Hearings usually take place at the administrative offices of your local district, but occasionally they can occur at other locations if the hearing officer decides there is a good reason for holding the hearing in another place. Follow the hearing officer's guidance on where to be seated in the room.

Under normal circumstances a due process hearing is a "closed" event. In other words, it is not a meeting that can be attended by persons other than persons directly involved in the hearing. However, parents have the right to request an "open" hearing. By making the hearing "open", other persons (including members of the public) may attend (but not participate in) the hearing.

From the moment the hearing begins, you will notice a great deal of formality similar to being in a court of law. The formality is essential to ensure the hearing runs smoothly and efficiently. In cases where parents request the hearing, the typical order of a hearing is as follows:

- » Parent Opening Statement
- » District Opening Statement
- » Parent Witnesses (with District cross-examination)
- » District Witnesses (with Parent cross-examination)
- » Parent Closing Statement
- » District Closing Statement

This order can sometimes vary if the hearing officer finds that it is appropriate to do so. For example, if a witness

for the district has only very limited time availability, the hearing officer can order the witness to go out of order to ensure that the witness has a chance to testify.

From the beginning you will note that a court reporter will be present for the entire hearing. The court reporter is responsible for taking down what everyone says “on the record” throughout the entire proceeding. The court reporter will also be responsible for generating a complete written transcript of the hearing that may be available to the parties after the close of the hearing.

During the proceeding, each side will call witnesses to give evidence about the case. Each witness will be administered an oath by the hearing officer and is obligated to tell the truth while under oath. Following the initial questioning by the side who called the witness (called “direct examination”), the other side is given a chance to ask follow-up questions based on what the witness said during the initial questioning (called “cross examination”).

The hearing officer will close the proceeding at the end of the presentations by both sides. At that time, the hearing officer will also provide you and the district with information about when the hearing officer will issue a decision. The Illinois School Code requires the decision to be issued no more than 10 days following the close of the hearing.

The Decision & Clarification: The Final Step? Maybe

Within 10 days after the close of the hearing, the hearing officer must issue the decision in the case. The decision is, of course, in writing and a copy is sent both to you and to the district. The decision itself can be a lengthy document. It will outline the issues in the case, the evidence considered by the hearing officer, a summary of the relevant law to the case, and finally the decisions the hearing officer has made when looking at the facts in light of the law.

Worth a Look

In regular hearings, the hearing officer is given 10 calendar days to issue the decision. In expedited due process hearings (see Chapter 10), the hearing officer is given 10 **school** days to issue the decision. See Section 14-8.02b of the Illinois School Code. (105 ILCS 5/14-8.02b)

The decision will outline what if anything that you and the district will need to do in order to correct the situation. If the hearing officer finds that your child has not received an education that complies with the law and the regulations, the decision will lay out the steps the district must follow to correct the situation. Unless you or the district appeal the decision to court (see below), the hearing officer's decision is binding on you and the district and can be enforced in a court of law if necessary.

If you believe that something is unclear in the decision, you do have a right to request (again, in writing) a clarification of the decision. This is designed for you to obtain further explanation from the hearing officer about the meaning of the decision. The clarification does not, however, allow you to ask the hearing officer to “reconsider” or change the decision in any way. If you believe that the decision is incorrect, it will be necessary for you to seek a review of your case in a court of law.

Court Review of the Decision

If you are dissatisfied with the decision, the only way to change the outcome is to appeal the decision to a court of law. Most typically, such appeals are made in the United States District Court, but an Illinois Circuit Court can hear such appeals too.

Worth a Look

The rules dealing with the appeal of hearing decision to a court of law are found at 105 ILCS 5/14-8.02(i) as well as 34 CFR 300.516.

It is not within the scope of this manual to describe in detail how to pursue your appeal in a law court, but a couple of things should be kept in mind if you want to think about an appeal:

- **The court action to appeal the decision MUST be started within 120 calendar days of the date of the decision.** The courts keep very strict timelines on this. Even an appeal that's filed one day late can (and often is) dismissed by the court.
- **The court appeal is even more formal than the due process hearing.** Because of the sometimes complex procedures by which a court of law operates, it is prob-

ably even more essential for you to obtain legal representation if you choose to appeal. Although you can still represent yourself in court proceedings, judges can sometimes be very strict in enforcing court rules, even for unrepresented parties.

- **The court appeal often adds a lot of time to the process.** The court is not under the stricter timelines that a due process hearing officer is, so an appeal often takes much more time than the hearing itself. If a further appeal to an appellate court occurs, it is not unreasonable to expect a year or more to pass before final resolution of the issues has occurred.

In other words, it is absolutely essential for you to think over carefully (perhaps even more than the decision you make to file a due process hearing request) whether appealing your case to a court of law is the right option.

Conclusion: Conflict Resolution in a Nutshell

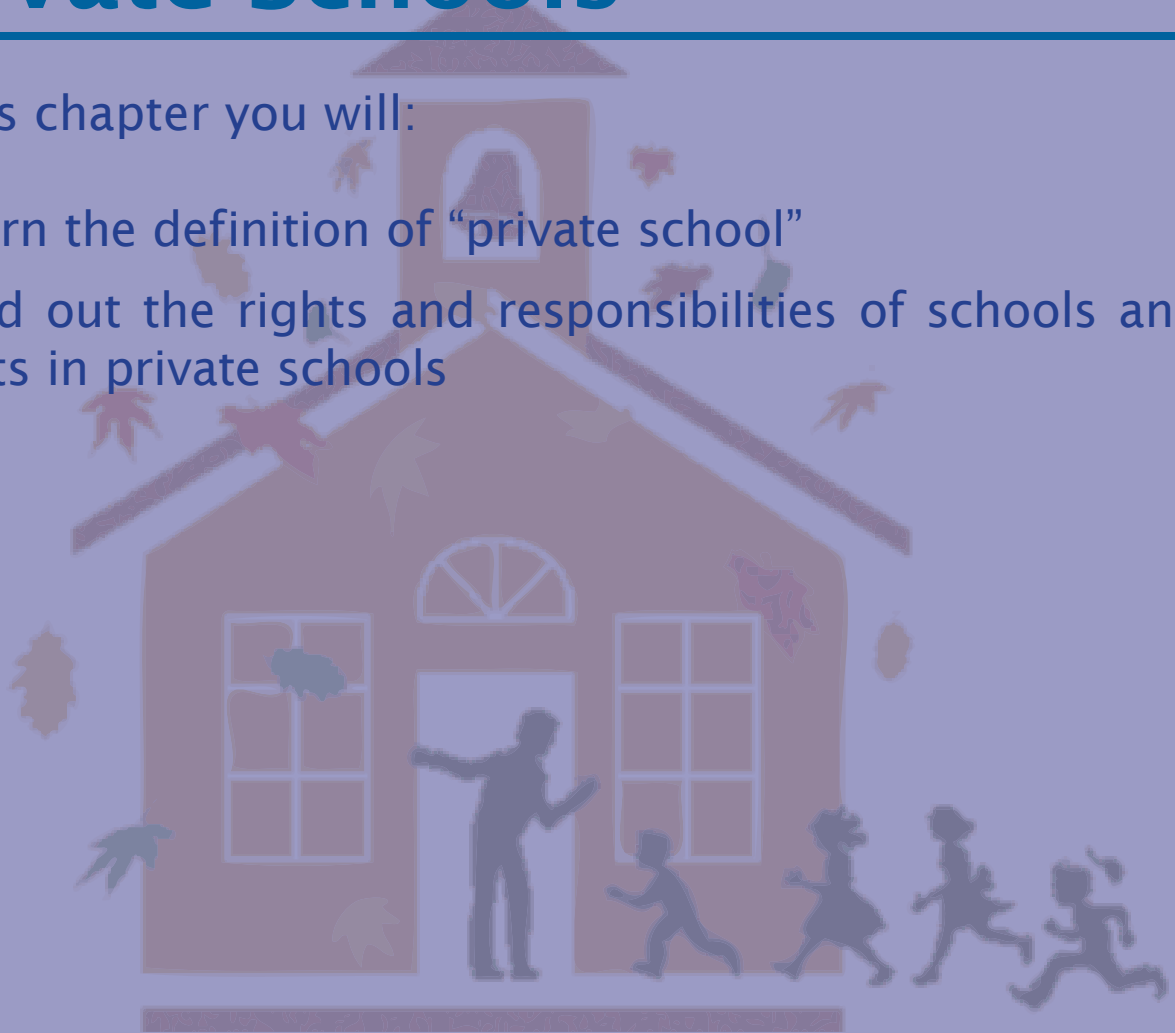
As we have discussed in this chapter, the ways of resolving disputes range from very informal processes (for example, one-on-one discussions with district administration) to highly formal (for example, appeal of a due process hearing decision to court). But whether informal or formal, all of the processes described in this chapter are designed hopefully to resolve issues and disagreements that may arise between parents and districts in the complex task of providing the child with a free appropriate public education. Most disputes can be resolved (and usually are) through the simple act of talking through the issues and concerns with district personnel. However, if this doesn't happen, you certainly can (and perhaps should) use one or more of the tools we have outlined here.

Chapter 12:

Private Schools

In this chapter you will:

- learn the definition of “private school”
- find out the rights and responsibilities of schools and parents in private schools



Overview of Private School Placement

When thinking about private schools and special education, it is important to understand the different kinds of private school placement. In special education, there are two common scenarios addressing the needs of a student with disabilities in a private school.

The two types of private school situations are:

1. Children who are placed in private schools (such a religious school) by their parents; or
2. Children who are placed in private schools by public school districts.

Placement by a Parent on a Voluntary Basis

The first, and most common, situation involves students whose parents voluntarily enroll the students in private program, such as a religious school. Very often, such schools do not focus on students with disabilities and may only have limited support for students with disabilities. Still, parents of students with disabilities may have some options available to them to obtain additional support from the public school district.

The Serving District

If a parent wishes to enroll a child in the public schools, the parent would look to the school district where the parent lives to determine which district is responsible for educating the child. In the case of a private school student, though, the parent must instead look to the district *in which the private school is located* to determine the district that will be responsible for providing special education services to children with disabilities in the private school.

Limited Services

One important point must be kept in mind in the case of a student placed in a private school by the parents: the services the student will receive in the private school

Worth a Look

The requirements for public schools districts to serve students in private schools are outlined at 34 CFR 300.130 through 300.144.

will often be less than the services the student would receive if the student was attending a public school with an IEP. This is due to the fact that, under Federal law, districts are only required to spend a portion of their Federal special education funds on students with disabilities in private school. Called “proportionate share,” this sum is usually much smaller than the overall funding a district can spend on students with disabilities within the public schools. Also, when proportionate share funds run out during the school year, a district can choose to end services for the rest of the school year.

ISP vs. IEP

Unlike students in public schools, students with disabilities in private schools are not entitled to an IEP. Instead, districts will often provide an Individual Services Plan or “ISP” to students with disabilities who will be receiving services from the school district during the school year. An ISP is a much less detailed document that often will only describe the types of service being provided, the frequency of the services, and the location where those services will be provided. If appropriate, the district might also add a goal or short-term objective, but this is not required in all cases.

Child Find and Evaluations

Unlike the issue of services, districts are obligated to conduct Child Find in the same manner for families of private school students as it would do with families of public school students. The district cannot refuse to undertake Child Find simply because the student attends a private school. For more information on Child Find, please review Chapter 1, “Child Find.”

In addition, if a district determines that a student in a private school requires an evaluation to determine the student’s eligibility for special education, the district cannot refuse to perform the evaluation, or any required re-evaluations later. The district will also be expected to conduct the eligibility conference to review the evaluation and to determine if the student should be made eligible for spe-

Important Reminder

If a student with a disability attends a private school and will be receiving services from the public school, the student’s services should be outlined by the district in an Individual Services Plan (“ISP”) rather than an IEP. An ISP is a far more limited document than an IEP and will likely contain fewer parts than would be found in an IEP.

cial education. For more information on evaluations and eligibility, please review Chapter 3, “Referral & Evaluation,” and Chapter 4, “Eligibility Categories.”

Finding Out the Services Offered by the District

To find out what kinds of service a school district will be providing to private school students, a parent should contact the administrative offices of the district where the private school is located. District administration will be able to provide parents with an outline of the services, as well as information on how to contact the district about the Child Find and Evaluation process.

In addition, the district may periodically invite parents to attend a meeting called “Timely and Meaningful Consultation,” sometimes simply called “TMC.” Such a meeting is required to take place in every district in which a private school is located throughout Illinois. The meeting is typically held annually (although districts can conduct them more frequently if districts choose or if circumstances might require an additional meeting). TMC meetings must, under Federal rules, involve representatives of the private schools as well as “parent representatives” of private school parents and students. These meetings will typically outline the amount of “proportionate share” funding the district has for the school year, as well as the types of service the district plans on providing during the year.

Important Reminder

Parents of private-school students have limited rights to request a due process hearing, or to file a State complaint. Make sure the issue can be heard or investigated before filing a complaint or due process hearing request.

In the area of due process, parents may only file a hearing request to determine the general issue of whether the student is or is not eligible for special education. Disputes over the **type** of disability (e.g., whether the student should be LD as opposed to ED) are not generally a basis for filing a hearing request when dealing with private school students.

Complaints and Due Process

Parents of private school students have limited grounds to file complaints with ISBE or to request a due process hearing. If a parent of a private school student wishes to file a complaint, Federal rules state that the parent is limited to filing a complaint regarding the district’s conduct of the “Timely and Meaningful Consultation” process described in the previous subsection. Federal rules also limit the grounds on which parents can file for due process. Under these rules, parents may only file for due process to challenge a district’s decision either to find (or not find) a student eligible for special education services *of any kind* (see sidebar, “Important Reminder” for more information).

For further information on filing a State complaint or a request for a due process hearing, please review Chapter 11, “Conflict Resolution.”

Placement by a Public School District

As you may have read in Chapter 7 (“Least Restrictive Environment”), a school district may be required in certain cases to place a student with a disability in a private school. In these situations, the private schools in question are schools with a specific expertise in working with students with disabilities. As was also discussed in Chapter 7, such placements usually occur only when the district cannot develop a satisfactory placement within a public school facility.

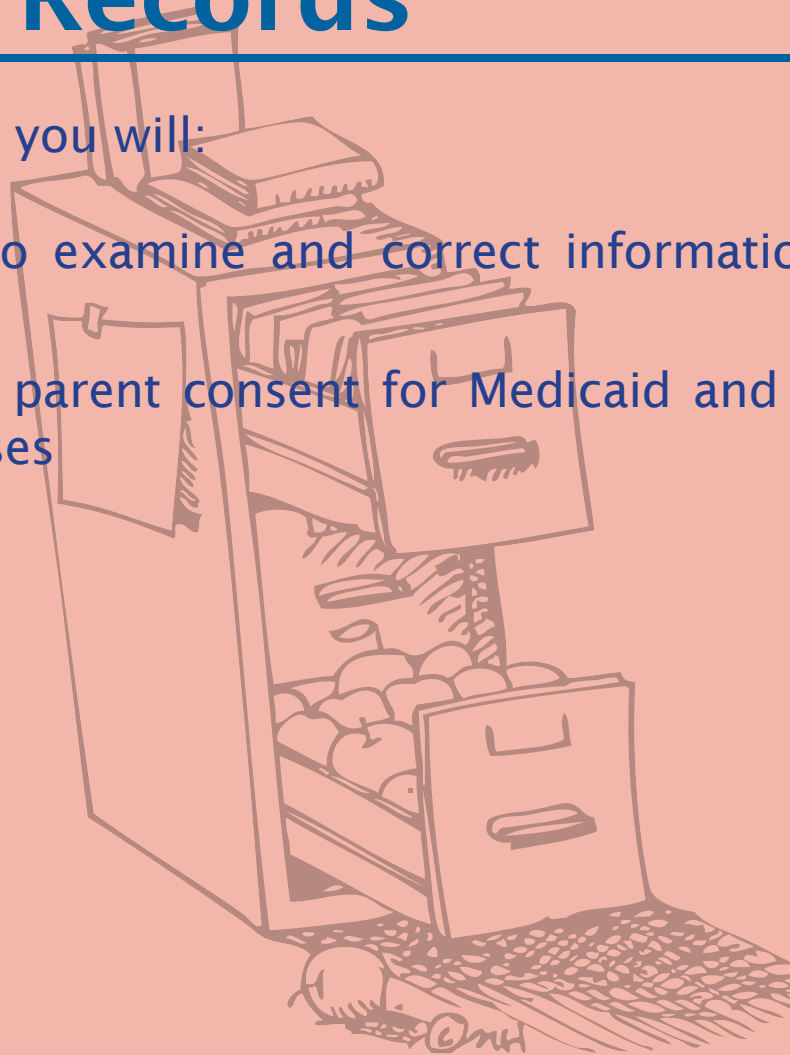
In situations where the public school district has placed the student in a private school, the student’s placement must ensure that the student’s IEP can be implemented completely. The private school is, in a sense, an extension of the public school because the student’s program in the private school is guided by what the IEP requires. From the point of view of the parent, there isn’t any real difference between the rights the parent has with regard to the IEP. The IEP must be reviewed at least annually and the parent has the full right to participate in all IEP meetings. In fact, there are few, if any, differences between the rights a parent enjoys when dealing with a district placement in a private school and the rights the parent enjoys when the placement is in a public program.

Chapter 13:

School Records

In this chapter you will:

- learn how to examine and correct information in the student's file
- learn about parent consent for Medicaid and private insurance purposes



Reviewing and Copying Records

Worth a Look

The following provisions provide relevant information on the issue of student records:

The Illinois School Student Records Act: 105 ILCS 10/1 and following

34 CFR 300.306

34 CFR 300.322

34 CFR 300.613

Parents have the right to see and read their child’s educational records. Upon receiving a request, the school district must make your child’s records available to you (within 15 school days).

The school district may charge a reasonable fee for copies of the record; however, if you cannot afford the fee, you still have the right to review and receive a copy of the records [34 CFR 300.322(f)]. Parents are to be provided a copy of evaluation reports and documentation of determination of eligibility upon completion of the administration of assessments at no cost [34 CFR 300.306(a)(2)]. Parents must be allowed access to any education records relating to their child that are collected or maintained by the school. [34 CFR 300.613].

Challenging Your Child’s Records

Parents can request that the district add, remove, or change information in the student file (105 ILCS 10/1—Illinois School Student Records Act).

Parents should submit a written request to the school district that explains their concerns. The request should be sent to the superintendent.

When dealing with a request to add, change or remove a student record, a parent needs to:

- Make sure you understand what the records say.
- Talk to the school principal or district superintendent about the problem.
- Write a letter about what you want and ask for a written answer.

If the problem is not resolved to the parent’s satisfaction, the parent may request a *Records Hearing* (this is different from a due process hearing) through your local school district to resolve the issues. Regardless of the outcome of the hearing, parents may put a note or letter in their child’s

school record to explain their point of view.

Age of Majority

The rights of parents concerning education records are given to the student at age 18 unless parents have obtained guardianship or the student provided written consent for parental access. This means that if there is no guardianship established, an 18 year old student must sign a waiver permitting the parent to review the school records.

Medicaid and Insurance: Parent Consent/Student Records

A school district may use Medicaid payments to assist in paying for the services a special education student receives. To receive Medicaid funding, the school district does not need parent consent provided that the parents are:

- informed that such information is being released by the school, and
- given the opportunity to request the information not be released (23 IAC 375.80).

The information the school district provides to the Illinois Department of Healthcare and Family Services (“IHFS”) is subject to the Illinois School Student Records Act (105 ILCS 10/1 et seq.). This information includes the child’s name, the types of services provided, and the dates of services. Such information is the type of directory information that the school may release without parent consent.

Notification of the school district’s intent to access Medicaid may be included in the district’s directory policy information (such as a parent handbook) or they may send parents a letter. The school district must assure that the information provided to the IHFS is covered by the directory information notice given to parents as specified in 23 IAC 375.30.

The district must have written consent from parents in or-

der to use their private insurance.

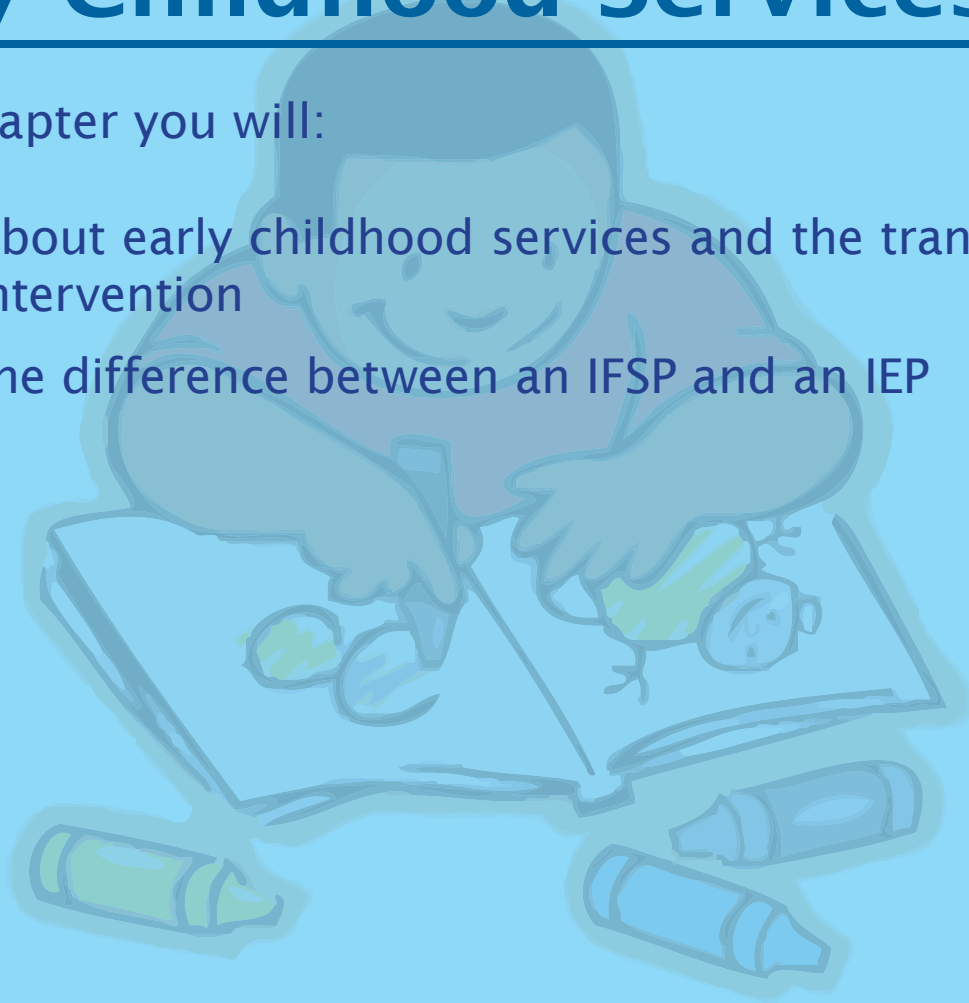
Services required by an IEP must be provided at no cost to the child's parents, whether they have public or private insurance. Parents shall be notified that the use of their private insurance proceeds to pay for services is voluntary. In the case of a child who is dually insured (through private insurance and Medicaid), a family shall not be required to draw upon private insurance whose use is a prerequisite to billing Medicaid if that use of insurance will result in financial costs to the family (23 IAC 226.770).

Chapter 14:

Early Childhood Services

In this chapter you will:

- learn about early childhood services and the transition from early intervention
- learn the difference between an IFSP and an IEP



Early Childhood Special Education Services

The school district is required to provide a free appropriate public education for all children with disabilities who are age 3 through 21. Parents of preschool children who need, or are thought to need, special education and related services have the same rights as other school-age children. Special education and related services must begin on the child's third (3rd) birthday for children served in an early intervention program or for those children referred for an evaluation 60 school days before their third birthday and found eligible. If the child's third birthday occurs during the summer, the IEP team will determine when the school district's services to the child will begin.

There is no automatic eligibility for Early Childhood Special Education Services. Parents, school personnel, and others should work together to determine if the child is eligible to receive special education services.

Transition from Early Intervention

All children in Early Intervention (EI) services are entitled to a smooth and effective transition by their 3rd birthday. The transition process begins when the child is 2 years 6 months of age. Transition begins this early because it gives parents and early intervention, school and other early childhood professionals time to meet, share information and plan.

When the child is 2 years 6 months of age, the EI service coordinator will ask the parent to sign consent so a referral packet can be sent to your local education agency (LEA). The service coordinator should be notified if the parents want the child's information sent to other preschool programs in the community. The child's referral packet will be sent after the parents sign for consent. Without the consent, the service coordinator will not be able to send the packet and the child's transition process will be delayed. If the parents have concerns or questions about sharing information, they may want to discuss those concerns with a parent liaison or service coordinator.

Parents may want to start the transition process before the child is 2 years 6 months. The reason for starting the transition process early may include factors such as:

- concerns about having more time to plan;
- concerns about what will happen if their child turns 3 during the summer;
- concerns about a child's complex medical needs.

If parents would like to start transition earlier, they should speak with their service coordinator as soon as possible.

When the child is 2 years 9 months of age, the service coordinator will hold a Transition Planning Conference that will include parents, the service coordinator and a school district representative. Parents may want to invite other professionals, family members, or representatives from community programs. The Transition Planning Conference is an opportunity for the parents to learn about the school district and for the school district representative to learn about the child. It is not a meeting for making decisions about eligibility, services or determining where the child might go to school.

The school district or special education cooperative representative will contact the parents about participating in a Domain Review after the Transition Planning Conference. The purpose of a Domain Review is to figure out if additional information is needed before the IEP team can determine if the child is eligible for Early Childhood Special Education services. The domain form is used to keep track of the Domain Review. This form can be filled out at a meeting the parents attend with other IEP team members. It may also be filled out by the child's IEP team, and one team member may then review the form with the parent. The domain form is also called the Identification of Needed Assessments form.

Even though the parents and the child received services through Early Intervention, there is no automatic eligibility for Early Childhood Special Education services. Parents will be involved in helping the school district or special

Important Reminder

If it is determined that a child is eligible for early childhood special education service, the IEP or IFSP for the child must be in place on or before the child's third birthday. Consideration for early childhood services should typically begin by the time the child reaches age 2½.

Worth a Look

Please refer to Chapter 3, “Referral” for a fuller discussion about evaluation procedures.

Worth a Look

For more information about early childhood special education, ISBE offers a booklet entitled, **When I’m 3, where will I be?** A copy of this booklet can be found at http://www.isbe.net/earlychi/pdf/transition_workbook.pdf.

education cooperative gather needed information to help determine if the child is eligible.

It is very helpful for parents to share information about the child with other IEP team members. Parents know what the child has learned, what the child likes and dislikes, and they understand how the child likes to play.

The evaluation procedures for special education that would be used for an elementary or high school-aged child would also apply to preschool children suspected of having a disability which will adversely affect educational performance. *The IEP or IFSP must be developed and services must be in effect beginning on the child’s 3rd birthday.* The type, amount and location of special education services provided must be based on the child’s needs. The law requires that preschoolers receive their services together with children without disabilities, to the maximum extent appropriate.

The child’s special education and related services can be delivered in a variety of different settings. Some of those settings could be community preschool or child care programs, park district preschools or programs, Head Start, state-funded Pre-Kindergarten or Preschool for All programs, or an early childhood special education program provided by the school district. (See the ISBE booklet, “When I’m 3, where will I be?” located at http://www.isbe.net/earlychi/pdf/transition_workbook.pdf.)

IFSP/IEP

The Individualized Family Service Plan (IFSP) may be used for a preschool child who is transitioning from early intervention and is found eligible to receive special education services. If an IFSP is used, it must meet all the content requirements of an IEP and must be developed during a meeting in which the required participants are in attendance. In using the IFSP, the local school district must provide a detailed explanation of the differences between an IFSP and an IEP and obtain informed, written consent from the parent for the use of the IFSP.

Chapter 15:

Section 504 of the Rehabilitation Act of 1973

In this chapter you will:

- learn what is covered by Section 504 of the Rehabilitation Act of 1973
- understand how to file a complaint
- learn the truth behind common myths about Section 504

Overview

In certain situations, a school district may be required to offer support to students with disabilities under a provision known as Section 504. “Section 504” refers to Section 504 of the Rehabilitation Act of 1973, a federal law that requires any person or agency receiving federal money to have policies in place that prohibit discrimination against persons with disabilities. Section 504 concerns more than just education, but the important thing to remember is that Section 504 applies to local school districts.

Section 504 can cover things that are also covered by IDEA, as well as a few situations that are not covered by IDEA. Section 504 deals with a much more general concept of disability than is covered under IDEA. So, if a student has a disabling condition that is not clearly covered under IDEA, Section 504 will probably still cover it. An example is a student who is temporarily disabled by an injury such as a broken leg. Although the “disability” is not permanent, a school district is still required under Section 504 to provide “accommodation” that will allow the student to have access to the school and its programs while the student remains under the temporary disability of the broken leg. Section 504 may also cover general access issues such as wheelchair access and other types of physical barriers. (These issues also may be covered under the Americans With Disabilities Act of 1990 (the ADA) but it is beyond the scope of this guide to discuss the ADA in detail.)

If a student is covered by Section 504, a school district must provide the student with a “504 Plan” that describes what the district will do support the student’s disability and ensure that the student’s disability will not be a barrier to the student access to school programs (which can include things such as school assemblies, extracurricular activities, etc). It is important to note that a 504 Plan is a much more general document than an IEP and will only contain a basic description of what kinds of support the district will provide to address the disability. If a school district does not provide such support, a parent may file

Worth a Look

The text of Section 504 of the Rehabilitation Act of 1973 can be found at 29 USC Sec. 794.

a complaint with the US Department of Education to have the complaint addressed.

How to File a 504 Complaint:

If a parent has a disagreement with the district's 504 Plan, a parent may inquire whether the district offers parents the opportunity to participate in "504 hearing". A 504 hearing is a much less formal process than a due process hearing and may be only an opportunity to discuss the complaint with a school administrator. A school district is not required to make a 504 hearing process available to parents.

Regardless, a parent who has a complaint about a 504 issue may still file a complaint with Office for Civil Rights (OCR) of the US Department of Education. If you wish to file a 504 complaint in Illinois, you may direct a written complaint to the following address:

U.S. Department of Education
Office for Civil Rights
111 N. Canal Street, Suite 1053
Chicago, IL 60606-7204
(312) 886-8434
(312) 353-2540 (TDD)
(312) 353-4888 (Fax)
OCR.Chicago@ed.gov

Your complaint should be as detailed as necessary to describe the issues you are experience and the facts about the situation. OCR will conduct the necessary investigation and, if there is a violation of Section 504, order the school district to take the necessary action to correct the situation.

Worth a Look

For information on how to file an OCR complaint and to find an OCR complaint form go to www.hhs.gov/ocr/civilrights/complaints/index.html.

The 5 Common Myths About Section 504

| Myth #1: 504 Equals IDEA | |
|--------------------------|---|
| The Myth | If a student is eligible under Section 504, it's the same as being eligible for special education. |
| The Truth | If a student is Section 504 eligible (but not eligible for services as a special education student under IDEA) the student and the family have far fewer protections than in the case of a special education student. For example, the family of a 504 student is not entitled evaluations, IEPs or requesting a due process hearing in the case of a disagreement with the district. |

| Myth #2: Temporary is Not a Disability | |
|--|--|
| The Myth | Students with temporary conditions (such as a broken leg, or an illness) are not eligible for 504 support. |
| The Truth | Section 504 covers both temporary and more long-term conditions. Thus, if a student has a temporary disabling condition due to, for example, an injury or surgery, the district can provide the student with a 504 plan to cover the period in which the student's activity is limited by the temporary condition. |

The 5 Common Myths About Section 504

| Myth #3: 504 Means IEP | |
|-------------------------------|--|
| The Myth | If a student qualifies under Section 504, the district is required to develop an IEP. |
| The Truth | Without being eligible under IDEA, a 504 student is not eligible for an IEP. Instead, the student is entitled to receive a "504 Plan". A 504 Plan is usually a much less detailed document than an IEP. Often, the 504 Plan will consist of a short description of accommodations to address the student's disability. 504 Plans often do not contain things that are usually seen in IEPs such as goals, objectives, statements of present performance, etc. However, this is not to say that a 504 Plan cannot contain some of the features of an IEP where appropriate. |

| Myth #4: 504 and ADHD | |
|------------------------------|--|
| The Myth | A student has been diagnosed with Attention Deficit Hyperactivity Disorder (ADHD). The student should be supported by the district through a 504 Plan. |
| The Truth | There is nothing in the law or regulations that requires a student with ADHD to be served as a 504 student. Students with ADHD may be eligible for special education services (IDEA services) under the categories of LD, ED, OHI or other categories depending on how the ADHD presents in the school. Parents and district personnel should first determine whether the student meets any of the eligibility categories under IDEA before considering Section 504 eligibility. |

The 5 Common Myths About Section 504

| Myth #5: 504 and Refusal of Consent for IDEA Services | |
|---|---|
| The Myth | A parent has refused to consent to place the student in a special education program (or has revoked consent for ongoing special education services). The district may not provide Section 504 accommodations as a result. |
| The Truth | Just because the parent does consent to the placement of a student in special education does not mean that the student does not have disability for purposes of Section 504. Section 504 can certainly cover conditions that are also covered under IDEA. In the event a parent refused to consent to place a student in special education (or revokes consent for continuing special education services), the district and the parent may certainly consider developing a 504 Plan to provide some support to the student even though the student cannot be placed in special education. |

Chapter 16:

The Illinois State Advisory Council on the Education of Children with Disabilities (ISAC)

In this chapter you will:

- learn the role of ISAC
- find out how to participate in an ISAC meeting

The Illinois State Advisory Council on the Education of Children with Disabilities (ISAC) is statutorily created by Section 14-3.01 of the School Code of Illinois. The purpose of the Council is to:

- Advise the State Board of Education regarding rules and regulations relating to the education of children with disabilities and promulgated by the Board, modifications or additions to county or regional comprehensive plans, qualifications of due process hearing officers, and procedures for the conduct of due process hearings,
- Advise the General Assembly, the Governor, and the State Board of Education on the unmet needs of children with disabilities,
- Assist the State Board of Education in developing and reporting data and evaluations which may assist the U.S. Commissioner of Education,
- Comment publicly on rules and regulations proposed by the state regarding the education of children with disabilities and the procedures for distribution of funds.

Worth a Look

More information about ISAC and its activities can be found at: <http://www.isbe.net/spec-ed/html/isac.htm>.

The role of ISAC is to be a proactive body, advising the Governor, Legislature and the State Board of Education on current issues relating to the education of children and youth with disabilities. It is also the responsibility of this Council to encourage new strategies and technologies, while advocating high standards of excellence throughout Illinois.

Meeting schedules, minutes, public participation guidelines and other information can be found at <http://www.isbe.net/spec-ed/html/isac.htm>.

If you are interested in attending an ISAC meeting or providing either written or oral testimony, you may contact the Special Education Services and Support Division at 217-782-5589 or by writing:

ISAC
c/o Illinois State Board of Education
100 North First Street
Springfield, IL 62777-0001

Appendix A:

Sample Letters for Parents

The following pages contain sample letters that can be used when facing a number of situations described through this guide. These letters are simply suggestions for the reader and should be modified as needed to fit the reader's individual facts and situation.

If you have questions concerning the use of these letters, please contact ISBE at 217-782-5589 or 866-262-6663 and ask to speak with a consultant who can provide further information.

1. Writing to Discuss a Problem

When might I want to write to my child's school?

Sometimes your child may have a particular problem at school. You may have talked to your child's teacher about this concern. The two of you may have written notes back and forth or talked on the phone. If it seems like nothing is happening to resolve your concern, then you may want to write a formal letter. Perhaps the communication hasn't been as clear as you think. Maybe you feel that the seriousness of your concern isn't fully understood. By writing a letter, the school will learn that you consider the matter to be an important one that needs to be addressed. You can write about any concern - an IEP issue, a general education issue, school-yard bullying, or the need to help your child's social skills or improve behavior. There are no rules as to the type of problem you can write about. Any school problem is worth writing about if it is having a negative impact on your child.

It is important to keep copies of all letters in your personal binder. It is also helpful to hand deliver or to send certain letters certified mail, return receipt requested, so that you are certain when the school has received your letter. This is especially important when the school must follow certain guidelines and follow specific timelines.

Note: The "cc:" at the bottom of the letter means you are sending a copy of your letter to the people listed after the cc. If you write to the Director of Special Education about a problem at your child's school, you should copy the principal. If you write to the principal about a problem, you should copy your child's teacher or other staff involved with your child. This follows the "chain of command." It also lets people involved know your concerns and that you are taking steps to resolve these concerns.

Always keep a copy of your letter for your own files.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Name of Principal
Name of School
Street Address
City, State, Zip Code

Dear (Principal's name),

In this paragraph say who you are, give your child's full name, and his or her current class placement. Say something positive about your child's situation here, before you state your reason for writing.

BRIEFLY, explain why you are writing. Give *relevant* history and facts that support your concerns. (For example, your 3rd grader is struggling in school and you want to ask for help. You might say that your child's school work has been getting worse throughout the year. That fact is relevant. Talking about something from your child's infancy probably isn't.)

In this paragraph state what you would like to have happen or what you would like to see changed. You may BRIEFLY say what you would *not* like, or what has been tried and not worked. However, spend most of this paragraph saying what you want.

Say what type of response you would prefer. For instance, do you need to meet with someone; do you want a return letter, or a phone call?

Finally, give your daytime telephone number and state that you look forward to hearing from the person soon or give a date ("Please respond by the 15th"). End the letter with "Thank you for your attention to this matter."

Sincerely,

Your name

cc: Your child's teacher
Other staff

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2. Requesting an Initial Evaluation for Special Education Services

When would I request an evaluation for special education services?

If your child has been consistently struggling in school, his or her problems may be due to a disability. If the school thinks your child may have a disability, they will contact you to request your written permission to evaluate your child. Under the IDEA, you also have the right to ask the school to evaluate your child. The purpose of the evaluation is to see if he or she has a disability and needs special education services. This evaluation is free of charge.

If your child has been identified by your doctor or other professionals as having a disability, you will want to include this information in your letter to the school. You should also provide copies of any reports you have received that explain your child's condition. If you decide to write the school and ask that your child be evaluated, here's an example of what you may want to say.

Note: If your child has been identified as having a disability by professionals outside the school system, add the following sentence *to the end of the first paragraph* above.

(Child's name) has been identified as having (name of disability) by (name of professional). Enclosed is a copy of the report(s) I have received that explains (child's name) condition.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Name of Principal or Special Education Administrator
Name of School
Street Address
City, State, Zip Code

Dear (Principal's or Administrator's name),

I am writing to request that my son/daughter, (child's name), be evaluated for special education services. I am worried that (child's name) is not doing well in school and believe he/she may need special services in order to learn. (Child's name) is in the (_) grade at (name of school). (Teacher's name) is his/her teacher.

Specifically, I am worried because (child's name) does/does not (give a few direct examples of your child's problems at school).

We have tried the following to help (child's name): (If you or the school have done anything extra to help your child, briefly state it here).

I understand that I have to give written permission in order for (child's name) to be evaluated. Before the evaluation begins, I have some questions about the process that I need to have answered (list any questions you may have). I would be happy to talk with you about (child's name). You can send me information or call me during the day at (daytime telephone number). Thank you for your prompt attention to my request.

Sincerely,

Your name

cc: Your child's principal (if letter is addressed to an administrator)
Your child's teacher(s)

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3. Requesting an Independent Educational Evaluation (IEE) at Public Expense

The IDEA gives you the right to have your child evaluated independently. This means you have the right to have your child evaluated by someone other than staff who work for the school system. The purpose of the evaluation is to see if your child has a disability and, if so, what his or her special needs are. In some cases, you may pay for an Independent Educational Evaluation (IEE). In other cases, the school system may pay for it. If the school system pays for the IEE or sees that the IEE is done at no cost to you, this is known as an *IEE at public expense*.

Why would I want to request an Independent Educational Evaluation (IEE) at Public Expense?

Sometimes a family may feel that the results of the school's evaluation do not accurately describe their child. Some parents may want additional academic tests or medical exams. Or they may be interested in having evaluations done in skill areas the school staff did not test. Parents can choose to have their child tested outside the school system, for these or other reasons.

However, if you want the school to pay for an Independent Educational Evaluation, you will need to make your request **BEFORE** any independent testing is done. Some reasons you may want to request an independent evaluation include:

- You believe the original evaluation was incorrect.
- The original evaluation was not done in your child's native language.
- You believe that the original evaluation was incomplete and additional tests are needed.
- The evaluation was not done with the needed accommodations (for example, in Braille or administered by someone who knows sign language).

The school system may agree to your request and pay for the IEE. On the other hand, the school system may deny your request and ask for a due process hearing to show that its own evaluation was appropriate. You will have the chance at this hearing to state your reasons why the school system should be required to pay for the IEE. An impartial third person (called a hearing officer) listens to and reviews the evidence. This individual then decides if the school system must pay for an independent evaluation. If the hearing officer decides in favor of the school system, you may still obtain an independent evaluation, but you must pay for it. The results of the IEE must be considered by the school in any decision made regarding your child's free appropriate public education.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Name of Person to Whom You Are Writing (E.g., Superintendent, Director of Special Education, etc.)

Title

Street Address

City, State, Zip Code

Dear (name),

My son/daughter, (child's name) is in the (_) grade, at (name of school), in (teacher's name) class. He/She was evaluated for special education services in (month/year). I am writing to request an Independent Educational Evaluation at public expense, for the following reasons:

(BRIEFLY list your reason(s). Be very specific. For example,

"I disagree with the evaluation results because . . ."

"The evaluation should have included . . ."

"An evaluation should have been done in the area of . . ."

I would like this Independent Educational Evaluation to be done as quickly as possible so that we can fully address (child's name) needs. Please respond as soon as possible and send me copies of the school's guidelines for this. My daytime telephone number is (give your phone number).

Thank you.

Sincerely,

Your name

cc: Your child's principal
Your child's teacher

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4. Requesting Your Child's Records

The IDEA gives you the right to look at all of your child's education records. This includes records about his or her identification, evaluation, educational placement, and special education program. You also have the right to ask the school to explain and interpret the records for you. You may ask the school to give you a copy of your child's records. They may charge you a reasonable fee for making a copy.

What might be some reasons to request copies of my child's school records?

School records contain valuable information about your child's strengths and areas of need. These records can provide a formal way of communicating between the professionals at your child's school, you, and other professionals who may work with your child. Here are some reasons you might have for requesting a copy of your child's records:

- Reviewing records lets you be sure that the records are correct and contain all necessary information.
- When your family is moving to a new school district, records may need to be sent.
- When you're taking your child for an independent evaluation, copies of past records may be useful.
- The records may help the staff at other programs your child attends (like camp, tutors, or in-hospital schools) design their activities.
- Postsecondary programs may need to see copies of your child's records.
- It's a good idea to have a copy for your home files, especially if your child is finishing school.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Name of Person to Whom You Are Writing (E.g., Superintendent, Building Principal, etc.)

Title

Street Address

City, State, Zip Code

Dear (name),

I am writing to schedule a time to come and review all of my child's records. My son/daughter, (child's name), is in the (____) grade at (name of school), in (teacher's name) class. I will also need copies of some or all of these records.

Please let me know where and when I can come in to see the records. I need these records by (date). You can reach me during the day at (give your phone number).

I look forward to hearing from you soon. Thank you for your assistance.

Sincerely,

Your name

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5. Requesting a Meeting to Review the Individualized Education Program (IEP)

If your child is receiving special education services, he or she must have a written plan known as an Individualized Education Program (IEP). The IEP lists, among other things, annual goals and objectives for your child and it also lists the special education and related services that he or she will receive. You are a member of the team that writes your child's IEP. As an IEP team member, you can ask that your child's IEP be reviewed and revised, if needed.

Why might I ask for a review of my child's IEP?

Some reasons for requesting an IEP review include:

- Your child has met one, or several, of the goals written in the IEP.
- Your child does not seem to be making enough progress toward one, or several, of the goals written in the IEP.
- You feel your child needs more services or other services in order to make progress.
- You feel that your child no longer needs a service he or she is currently receiving.
- Your child has experienced a major change, such as illness, injury, or surgery.
- You feel that the supports and services written in the IEP aren't being provided.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Name of Your Child's Special Education Teacher
Name of School
Street Address
City, State, Zip Code

Dear (Teacher's name),

I am writing to request an IEP review meeting. I would like to discuss making some possible changes in (child's name)'s IEP. I am concerned about (state your reasons, but don't go into detail about the specific changes you want to make—save those for the meeting).

I would also like to have (names of specialists or other staff) attend. I think his/her/their ideas about the changes we may need to make will be valuable.

I can arrange to meet with you and the other members of the IEP team on (days) between (give a range of time, such as between 2:00 and 4:00). Please let me know what time would be best for you.

I look forward to hearing from you soon. My daytime telephone number is (give your phone number). Thank you for your help.

Sincerely,

Your name

cc: Specialists or other staff

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6. Requesting a Change of Placement

Placement means where your child's IEP is carried out. Depending on your child's needs, his or her placement may be in the general education classroom, in a special education classroom, in a special school, in your home, in a hospital or institution, or in another setting. Placement is based on the IEP. Therefore, when you request a change in placement, you are actually requesting an IEP review to discuss your child's needs and where those needs are met.

Why might I ask for a change in my child's placement?

You might want to request a change in your child's placement if you feel that your child's needs are not being met appropriately. For example, you may become concerned about your child's placement after reviewing your child's progress reports; reviewing the results of any state, district-wide, or alternate assessments your child has been given; talking with your child's teacher or other service providers; or talking with your child.

Placement concerns might also include:

- changes in your child's needs;
- current class size is too large or too small;
- current class is too academic or not academic enough;
- the placement does not meet your child's social or emotional needs;
- the building is too difficult for your child to get around; or
- any other reason that is interfering in your child's success.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Name of Principal or Special Education Administrator
Name of School
Street Address
City, State, Zip Code

Dear (Principal's or Administrator's name),

I am writing to request a meeting to discuss a change in placement for my son/daughter, (child's name). He/she is currently in the () grade in (teacher's name) class. I feel he/she needs to be in (name of alternative, if you know; otherwise describe the type of placement you feel is more appropriate for your child, such as your neighborhood school, a center-based program, general education class, or special class).

I am most concerned about (keep this paragraph brief and mention your child's unmet needs, not problems with individual people).

I would also like to have (name of teacher(s) and/or any specialists you would like from the current and/or requested placement) attend this meeting.

I can arrange to meet with the rest of the IEP team on (days) between (give a range of time, such as between 8:00 a.m. and 10:00 a.m.). Please let me know what time would be best.

I look forward to hearing from you soon. My daytime telephone number is (give your phone number). Thank you for your time.

Sincerely,

Your name

cc: Your child's principal (if letter is addressed to an administrator)
Your child's teacher(s)
Specialists or other staff

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7. Requesting Prior Written Notice

What is prior written notice, and why would I want it?

There are certain times when the school must put in writing its decisions about your child's education and the reasons for those decisions. This written communication is called *prior written notice*. You have the right to receive prior written notice, whenever the school wants to (or refuses to):

- evaluate your child,
- change your child's disability identification,
- change your child's educational placement, or
- change the way in which your child is provided with FAPE.

The school system is supposed to automatically provide you with prior written notice in any of these events. In practice, though, sometimes the school may tell you its decision over the telephone, in a meeting, or in a one-on-one conversation. If you want the notification in writing, you may ask the school system to provide it. And it is best that you put your request in writing.

For example, you may have asked for an IEE at public expense. The school system may tell you on the phone that it has denied your request. You may ask for prior written notice of this denial. The school must then put its decision in writing and explain the reasons for the decision. This information can be helpful if you pursue the IEE through a due process hearing. You will then have in writing the school system's reasons for denying the IEE.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Name of Person to Whom You Are Writing (E.g., Director of Special Education, Case Manager, etc)

Title

Street Address

City, State, Zip Code

Dear (name),

At our meeting (or) during our phone conversation on (date), we discussed my child's (evaluation, eligibility, placement, IEP, services, etc.). I requested (______). . . and was denied (or) I was told the school intends to (______). . . but I have never received any information about this decision in writing. In accordance with the IDEA regulations, I am requesting prior written notice regarding (be very specific about the issue/decision you want the school to respond to. Bullet or number the items.)

According to the IDEA, at 34 CRF 300.503, prior written notice must include the following:

- A description of what the school is proposing or refusing to do;
- An explanation of why the school proposes or refuses this action;
- A description of each evaluation procedure, assessment, records, or report the school used as a basis for the proposed or refused action;
- Information on how to obtain a copy of procedural safeguards available and a full explanation of the safeguards
- Sources for parents to contact to obtain assistance in understanding of this part;
- A description of other options that the IEP team considered and the reasons why those options were rejected, and;
- A description of any other relevant factors that went into this decision.

I look forward to receiving a detailed response to my request as soon as possible. Thank you for your assistance.

Sincerely,

Your name

cc: The principal, supervisor, or special education administrator

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8. Requesting Mediation

When would I make a request for mediation?

Mediation may be used if you have a serious disagreement with the school. In mediation, you and school personnel sit down with an impartial third person (called a mediator). All parties then try to reach an agreement. Mediation is voluntary, though, and *both parties must agree to meet with a mediator*. There are benefits to mediation, both for you and for the school. Mediation agreements are binding and enforceable agreements.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Sherry Colegrove
Mediation Coordinator
Illinois State Board of Education
100 N. 1st Street
Springfield, IL 62777

Dear Ms. Colegrove,

My son/daughter, (child's name), currently attends (name of school) and is in the (____) grade in (teacher's name) class. I am writing to inform you that the school and I are in disagreement concerning (BRIEFLY state what the disagreement is about). We have been unsuccessful in resolving this dispute, and I am requesting mediation so that we may resolve our differences.

I would like the mediation to be done as soon as possible. Please let me know when this can be arranged and contact the Illinois State Board of Education to arrange this service. My daytime telephone number is (give your phone number). Thank you for your assistance in this matter.

Sincerely yours,

Your name

cc: Your child's principal
Your child's teacher

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9. Informing the School that You Intend to Enroll Your Child in a Private School at Public Expense

What do I do if I think my child's placement should be in a private school?

In a very few cases, the most appropriate placement for a child is in a private school. When this placement decision is made by the public school IEP team or placement group, the public school pays the cost of the private school. Sometimes a parent may feel that a recommended public school placement is not appropriate for his or her child. The parent may reject that placement and decide to enroll his or her child in a private school. If you find yourself facing this decision *and* you want the public school to reimburse you for the cost of the private school, there are several things you need to know.

- A court or a hearing officer may require the school district to reimburse you if the court or hearing officer decides that:
 - » the public school did not make FAPE available prior to your child's enrollment in the private school, and
 - » the private placement is appropriate.
- Your request for reimbursement may be reduced or denied before enrolling your child in the private school if:
 - » at the most recent IEP meeting, you did not inform the school that you reject the proposed placement and intend to enroll your child in a private school at public expense, and
 - » at least 10 business days prior to removing your child from the public school, you did not give the school written notice.

Here is an example of a letter you might send if you decide to enroll your child in a private school and want the public school to pay for it.

Once you have sent this letter to the school, you will also need to make a request for a due process hearing so that a hearing officer can decide whether or not the public school must reimburse you for the costs of the private school.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Name of Principal or Administrator
Name of School
Street Address
City, State, Zip Code

Dear (Principal's or Administrator's name),

My son/daughter, (child's name), is a special education student in the () grade, in (name of teacher)'s class at (name of school). Recently, I attended a meeting to determine (child's name)'s school placement. I am writing to inform you that I reject the proposed placement for (child's name), and intend to enroll him/her in a private school at public expense. At the most recent IEP meeting, held on (date), I informed the other team members of my decision.

The reasons for my decision are as follows: (keep this section brief, list specifics for why you believe the public school placement is *not* appropriate for your child).

(Child's name) will be attending (name of private school) effective (date).

Should you wish to discuss this matter further, I can be reached at (give your phone number). Thank you for your time.

Sincerely,

Your name

cc: Your child's principal (if letter is addressed to an administrator)
Your child's teacher(s)

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10. Requesting a Due Process Hearing

Due process is one approach that parents and schools can use to resolve disagreements. During a due process hearing, you and the school present evidence before an impartial third person called a hearing officer. The hearing officer then decides how to resolve the problem.

You have the right to request a due process hearing on any matter related to:

- your child's identification as a "child with a disability,"
- his or her evaluation,
- his or her educational placement, and
- the special education and related services that the school provides to your child.

Some reasons why a parent might file for due process include:

- The school refuses to evaluate your child.
- You disagree with the eligibility decision.
- You disagree with the services, goals, or objectives in the IEP.
- The school refuses to provide a related service, modification, or supplementary aid you think your child needs.
- You disagree with the placement decision.

For more information on the due process proceedings, please see Chapter 11: Conflict Resolution.

Send your letter requesting a due process hearing to the Superintendent of Schools in your home district. Under IDEA, when you ask for a due process hearing, your request must include:

- the name of your child;
- the address of your child's residence;
- the name of your child's school;
- a description of the problem, including facts relating to the problem; and
- how you would resolve the problem, to the extent that a solution is known and available to you as parents

Each state is required to have a model form to help parents request a due process hearing. You are not required to use the model form. The ISBE form can be found at http://www.isbe.net/spec-ed/pdfs/dp_parental_19-86a.pdf. This form can be used instead of the sample letter. If the information in your request does not fit within the spaces provided on the form, please attach additional pages.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Name of School District Superintendent
Title
Street Address
City, State, Zip Code

Dear (name),

I am writing to request a due process hearing on behalf of my child, (child's name), whose address is (give your child's address, even if it is the same as your own). (Child's name) attends (name of school).

I have met with school personnel in an effort to resolve our differences concerning my son's/daughter's (IEP, placement, testing, or . . .) and have been unable to do so. The nature of our disagreement is as follows

- Explain the problem with BRIEF statements of fact.
- Consider listing the facts with bullets or numbers.
- An acceptable resolution of the problem would include . . .

(To the extent that you know how you want the disagreement to be resolved, state these facts here, again bulleting or numbering the items if possible.)

Please advise me as soon as possible as to the date and time of this hearing so that I can make the necessary arrangements. My daytime telephone number is (give your phone number).

I also request that this hearing be (open/closed) to anyone other than those directly involved. (Child's name) will/will not attend the hearing. Thank you for your assistance.

Sincerely,

Your name

cc: Your child's principal
Your advocate/attorney

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11. Filing a Complaint with the Illinois State Board of Education

What's a complaint, and why would I file one?

You can file a complaint with ISBE about any of the matters for which you might otherwise file a request for a due process hearing, as well as for any other reason you feel that the school system has violated the IDEA. However, be aware that, if you write a complaint on an issue that is also part of a current due process hearing, ISBE will not investigate this issue. The due process hearing takes precedence over the complaint process. ISBE will only investigate those issues in your complaint that are not part of your due process hearing. Some examples of issues you might write a complaint letter about include:

- Your child is denied the opportunity to attend or participate in school-sponsored events, such as field trips or after school activities.
- Your child has a shorter school day, because the special education students arrive later or are dismissed from school earlier than the general education students are.
- You use mediation to resolve a disagreement with the school, but the school fails to implement the signed agreement.
- The school fails to give you appropriate prior written notice.
- Or you have a decision from a hearing officer that the school district is not implementing.

How do I file a complaint with the ISBE?

Illinois' policies for filing a complaint are included in the regulations at 23 IAC 226.570. The complaint letter should include:

- a statement detailing the alleged violation(s) (for example, your school district has violated a requirement of Part B of the IDEA or its regulations), and the facts on which the statement is based.
- the student's name, parent/guardian name, mailing address, daytime telephone number, and the name of the student's resident school district.

The letter on the next page is an example of how you might write this complaint. Note that it is important for you to describe what you believe the school district did wrong with regard to your child's special education.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Ms. Marcia Kelley, Complaint Coordinator
Illinois State Board of Education
100 N. 1st Street
Springfield, IL 62777

Dear Ms. Kelley:

I am writing to file a complaint on behalf of my son/daughter, (child's name), regarding his/her education in the (name of school district). The nature of my complaint is as follows:

- Explain the problem with BRIEF statements of fact.
- Consider listing the facts that support your complaint with bullets or numbers.

For the above reasons, I believe the school district is in violation of certain requirements in the Individuals with Disabilities Education Act and the Illinois School Code, specifically:

- List the issues you want addressed by ISBE
- If you have more than one issue please list them by bullet or number

Enclosed are copies of relevant documents and correspondence I have sent to and received from the school district concerning this matter. These documents are (List the documents you have enclosed, giving the date sent, by whom, to whom, and the issue discussed.)

Please provide me with copies of any information you obtain in the process of investigating my complaint. If you need further information or clarification on my complaint, I can be reached at (give your phone number). Thank you.

Sincerely,

Your name

cc: School district special education director
Your child's principal
Your advocate/attorney

Enclosures:

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12. Writing a Follow-up Letter

What do I do if I don't get a response to the letter I sent to the school district?

When you have written a letter making a request, you should get a response from the school system, either by telephone or in writing, within a reasonable period of time. In some cases, “reasonable” is defined (for example, local policy may say the school must answer you within 15 working days). In other cases, the timelines are not exact. So, be reasonable in your expectations. But if you feel too much time has passed (10 working days or so) without receiving a response to your letter, then call and ask if your letter has been received. If you are sure the school has received your letter (some parents send their letters by certified or registered mail), then ask when you can expect an answer. More than likely, when you call you will talk to a secretary or administrative assistant. Leave a message for the person you wrote to; ask that person to call you back.

If your request still goes unanswered, then you may want to write again. It's useful to enclose a copy of your original request with this letter. Be sure not to send your only copy. Remember, you always need to have a copy for your records.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Name of Person To Whom You Originally Wrote
Street Address
City, State, Zip Code

Dear (name),

I wrote to you on (date) and also called to make sure you had received my letter. I left a message for you to call me back on (date), but since I have not heard from you, I thought it best to write again.

I am writing to request . . . (restate what you are asking of the school district).
Enclosed is a copy of my first letter to you.

I would like to hear from you by (give a date, 3-5 working days). Thank you for your prompt attention to this matter.

Sincerely,

Your name

Enclosure

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13. Writing a Positive Feedback Letter

Once you’ve begun to write letters, be sure to write when things are going well, too! If a teacher, therapist, or other staff member has made good things happen for your child, let them and their supervisors know. Everyone likes and needs compliments and encouragement from time to time. Positive feedback is what keeps good schools running well. Just as you want to know “how it’s going,” so does the school staff.

Good communication, team work, and effective schools take a lot of hard work. There’s an old saying that goes, “Things can go wrong all by themselves, but you have to work hard to make things go right.” This statement applies doubly to maintaining a successful parent-professional working relationship. Be sure your child’s teacher(s), principal, and superintendent also hear from you when things are going right.

Today's Date

Your Name
 Your Address
 City, Town ZIP
 Daytime Telephone

Name of Person to Whom You Are Writing
 Title
 Street Address
 City, State, Zip Code

Dear (name),

I am writing to let you know how very pleased I am with the education my son/daughter, (child's name) is receiving at (name of school).

(Child's name) has had great success with (briefly say what is going right). In particular, (name the professionals working with your child and how they have made a difference). I look forward to (child's name) continuing progress. Thank you for all your efforts, and those of your staff.

Sincerely,

Your name

cc: If you write to the school district's Superintendent or Director of Special Education, make sure to copy the people who directly deserve recognition for your child's success - the principal, teachers, and other staff.

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14. Revocation of Consent for Special Education

This letter can be used if you, as the parent, wish to revoke your consent to allow the school district to continue providing special education services to your child. Before delivering such a letter to the school district, it is very important that you understand what will occur once such a letter is delivered. Once delivered, the district may then terminate all special education and related services to your child after the district has provided you with prior written notice of its plans to terminate the services.

It is strongly recommended, if you haven't done so previously, that you turn to Chapter 6 of the book for a further discussion of revocation of consent and what it may mean for the student in question.

Today's Date

Your Name
Your Address
City, Town ZIP
Daytime Telephone

Name of Superintendent or Director of Special Education
Name of School District
Street Address
City, State ZIP

Dear (Name):

This letter is to inform you that I hereby revoke my consent to continue my child in special education. I understand that my decision will result in the termination of all special education services to my child, as well as a possible change in the placement of my child. I further understand that services will not end until you have provided me with prior written notice about the termination of special education services.

Sincerely,

Your name

cc: Your child's principal
Your child's teacher(s)

Appendix B:

Quick Reference Charts

The following section contains quick reference charts based on information described throughout the guide. The charts give a basic overview of a particular topic. You will also find references to the chapters in the book where you can read more information on the topic you're reviewing.

If you have questions concerning the contained in these charts, please contact ISBE at 217-782-5589 or 866-262-6663 and ask to speak with a consultant who can provide further information.

Chapter 4: Referral & Evaluation

| General Rules on Referral | |
|--|---|
| Citation(s) | 23 IAC 226.110 , Evaluation Procedures. Section 14-8.02 of the School Code, (105 ILCS 5/14-8.02) . |
| What Does it Mean? | The “date of referral” is the date of written parental consent for an evaluation. Screening procedures shall not be considered an evaluation. |
| What Needs to Happen? | <p>Within 14 school days after receiving the written request, the district will decide whether to evaluate the child or not. If the district determines an evaluation is warranted, then the district must either provide the parents with the paperwork to provide formal written consent or a written statement of its decision not to do the evaluation.</p> <p>If the district determines that the evaluation is not necessary, it must notify the parent in writing of the decision not to evaluate and the reasons for the decision.</p> <p>The district must advise the parents of their right to request a due process hearing to challenge its decision.</p> |
| What Parents Need to Know or Do | <p>Parents need to submit a request for evaluation to have their child considered to be eligible for special education services. It is best to put your request in writing.</p> <p>Not all referrals result in an evaluation being conducted.</p> <p>To be eligible to receive special education services, the child must have a disability that impacts educational performance.</p> |

| Evaluation and Reevaluation | |
|-----------------------------|--|
| Citation(s) | <p>23 IAC 226.110, Evaluation Procedures. Section 14-8.02 of the School Code, (105 ILCS 5/14-8.02).</p> <p>34 CFR 300.300, Parental consent.</p> <p>34 CFR 300.301, Initial evaluations.</p> <p>34 CFR. 300.304, Evaluation procedures.</p> <p>34 CFR. 300.305, Additional requirements for evaluations and reevaluations.</p> <p>34 CFR 300.306, Determination of eligibility.</p> <p>23 IAC 226.840, Qualifications of Evaluators.</p> |

| Evaluation and Reevaluation | |
|------------------------------|---|
| What Does it Mean? | <p>Evaluation means procedures used to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.</p> <p>The school district must assess the child in all areas of suspected disability including:</p> <ul style="list-style-type: none"> • academic performance • health • vision • hearing • social & emotional status • communication • motor abilities • general intelligence • functional performance • other areas as needed. <p><i>NOTE:</i> Often these areas are called “domains” for purposes of the evaluation.</p> <p>Public agencies are prohibited from using a measure or assessment for purposes different from the purpose for which the measure was designed.</p> <p>Assessments are provided and administered in the child’s native language or mode of communication (unless it is not feasible to do so) to get accurate information on what the child knows and can do.</p> |
| What Needs to Happen? | <p>The school district must use a variety of assessments, tools, and strategies to conduct the evaluation.</p> <p>When conducting an initial evaluation, a child must be tested in all areas of suspected disability.</p> <p>Data gathered from evaluations are used to assist in the development of the IEP.</p> <p>Assessments should be valid and reliable for their designed purposes.</p> <p>Assessments must be administered by personnel who are trained to do so.</p> <p>Assessments and other evaluation materials used should be administered:</p> <ul style="list-style-type: none"> • so as not to be discriminatory on a racial or cultural basis, and • in the child’s native language or other mode of communication. |

Evaluation and Reevaluation

What Parents Need to Know or Do

Parent written informed consent must be obtained before the evaluation can be conducted.

Information from parents should be included as part of the evaluation.

Information should be collected through a variety of approaches (observations, interviews, tests, curriculum-based assessment, and so on) and from a variety of sources (parents, teachers, specialists, peers, and the child).

Parents should be given a copy of the conference report and recommendations.

Parents should be informed of their right to obtain an independent educational evaluation (IEE) at district expense if they disagree with the evaluation findings.

The evaluation should yield information on what the child knows and can do academically, developmentally, and functionally.

This applies when evaluating all children including those:

- for whom English is not the native language;
- who communicate by signing; and
- who use alternative augmentative communication
- who use other means to communicate.

Independent Educational Evaluation (IEE)

Citation(s)

23 IAC 226.180, Independent Educational Evaluation.
Section 14-8.02 (b) of the School Code, (**105 ILCS 5/14-8.02**).
34 CFR 300.502, Independent Educational Evaluation.

What Does it Mean?

Parents have the right to request an independent educational evaluation of their child at district expense when they disagree with the evaluation conducted.

What Needs to Happen?

When an independent evaluation is obtained at public expense, the party chosen to perform the evaluation should be an individual whose name is included on the list of independent educational evaluators developed by ISBE or another individual possessing the credentials required. <http://web-prod1.isbe.net/iier/ASPS/default.asp>

| Independent Educational Evaluation (IEE) | |
|--|--|
| What Parents Need to Know or Do | <p>If you disagree with the results of the school's evaluation, you may request IN WRITING that an independent evaluation occurs at district expense.</p> <p>If the school district's evaluation is shown to be inappropriate, the school district shall reimburse the parent for the cost of the independent evaluation.</p> <p>You may select an independent evaluator from the ISBE list or someone not on the list who still has the required qualifications to do the evaluation. You should talk to the evaluators and chose which one will best meet your child's needs and address your concerns.</p> <p>You also have a right to obtain an independent evaluation at your own expense, which you may then provide to your school. The school is obligated to <u>consider</u> the evaluation, but is not obligated to follow its recommendations.</p> |

Chapter 5: Eligibility Categories

| Special Education Eligibility Categories | |
|--|---|
| Citation(s) | <p>34 CFR 300.111, Child find.</p> <p>34 CFR 300.8, Child with a disability.</p> <p>23 IAC 226.75, Definitions.</p> |
| What Does it Mean? | <p>A group of qualified professionals and the parents look at the child’s evaluation results. Together, they decide if the child is a “child with a disability,” as defined by IDEA.</p> <p>If the child is found to be a “child with a disability,” as defined by IDEA, he or she is eligible for special education and related services.</p> <p>Within 30 calendar days after a child is determined eligible, the IEP Team must meet to write an IEP for the child.</p> |
| What Needs to Happen? | <p>In order for the child to receive special education and related services, the child must be identified as eligible under one of these categories:</p> <div><ul style="list-style-type: none">• Autism• Cognitive Disability• Deaf-blindness• Deafness• Developmental Delay• Emotional Disability• Hearing Impairment<ul style="list-style-type: none">• Multiple Disabilities• Orthopedic Impairment• Other Health Impairment• Specific Learning Disability• Speech/Language Impairment• Traumatic Brain Injury• Visual Impairment</div> |
| What Parents Need to Know or Do | <p>There are hundreds of terms and words we use to describe our children. The law puts them into categories. Do not let the category names discourage you.</p> <p>An evaluation must be conducted to determine if your child is eligible to receive special education and/or related services.</p> <p>You need to give written consent before your child can be evaluated.</p> <p>The school cannot test or help your child until you have returned the signed papers.</p> <p>You may ask for a hearing to challenge the eligibility decision.</p> <p>Evaluations are done by school staff, or where necessary, consultants or specialists retained by the school district, but you can bring your own information from doctors, tutors or others who work with your child.</p> |

Chapter 6: Additional Procedures for Specific Learning Disabilities

| Specific Learning Disability (SLD) | |
|--|--|
| Citation(s) | <p>23 IAC 226.130, Evaluation Procedures.</p> <p>Section 14-8.02 of the School Code, (105 ILCS 5/14-8.02).</p> <p>34 CFR 300.8, Definitions.</p> <p>34 CFR 300.307, Specific learning disabilities.</p> <p>34 CFR 300.308, Additional group members.</p> <p>34 CFR. 300.309, Determining the existence of a specific learning disability.</p> <p>34 CFR 300.310, Observation.</p> <p>34 CFR 300.311, Specific documentation for the eligibility determination.</p> |
| What Does it Mean? | There are additional requirements for identifying children with specific learning disabilities (SLD). |
| What Needs to Happen? | <p>By the 2010-2011 school year, districts must use a scientific, research-based process for identifying children with specific learning disabilities (SLD).</p> <p>In addition to using a scientific-research based process for evaluation, districts may use a severe discrepancy* model (between intellectual ability and achievement) for determining whether a child has a specific learning disability.</p> |
| What Parents Need to Know or Do | <p>Districts CANNOT deny a parent's request for an evaluation because the child is being monitored by a scientific, research-based process.</p> <p>Districts must use scientific, research-based interventions as part of the process for determining eligibility for services under the category of specific learning disabilities (SLD). They <u>may</u> choose to use a severe discrepancy* model as well.</p> <p>Without written parental consent, an evaluation may not be completed.</p> |

Severe discrepancy typically means a large or significant difference in ability and achievement. Children who are of average or above average intelligence are expected to perform at that level of ability. When they don't, they may be referred for a full evaluation to see what is causing the discrepancy.

Under this model of evaluation, children may struggle and even fail for several years before the discrepancy between ability and achievement is large enough to be judged significant.

(Building the Legacy: IDEA 2004 Training Curriculum. Module 11, Identification of Children with Specific Learning Disabilities).

Chapter 7: Individualized Education Programs (IEPs)

| Present Levels of Performance | |
|--|---|
| Citation(s) | 34 CFR 300.320 , Definition of Individualized education program. 23 IAC 226.230 , Content of the IEP. |
| What Does it Mean? | Describes how the student is doing in different areas and how he/she uses what they've learned throughout the year. |
| What Needs to Happen? | The IEP needs to say 2 things in this section: <ul style="list-style-type: none"> • How the child's disability affects his or her participation in the general education curriculum. • How the child performs in academic and nonacademic settings. |
| What Parents Need to Know or Do | Share the child's interests and activities and how the child's disability may affect those things. |

| Annual Goals | |
|--|--|
| Citation(s) | 34 CFR 300.320 , Definition of Individualized education program. 23 IAC 226.230 , Content of the IEP. |
| What Does it Mean? | A goal is something that can be obtained within a school year. A goal must be measurable. Instructional recommendations should be supported by performance data that established the need. |
| What Needs to Happen? | Each goal will list: <ul style="list-style-type: none"> • the steps needed to achieve the goal by the end of the year and • the way it will be measured • who will be responsible for working on the goal • how progress will be reported to parents |
| What Parents Need to Know or Do | Special education services should be based on data, not opinion. Data should form the basis for instruction and the goals should be written to allow access to the general curriculum and other activities during or after school. |

| Progress toward goals | |
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| Citation(s) | 34 CFR 300.320 , Definition of Individualized education program. |
| What Does it Mean? | The child's progress must be measured. |
| What Needs to Happen? | The IEP will include how the school will measure the progress and when the reports of progress will be issued. |
| What Parents Need to Know or Do | <p>You should know when you will receive information about your child's progress.</p> <p>Make sure the measurement is clear enough so that you know whether your child is being successful or not.</p> |

| Special education and related services | |
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| Citation(s) | 34 CFR 300.320 , Definition of Individualized education program. |
| What Does it Mean? | <p>The IEP must include special education and related services and other supports and services for the student to:</p> <ul style="list-style-type: none"> • advance toward annual goals; • progress in the general curriculum; • participate in extracurricular and nonacademic activities; and • be educated and participate with all children. |
| What Needs to Happen? | <p>The IEP team will decide which special education services and which related services, modifications, accommodations and other services, the student needs to be part of the general curriculum and other activities. As much as possible, the services should be research-based.</p> <p>The IEP team will decide what supports the parents, educators and para-professionals need to address the student's educational needs.</p> |
| What Parents Need to Know or Do | <p>The IEP team decides what services and supports your child receives.</p> <p>Your child has a right to be educated and participate with all children in the least restrictive environment.</p> |

| Frequency, Location, and Duration of Services | |
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| Citation(s) | <p>34 CFR 300.320, Individuals with Disabilities Education Improvement Act of 2004.</p> <p>23 IAC 226.230, Content of the IEP.</p> |
| What Does it Mean? | <p>Each of the services the student needs should be written in the IEP.</p> <p>This is the “what, when, where, and for how long” part of the IEP.</p> |
| What Needs to Happen? | <p>The IEP should say:</p> <ul style="list-style-type: none"> • how long or how often each session will last (the number of minutes) • where the services will be provided • when the services will begin and end |
| What Parents Need to Know or Do | <p>Know the number of minutes in each session.</p> <p>Know if the services will be provided in the general education classroom or another setting (a resource room, a therapy room).</p> <p>Know the starting and ending dates of the student’s services.</p> |

| Extended School Year Services | |
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| Citation(s) | <p>34 CFR 300.106(b), Extended school year services.</p> <p>ISBE Communication on ESY for Students with Disabilities, November 20, 2001</p> |
| What Does it Mean? | <p>Extended school year services (ESY) means special education and related services provided to a student with a disability that are:</p> <ul style="list-style-type: none"> • beyond the normal school day/ year • stated in the student’s IEP • no cost to the parents of the student |
| What Needs to Happen? | <p>The IEP team determines ESY services.</p> <p>Schools must ensure that ESY services are available as necessary to provide a free, appropriate, public education (FAPE).</p> <p>The decision about what services will be provided should be individually based on the needs of the student.</p> <p>Loss of knowledge/ skills or an extraordinarily long time in relearning skills (regression/ recoupment) can be part of but not the only reason for determining ESY.</p> |

| Extended School Year Services | |
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| What Parents Need to Know or Do | <p>ESY services may not be limited to particular categories of disability.</p> <p>Schools must determine the type, amount, and duration of services on an individual basis.</p> <p>No single factor can determine ESY.</p> <p>Discuss the student's loss of skills during breaks.</p> <p>Look at the amount of time it takes for the student to regain skills after breaks.</p> <p>Keep information that shows your child's progress, or lack of it, after returning to school from breaks.</p> <p>ESY services:</p> <ul style="list-style-type: none"> • may not be the same as regular school year services; • may be just related services such as speech therapy or physical therapy; and • can be provided in school, home, or community. |

| Participation in General Curriculum | |
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| Citation(s) | 34 CFR 300.320 , Definition of Individualized education program. |
| What Does it Mean? | <p>The IEP must explain how the child's disability affects his/her participation in the general education setting and other school activities.</p> <p>If the district proposes to remove the child from any part of the general education curriculum, the district must explain why in the IEP.</p> |
| What Needs to Happen? | <p>The IEP team will decide when the student will be in a general education classroom and when they won't.</p> <p>The IEP team will decide what modifications are needed for the student to succeed in general education classes.</p> |
| What Parents Need to Know or Do | <p>Understand why and how much your child will be participating in general education classes.</p> <p>Think of accommodations and modifications that might allow your child to be successful (both academically and socially) in the general education classroom.</p> <p>Think about the opportunities for your child in extracurricular and nonacademic activities such as lunch, recess, gym, art, music, and after-school clubs & activities.</p> |

| Transition | |
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| Citation(s) | <p>20 U.S.C. 1401(34), Individuals with Disabilities Education Improvement Act of 2004.</p> <p>34 CFR 300.43, Transition services.</p> <p>34 CFR 300.320, Definition of Individualized education program.</p> <p>23 IAC 226.230, Content of the IEP.</p> |
| What Does it Mean? | <p>Transition services are a coordinated set of activities that focuses on improving academic and skill achievement to prepare for life after school.</p> <p>Goals should include the need for:</p> <ul style="list-style-type: none">• training• education• employment• independent living, where appropriate <p>Transition services may include academic instruction, related services, post-secondary education, vocational training, supported employment, community experiences, daily living skills, & work evaluation.</p> |
| What Needs to Happen? | <p>For students who will reach the age of 14½ during the school year, the IEP must document a statement of transition service needs that focuses on the student’s course of study and goals to address those needs.</p> <p>Transition goals must be part of the IEP and reviewed every year until the student is out of school.</p> <p>Plans must include student’s strengths, preferences, & interests.</p> <p>Goals must be measurable.</p> <p>A statement of who will provide the services the student needs to meet their transition goals.</p> <p>Student must be invited to the IEP meeting.</p> <p>The district must consider the student’s interests and preferences if the student does not attend.</p> |

| Transition | |
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| What Parents Need to Know or Do | <p>Think about what your child needs to learn to help them be successful after graduation.</p> <p>Help students explore work and career options while still in high school.</p> <p>Decide what skills the young person needs to live and work in the community after high school.</p> <p>Make connections with education and training programs, colleges, agencies, and support services.</p> <p>Help select classes and services that will help the child be successful in his or her adult life.</p> <p>Learn what agencies provide services to adults with disabilities in your community and invite them to your child's IEP.</p> |

Other IEP Considerations

| Limited English Proficiency | |
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| Citation(s) | <p>34 CFR 300.27, Definition of "Limited English proficient".</p> <p>23 IAC 226.230, Content of the IEP.</p> |
| What Does it Mean? | The language needs of a student who has difficulty understanding and speaking English must be considered by the IEP team. |
| What Needs to Happen? | The IEP must include a statement as to the languages or modes of communication in which special education and related services will be provided, if other than or in addition to English. |
| What Parents Need to Know or Do | Tell the school if your child has difficulty understanding and speaking English. |

| Communication Needs | |
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| Citation(s) | <p>20 U.S.C. 1414(d)(1)(B), Individuals with Disabilities Education Improvement Act of 2004.</p> <p>34 CFR 300.324, Development, review, and revision of IEP.</p> <p>23 IAC 226.75, Definitions.</p> <p>23 IAC 226.230, Content of the IEP.</p> |
| What Does it Mean? | An IEP shall be considered “linguistically and culturally appropriate” if it addresses the language and communication needs of a student as a foundation for learning, as well as any cultural factors that may affect the student’s education. |
| What Needs to Happen? | <p>The communication needs of the student must be considered by the IEP team.</p> <p>For students who are deaf or hard of hearing, the IEP team must consider the student’s language and communication needs and opportunities for direct communications with peers and professional personnel. The needs must address the student’s language and communication mode.</p> <p>The IEP team must consider the student’s academic level and full range of needs, including opportunities for direct instruction in the child’s language and communication mode.</p> |
| What Parents Need to Know or Do | Let the IEP team know how your child communicates best with others, including family and friends. |

| Assistive Technology | |
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| Citation(s) | <p>20 U.S.C. 1414 (d)(3)(B) Consideration of Special Factors.</p> <p>34 CFR 300.105 Assistive Technology.</p> <p>34 CFR 300.324, Development, review, and revision of IEP.</p> <p>23 IAC 226.230, Content of the IEP.</p> |
| What Does it Mean? | <p>Assistive Technology is technology used by individuals with disabilities in order to perform functions that might otherwise be difficult or impossible.</p> <p>The term “assistive technology” encompasses a broad range of devices from “low tech” (e.g., pencil grips, splints, paper stabilizers) to “high tech” (e.g., computers, voice synthesizers, Braille readers).</p> <p>These devices include the entire range of supportive tools and equipment from adapted spoons to wheelchairs and computer systems for environmental control.</p> |

| Assistive Technology | |
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| What Needs to Happen? | <p>Consideration should be given to the needs of the student for assistive technology devices and services.</p> <p>The IEP team must decide if the student needs assistive technology devices and services in order to receive a Free, Appropriate, Public Education (FAPE).</p> |
| What Parents Need to Know or Do | <p>Tell the IEP team about the things that might help the student in school, at home, or in the community.</p> <p>Share concerns that you have for your child's ability to do things and ask if there is any type of assistive technology that might provide support.</p> |

| Braille | |
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| Citation(s) | <p>20 U.S.C. 1414 (d)(3)(B)</p> <p>34 CFR 300.324 Development, review, and revision of IEP.</p> |
| What Does it Mean? | <p>For a student who is blind or visually impaired, the school shall provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child.</p> |
| What Needs to Happen? | <p>For a child who is functionally blind or visually impaired to the extent that Braille instruction is determined necessary, the IEP team must consider:</p> <ul style="list-style-type: none"> • evaluation of reading and writing skills • evaluation of needs • communication needs • appropriate reading and writing media • future needs for instruction in Braille or the use of Braille |
| What Parents Need to Know or Do | <p>Understand your child's impairment and what he or she needs.</p> <p>Share with the IEP team what has and has not worked at home.</p> |

| Revocation of Consent | |
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| Citations | 23 IAC 226.540 34 CFR 300.300 |
| What Does It Mean? | A parent may revoke consent for the district to provide special education services at any time after the initial consent for services has been provided. Revocation may be provided orally or in writing. |
| What Needs to Happen? | After the parent has revoked consent, the district must terminate all special education services to the student once the district has provided prior written notice to the parent that services will be terminated. |
| What Parents Need to Know or Do | <p>In most cases, all protections and rights given to parents of students with disabilities will be terminated along with the termination of special education services.</p> <p>School districts may not use procedures such as due process or mediation to dispute the parent’s decision to revoke consent.</p> <p>If the parent changes his/her mind after revoking consent and after the district has provided prior written notice for terminating services, the district will need to evaluate the student’s eligibility for special education again.</p> <p><i>If the parent disagrees with the services being provided to the student but does not disagree with the student’s special education eligibility, the parent should initiate a complaint or request due process, rather than revoke consent.</i></p> |

Chapter 8: Least Restrictive Environment (LRE)

| Least Restrictive Environment | |
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| Citation(s) | <p>34 CFR 300.114, LRE requirements.</p> <p>34 CFR. 300.116, Placements.</p> <p>34 CFR. 300.115, Continuum of alternative placements.</p> <p>34 CFR.300.320, Definition of individualized education program.</p> <p>34 CFR.300.107, Nonacademic services.</p> <p>34 CFR.300.117, Nonacademic settings.</p> <p>34 CFR 300.110, Program options.</p> <p>34 CFR 300.327, Educational placements.</p> <p>23 IAC 226.75 definitions.</p> |
| What Does it Mean? | <p>Students with disabilities must be educated with children who do not have disabilities as much as possible.</p> <p>Education placement decisions are made based on the student's needs and may include the following locations (<i>this is not an exhaustive list</i>):</p> <ul style="list-style-type: none"> • General education • Resource room (Special class) • Self-contained room (Special classes) • Separate day school (Special Schools) • Residential program (Special Schools) • Hospital/homebound program. |
| What Needs to Happen? | <p>Students with disabilities should be removed from general education classes to separate classes or special schools only if the disability is so severe that education in general education classes with supplementary aids and services is not satisfactory.</p> <p>Placement decisions are made by a group of persons, including the parents, who are knowledgeable about:</p> <ul style="list-style-type: none"> • the student • the meaning of the evaluation data • the placement options |
| What Parents Need to Know or Do | <p>Decide what educational supports the student needs.</p> <p>The first step when talking about placement is to adjust or modify the student's education program or provide extra supports. That way the student can continue to learn alongside the rest of the students in the general education program and regular classroom environment.</p> <p>The decision in every case is based on the individual needs of the student.</p> |

Chapter 9: Secondary Transition

| Secondary Transition | |
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| Citation(s) | <p>34 CFR 300.43(a), Definition of transition services.</p> <p>23 IAC 226.230(c), Content of the IEP.</p> <p>23 IAC 226.750(c), Additional Services.</p> <p>23 IAC 226.690, Transfer of Parental rights.</p> <p>105 ILCS 5/14-6.10, (Section 14-6.10 of the School Code), Transfer of parental rights at the age of majority.</p> <p>23 IAC 226.50(c), Requirements for a Free Appropriate Public Education (FAPE).</p> <p>34 CFR 300.324(c), Development, review, and revision of IEP.</p> <p>23 IAC 226.230(d), Home-Based Support Services Program.</p> |
| What Does it Mean? | <p>Transition services are a coordinated set of activities and activities, services, experiences and instruction. Transition services should assist the student in moving from school to adult life activities including post-secondary education, vocational training, employment, adult education, adult services, and independent living.</p> <p>Students with disabilities who require continuing education experiences (e.g., transition services) to make a successful transition from school to adult life are eligible to continue through age 21 inclusive (until the day before his/her 22nd birthday).</p> <p>Students who have graduated with a regular diploma are <u>not</u> eligible to continue to receive a free and appropriate public education (FAPE).</p> <p>Students with disabilities who have fulfilled the minimum State graduation requirements (School Code – 105 ILCS 5/27-22) are eligible to receive a regular education diploma.</p> |

| Secondary Transition | |
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| What Needs to Happen? | <p>The transition plan must include:</p> <ul style="list-style-type: none"> • Appropriate, measurable post-secondary goals based upon age-appropriate assessments related to education, training, employment, and, where appropriate, independent living skills. • Transition services that are needed to assist the child in reaching those goals, including courses of study and any other needed services to be provided by entities other than the school district. <p>The school district must provide the student with a copy of the Delegation of Rights at the IEP meeting in the year during which the student turns 17 years of age. The student can end the Delegation of Rights at any time otherwise it will be in effect for one year after the date of completing.</p> <p>At least one year before a student is to receive a regular high school diploma, the school district must send both the parent and student written notice that a diploma will be issued. The notice must explain that eligibility for special education services ends after the student receives the diploma. The notice should also explain that the parent or the student may request an IEP meeting to review the school district's recommendation.</p> <p>Students with disabilities can participate in graduation ceremonies while maintaining their rights to continued eligibility for special education services.</p> <p>The IEP Team must consider this section of the transition plan for students who have developmental disabilities. The IEP team should assist families in making a connection or linkage with their local Pre-Admission and Screening (PAS) Agency to first complete the "PUNS" (Prioritization of Unmet Needs data system) survey and an application packet that will be submitted to the Department of Human Services Division of Developmental Disabilities. The survey can be found at http://www.dd.illinois.gov/LocalAgency.cfm or you may call 1-888-DD-PLANS or 1-866-376-8446 (TTY).</p> |
| What Parents Need to Know or Do | <p>The student and his/her parents/guardian actively share their vision for life as an adult in the areas of employment, post-secondary education, community participation including recreation and health care, and independent living options such as an apartment, a dormitory or a supported living arrangement.</p> <p>Parents, families and guardians can assist in transition planning with the IEP Team by helping find the answers to questions about the student, including: long-range employment and life goals, interests and talents, learning styles, positive personality traits, achievements, social skills, work experiences (paid and unpaid) and where he/she might like to work, needs for accommodations and support, and options after high school (college, trade school, military, work, living arrangements, recreation, healthcare, etc.</p> |

| Transfer of Rights at Age of Majority | |
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| Citation(s) | <p>34 CFR 300.320</p> <p>23 IAC 226.230, Content of the IEP.</p> <p>23 IAC 226.690, Transfer of parental rights.</p> <p>105 ILCS 5/146.10, Transfer of parental rights at the age of majority.</p> |
| What Does it Mean? | <p>The rights and responsibilities for special education services that are given to parents will belong to the student at age 18.</p> <p>In addition, the district must inform the parents and student of the student's right to delegate decision-making to another adult individual.</p> <p>At least one year before turning 18, the parents and the student will receive notices in writing from the school about the change.</p> |
| What Needs to Happen? | <p>The district must document that the parents and the student received the notice and were told about the transfer of rights.</p> <p>The school must provide the student with a copy of the Delegation of Rights form. http://www.isbe.net/spec-ed/pdfs/nc_deleg_34-57k.pdf</p> |
| What Parents Need to Know or Do | <p>At age 18, your child is now considered an adult and the rights you had are transferred, or given to them.</p> <p>The Delegation of Rights:</p> <ul style="list-style-type: none"> • may be terminated by your child at any time • will remain in effect for one year • must be signed by the student and the designee • can be renewed each year <p>The school must use the ISBE form or one that is almost the same.</p> <p>Prepare for transition by talking to your child early so that you can create a meaningful plan that reflects his/her preferences.</p> |

Chapter 10: Behavior

| Behavioral Intervention Plans (BIPs) | |
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| Citation(s) | 23 IAC 226.230 , Content of the IEP. |
| What Does it Mean? | If a child's behavior gets in the way of his/her learning or the learning of other students, then the IEP team should consider the use of positive behavioral interventions and supports. |
| What Needs to Happen? | <p>Some students may need a behavioral intervention plan included in the IEP. The IEP of a student who requires a behavioral intervention plan (BIP) shall:</p> <ul style="list-style-type: none"> • summarize the findings of the functional behavioral assessment; • summarize prior interventions implemented; • describe any behavioral interventions to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors; • identify the measurable behavioral changes expected and methods of evaluation; • identify a schedule for a review of the interventions' effectiveness; and • identify provisions for communicating with the parents about their child's behavior and coordinating school-based and home-based interventions. |
| What Parents Need to Know or Do | <p>Learn about functional behavioral assessments (FBAs) and Behavior Intervention Plans (BIPs).</p> <p>If you want to request an FBA, please do so in writing. It is also best to have someone at the school sign and date a copy of the letter or send it certified mail, return receipt requested.</p> <p>A plan to teach new behaviors with positive strategies is called positive behavioral interventions and supports (PBIS).</p> <p>A positive behavior intervention plan (BIP) is not a plan to discipline or punish but is a plan that is used to teach or reinforce positive behaviors.</p> <p>Ask for a BIP before your child gets into serious trouble.</p> <p>A BIP also details what the school staff should do to help the student be successful.</p> <p>Students are more successful when the same things happen at home and at school.</p> |

Chapter 11: Discipline

| In School Suspension | |
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| Citation(s) | N/A |
| What Does it Mean? | When a student with an IEP receives an in-school suspension, he or she is removed from class for a specific number of days as a result of breaking school rules. The student is in the school building, but not attending classes. |
| What Needs to Happen? | The school must notify the parents immediately, and provide the parents with a full statement of the reasons for the suspension, and their right to a review of the decision. |
| What Parents Need to Know or Do | Often, an in-school suspension will include doing school work, without being in the classroom. During the time the student with an IEP is in in-school suspension, the school is only required to provide educational services if the school district also provides educational services to non-disabled students in the same circumstances. |

| Out of School Suspension | |
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| Citation(s) | 34 C.F.R. 300.530(a) |
| What Does it Mean? | When a student with an IEP receives out-of-school suspension, he or she is removed from school for not more than 10 consecutive school days as a result of breaking school rules. A student may receive additional suspensions of not more than 10 consecutive school days in the same school year for separate incidents of misconduct. |
| What Needs to Happen? | The school must notify the parents immediately, and provide the parents with a full statement of the reasons for the suspension, and their right to a review of the decision. |

| Out of School Suspension | |
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| What Parents Need to Know or Do | <p>It's important for parents to understand why their child was suspended.</p> <p>You have the right to request a review of the decision to suspend your child.</p> <p>After a student with an IEP has been removed from his or her current placement for 10 school days in the same school year, the district must provide educational services during any additional suspensions, even if in another setting.</p> <p>Additionally, if the student is suspended for more than 10 school days in the same school year, the district is required to hold an IEP team meeting to review the student's behavioral intervention plan. If the student's IEP does not have a behavioral intervention plan, then one must be developed.</p> <p>Make sure your child received the services they need.</p> <p>Think of ways to assist the school in preventing your child from being suspended again.</p> |

| Manifestation Determination Review (MDR) | |
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| Citation(s) | <p>20 U.S.C. Sec. 1415(k)</p> <p>34 C.F.R. 300.530(e)</p> |
| What Does it Mean? | A meeting of the district, parent, and relevant members of the IEP team to decide if a student's behavior is a symptom of the disability. |
| What Needs to Happen? | <p>If the student is removed for more than 10 consecutive school days, or if a series of removals totals more than 10 days in a school year, the MDR meeting needs to be held to decide if the student's behavior is a symptom of the disability.</p> <p>To make the decision, the district, parents and IEP team must look carefully at relevant information, including:</p> <ul style="list-style-type: none"> • the IEP • information from the parents • observations of the student • new or existing evaluation results <p>The team decides that behavior IS a manifestation of the disability if:</p> <ul style="list-style-type: none"> • the behavior was caused by the disability, or had a direct and substantial relationship to the disability, OR • the behavior was a result of the school's failure to follow the IEP. |

Manifestation Determination Review (MDR)

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| What Parents Need to Know or Do | <p>If the behavior IS a manifestation of the disability, then the team must do a functional behavioral assessment and develop a behavioral intervention plan. If a BIP already exists, the team must review it and make changes, if needed.</p> <p>Your child cannot be removed from his/her current placement unless you agree. However, if the incident involves a weapon or an illegal drug, the school district can still remove your child from the current placement, even if you disagree and even if the behavior is a manifestation of your child's disability.</p> <p>If the behavior is NOT a manifestation of the disability, the student can be disciplined as any other student would be, BUT the school must continue to provide educational services. During this time, your child needs to continue to make progress on his/her IEP goals and to participate in the general education curriculum.</p> |
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Removal for Drugs, Weapons or Serious Bodily Injury

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| Citation(s) | 34 C.F.R. 300.530(g) |
| What Does it Mean? | <p>There are 3 situations where a district can remove a student from their current placement for not more than 45 school days, regardless of whether the behavior is a manifestation of the disability:</p> <p>If the student brought a weapon to school or to a school function; or if the student possessed a weapon at school or a school function.</p> <p>If the student knowingly has, uses, sells or tries to buy illegal or controlled substances at school or at a school function.</p> <p>If the student inflicted serious bodily injury on another person at school or a school function.</p> |
| What Needs to Happen? | <p>The district will call the police, and can move the student to an Interim Alternative Educational Setting for not more than 45 school days.</p> <p>The student's IEP team decides on the interim alternative educational setting.</p> |
| What Parents Need to Know or Do | <p>A parent who disagrees with the change in placement has the right to request an expedited due process hearing (see Chapter 10).</p> |

Chapter 14: School Records

| School Records | |
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| Citation(s) | <p>34 CFR 300. 322, Parent Participation.</p> <p>34 CFR 300.306, Determination of eligibility.</p> <p>34 CFR 300.613, Access Rights.</p> <p>Family Educational Rights and Privacy Act (FERPA), (20 U.S.C. 1232g; 34 CFR Part 99).</p> <p>Illinois School Student Records Act, 105 ILCS 10/1 and following.</p> |
| What Does it Mean? | <p>School records are confidential. Personal information (anything that identifies who the person is) may not be released without written consent unless it is:</p> <ul style="list-style-type: none"> • given to school officials or teachers with a legitimate educational interest, State and local education authorities, or certain individuals designated under Federal Law. • used to meet a requirement under Federal Law. <p>Personal information includes the following:</p> <ul style="list-style-type: none"> • the name of the student, parent, or other family members • the home address • personal information , such as the student's social security number |
| What Needs to Happen? | <p>Schools must maintain the student's permanent record for at least sixty (60) years after the student has transferred, graduated, or permanently withdrawn from school.</p> <p>All information not required in the student permanent record including special education information and reports, discipline issues including suspension or expulsion must be maintained for at least five (5) years after the student has transferred, graduated, or otherwise permanently withdrawn from school.</p> <p>Schools must provide custodial and non-custodial parents access to their children's records unless there is a court order, law, or legal document (such as a divorce decree or custody order) that terminates a parent's rights.</p> <p>Districts must keep a record of anyone who looks at the records. The record must state the name of the person reviewing the file, the date, and the reason for the review. Parents, the student's teachers, or other school staff do not have to sign a record when reviewing the file.</p> |

| School Records | |
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| What Parents Need to Know or Do | <p>Take the opportunity to examine all education records in your child’s file.</p> <p>Request an explanation of the documents in the file.</p> <p>Know where the records are kept.</p> <p>Review your child’s records before :</p> <ul style="list-style-type: none">• transferring to another school• participating in IEP meetings• participating in a due process hearing <p>Request that a representative inspect and review the records.</p> |

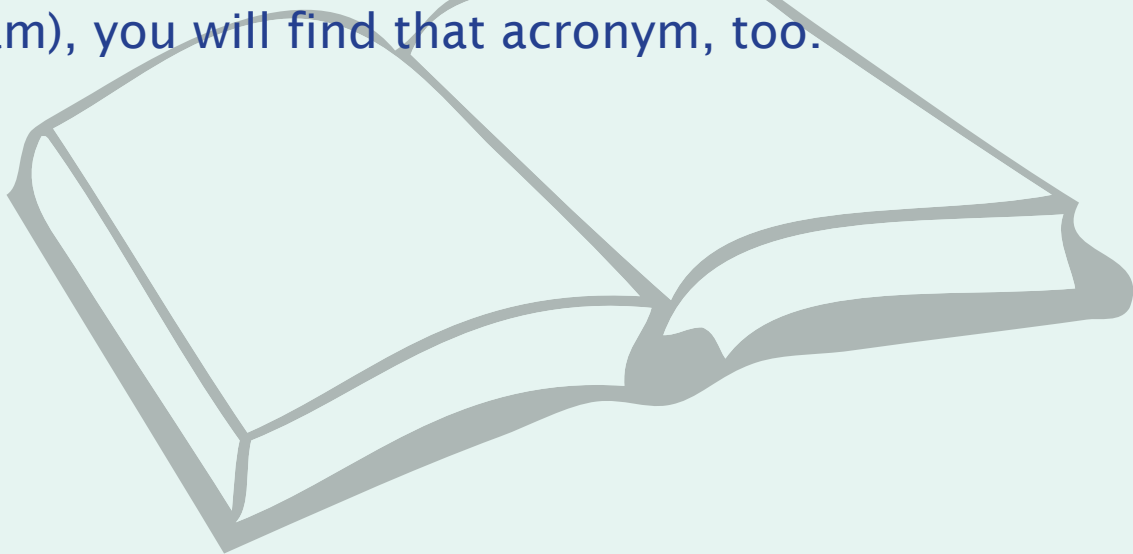
Chapter 15: Early Childhood Services

| Early Childhood Services | |
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| Citation(s) | <p>34 CFR 300.124, Transition.</p> <p>23 IAC 226.260, Transition.</p> <p>34 CFR 300.323, When IEPs must be in effect.</p> <p>23 IAC 226.250, IFSP.</p> <p>34 CFR 300.101, Free appropriate public education (FAPE).</p> |
| What Does it Mean? | Children who have been receiving early intervention services have the right to a smooth and efficient transition into early childhood special education services when they turn 3. |
| What Needs to Happen? | By the third birthday of a child transitioning from early intervention, the school district must have eligibility determined and if eligible, an IEP developed and implemented. |
| What Parents Need to Know or Do | Stay in touch with the early intervention service coordinator and the school district staff as the child nears the third birthday and keep appointments for evaluations and meetings. |

Appendix C:

Glossary of Key Terms

The following section contains a list of key terms used throughout this book. If a common acronym is associated with the term (for example, “IEP” for Individualized Education Program), you will find that acronym, too.



| Word or Term | Acronym | Definition |
|--|------------|---|
| Accommodations | | Changes in how learning occurs or how a test is administered that does not substantially alter what is learned or what the test measures; includes changes in presentation format, response format, test setting or test timing. Appropriate accommodations are made to provide equal opportunity to demonstrate knowledge. |
| Achievement Test | | Test that measures competency in a particular area of knowledge or skill; measures mastery or acquisition of skills. |
| Achievement/ability discrepancy | | A criterion often used to determine whether a child has a learning disability and if the child is working up to expectations. |
| Activities of daily living | ADL | Personal care activities necessary for everyday living, including eating, dressing, bathing, grooming, and toileting. |
| Adaptive behavior | | Refers to one's ability to be socially appropriate and personally responsible. It is usually measured by scales that identify how well a person manages within his or her own environment. This includes, for example, communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work. |
| Adaptive physical education | | Alternative physical education for students who cannot participate in the general education program. Involves modifications and/or accommodations to the regular physical education class. Supplemental instruction may take place in a separate class based on a student's individual needs. The goal is to allow students with special needs to remain in the regular physical education class. |
| Adaptive/assistive devices | AAD | Assistive technology devices designed or altered for special use by children with developmental delays |
| Adequate yearly progress | AYP | Required by the No Child Left Behind Act (NCLB), all public school campuses, school districts, and the state are evaluated for AYP. Each is required to meet AYP criteria on three measures: reading/language arts, mathematics, and either graduation rate (for high schools and districts) or attendance rate (for elementary and middle/junior high schools) |
| Affective | | A term which refers to emotions and attitudes. |
| Alternative dispute resolution | | See mediation. |

| Word or Term | Acronym | Definition |
|--|------------|---|
| Alternative education placement | AEP | An alternative classroom setting used to improve classroom behavior and address needs that cannot be met in a general classroom setting. |
| American sign language | ASL | A form of communication used among deaf persons. The system uses signs to communicate based on specific movements and shapes of the hand and arms, eyes, face, head, and body posture. |
| Americans with Disabilities Act | ADA | Enacted in 1990, it gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities to public accommodations, employment, transportation, state and local government services, and telecommunications. |
| Annual Goal | | A required component of an Individualized Education Program (IEP), it is a goal that a student will strive to achieve in a twelve-month period. An example would be, "David will read at a second grade level by the end of the next school year" |
| Annual review | | Students with disabilities are required by law to have an educational program that is reviewed each year. A review involves an updating of the student's progress and planning his/her educational program, and development of a new IEP for the upcoming year. |
| Appeal | | A written request for a court to review or change the decision of a hearing officer. |
| Appendix A | | Appendix to the federal special education regulations that answers questions about IEPs, IEP teams, parental role, transition. |
| Applied behavior analysis | ABA | An intervention technique that may be used to teach children with autism. It breaks down skills into very small components, which are then taught systematically. Each skill builds the foundation for the next one. |
| Assessment | | A way of collecting information about a student's special learning needs, strengths, and interests to help make educational decisions. An assessment may include giving individual tests, observing the student, looking at records, and talking with the student and his/her parents. |
| Assistive technology device | | Any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability. |

| Word or Term | Acronym | Definition |
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| Audiologist | | Specialist who is concerned with studying the nature of hearing, administering hearing tests to detect possible hearing loss, and giving information about hearing aids, training programs, and medical treatment. Related service includes identification, determination of hearing loss, and referral for habilitation of hearing. |
| Autism | | Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disability. In addition, autism shall include, but not be limited to, any Autism Spectrum Disorder that adversely affects a child's educational performance. |
| Behavioral Intervention | | A method or technique used to influence a student's actions. |
| Behavioral Intervention Plan | BIP | A written plan developed as part of the IEP to address a serious behavioral problem. It is based on a functional behavioral assessment of the student's behavior, describes the interventions to be used, methods of evaluation, and provisions for coordinating with the home. The BIP outlines what the school personnel will do differently to support the needs of the student. |
| Benchmark | | Refers to a major milestone that will enable parents, students, and educators to monitor progress toward a goal during the year. |
| Bilingual | BIL | The ability to use two languages with equal or nearly equal fluency. |
| Brief | | Written argument that supports a case; usually contains a statement of facts and a discussion of law. |
| Building Level Support Team | BLST | A team that analyzes needs and clarifies school support systems for teachers, students, and parents. |
| Burden of proof | | Duty of a party to substantiate its claim against the other party; in civil actions, the weight of this proof is usually described as a preponderance of the evidence. |
| Business Day | | Means Monday through Friday, except for federal and state holidays. |

| Word or Term | Acronym | Definition |
|---|----------------|---|
| Calendar Day | | (See “day”). |
| Case Law | | Decisions issued by a court. |
| Case study evaluation | | A set of procedures specified within IDEA and expanded greatly in Illinois under 23 IAC 226.535 to determine possible special education eligibility. |
| Certified occupational therapist assistant | COTA | A trained professional who works under the direction and supervision of an occupational therapist (OT). |
| Child find | | Requirement that states ensure that all children with disabilities are identified, located and evaluated. Also to determine which children should be receiving special education and related services. |
| Chronologically age appropriate | | A standard by which children’s activities may be evaluated. Instruction and materials should be directed at the student’s actual age, rather than to the interests and tastes of younger children. |
| Claim | | The written or electronically submitted request for payment of benefits for Medicaid-covered services that have been provided to students. |
| Code of Federal Regulations | CFR | The regulations developed by the US Department of Education designed to implement statutory requirements such as IDEA and Section 504. |
| Cognitive Disability | | Cognitive disability means significantly below average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child’s educational performance. |
| Complaint | | The written action taken to notify ISBE that special education regulations are not being followed. |
| Computer-assisted instruction | CAI | Drill-and-practice, tutorial, or simulation activities used alone or in conjunction with classroom instruction. |
| Confidential | | Information held by the school district that can only be shared with non-school parties with written parent permission, unless stated otherwise in the law. |
| Confidential file | | File maintained by the school that contains evaluations conducted to determine whether child has a disability, other information related to special education placement; parents have a right to inspect the file and have copies of any information contained in it. |
| Confidentiality | | Precautions an individual other than the student’s parent must take in not revealing information, without consent, about a specific student, to someone who is not directly involved with that student. |

| Word or Term | Acronym | Definition |
|---------------------------------------|---------|---|
| Consent | | Requirement that the parent be fully informed of all information that relates to any action that the school wants to take about the child, that parents understand that consent is voluntary and may be revoked at any time. A voluntary agreement by the parents to let the school take an action which affects their child’s education. Consent is shown by the parent signing a form or letter which describes the action the school wants to take. (1) Fully informing the parent of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication, (2) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom, and (3) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. |
| Continuum of services | | The range of services which must be available to the students of a school district so that they may be served in the least restrictive environment. |
| Controlled substance | | Means a drug or other substance identified under schedules I, II, III, IV, or V of the Controlled Substances Act; does not include a substance that is legally possessed or used under the supervision of a licensed health care provider. |
| Cooperative | | Voluntary association of school districts that band together to provide special education services using a shared administrative structure. |
| Counseling services | | Related service; includes services provided by social workers, psychologists, guidance counselors, or other qualified personnel. |
| Culturally and linguistically diverse | CLD | Refers to students who come from a different culture and whose background includes a different language. |
| Cumulative file | | General file maintained by the school; parent has right to inspect the file and have copies of any information contained in it. |
| Curriculum | | The subject matter that is to be learned. The coursework offered by a school. A curriculum is usually described in terms of its scope and sequence. |
| Curriculum-based assessment | CBA | An ongoing assessment of a student’s ability to meet expected performance standards in the developmental areas of cognitive, communication, social, motor, and adaptive behaviors. |

| Word or Term | Acronym | Definition |
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| Curriculum-based measurement | CBM | A method teachers use to find out how students are progressing in basic academic areas such as math, reading, writing, and spelling. These measures are based on how well a student masters the curriculum goals. When using CBM, the teacher will give the student brief, timed samples (called probes), which are created from material taken out of the school curriculum. To keep things standard, the teacher will read the same directions every time that he/she gives a specific probe. These probes are timed and may last from one to five minutes, but this will depend on the child's age and the skill being measured. The child's performance on a probe is scored for speed and accuracy of performance. Used repeatedly as practice drills, the student's results are charted to monitor the rate of academic progress. |
| Date of Referral | | The date on which written parental consent to complete an evaluation is obtained or provided. |
| Day | | A calendar day, unless otherwise indicated as a "business day" or "school day". |
| Deaf-blindness | | Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness. |
| Deafness | | Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance. |
| Delay | | Development which does not occur within expected time ranges. |
| Developmental disabilities | DD | A diverse group of severe, lifelong, chronic conditions due to mental and/or physical impairments manifested prior to age 22. |
| Developmentally appropriate practices | DAP | Practices that are age appropriate and individually appropriate for each student. |
| Developmental Delay | DD | A delay in physical development, cognitive development, communication development, social or emotional development, or adaptive development (may include children from three through nine years of age). |

| Word or Term | Acronym | Definition |
|---|-----------------|---|
| Discovery | | Term for methods of obtaining evidence in advance of trial; includes interrogatories, depositions and inspection of documents. |
| Domain | | An aspect of a child’s functioning or performance that must be considered in the course of designing an evaluation. The domains are health, vision, hearing, social and emotional status, general intelligence, academic performance, communication status, and motor abilities. |
| Due Process | | A legal term that assures that persons with disabilities have the right to challenge any decision made on their behalf. |
| Due Process Hearing | | A formal meeting held to settle disagreements between parents and schools in a way that is fair to the student, the parents, and the school. The meeting is run by an impartial hearing officer. |
| Duration | | The length of time a student will need a special program or service during the school year or extended school year, as documented on the IEP. |
| Early Childhood | | Programs and services provided to children with disabilities from age 3 through 5. |
| Early childhood Education | ECE | The education of a child in grades K-5 (age range of birth through 9 years of age). |
| Early Childhood Intervention | ECI | Programs designed to provide assistance to preschool-age children with physical or developmental problems. |
| Early Intervention | | Programs and services provided to infants and toddlers with disabilities from birth through age 3. |
| Early Intervening Services | EIS | Assistance given to children who have not yet been identified as eligible for special education and related services under IDEA but who need extra help and support to progress in the general education environment. District can use no more than 15% of IDEA, Part B funds to develop and implement early intervening services. EIS emphasizes assistance to children in grades K-3. EIS may also be used with children in grades 4-12. EIS funds may be used for professional development of teachers and other school staff. |
| Education Department General Administration Regulations Complaint | EDGAR Complaint | A complaint filed with a state agency under rules promulgated as (federal) Education Department General Administrative Regulations (EDGAR) that each state have a means for receiving complaints that federal laws are being violated. |

| Word or Term | Acronym | Definition |
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| Education records | | All records about the student that are maintained by an educational agency or institution; includes instructional materials, teacher's manuals, films, tapes, test materials and protocols. |
| Eligibility Conference | | A conference held to determine, review, terminate, or consider changes in a student's eligibility for special education. |
| Eligibility Conference Summary Report | | A written report containing a summary of the results of the evaluation and the determination of eligibility for special education. |
| Eligible | | A decision that determines a student meets the requirements for and is in need of special education and related services. The decision is based on the results of the evaluation and the conclusions reached at the eligibility conference. |
| Emotional Disability | ED | <p>Disability category under IDEA. A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance.</p> <p>An inability to learn that cannot be explained by intellectual, sensory, or health factors.</p> <p>An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.</p> <p>Inappropriate types of behavior or feelings under normal circumstances.</p> <p>A general pervasive mood of unhappiness or depression.</p> <p>A tendency to develop physical symptoms or fears associated with personal or school problems.</p> <p>Emotional disability includes schizophrenia.</p> |
| English as a Second Language | ESL | English learned in an environment where it is the predominant language of communication. |
| English for Speakers of Other Languages | ESOL | English instruction for persons who speak a language other than English. |
| English Language Learner | ELL | Someone who speaks a language other than English and is learning to speak and understand the English language. |

| Word or Term | Acronym | Definition |
|---|---------|---|
| Evaluation | | Collecting information about a student and any problems that may affect his/her educational development for the purpose of determining eligibility for special education and related services. The evaluation may include giving individualized tests, observing the student, looking at records, and talking with the student and his/her parents (see also assessment). |
| Exhibit | | Anything tangible that is produced and admitted in evidence during a trial. |
| Extended School Day | | A provision for a student who receives special education services to have instruction for a period longer than the standard school day. This sometimes includes “double” kindergarten, later afternoons, or earlier starting times. |
| Extended School Year Services | ESY | A provision for a special education student to receive instruction during ordinary school “vacation” periods. Purpose is to prevent serious regression of previously learned skills that cannot be regained in a reasonable length of time with the intent being to maintain IEP goals and objectives, not to introduce new skills. The IEP team determines eligibility for ESY services. |
| Family Education Rights and Privacy Act | FERPA | A federal law that regulates the management of student records and disclosure of information from those records. The Act has its own administrative enforcement mechanism. |
| Fiscal Year | FY | A twelve-month period used for calculating yearly financial reports. Most schools use the state fiscal year which runs from July 1 to June 30. |
| Free Appropriate Public Education | FAPE | The words used in the federal law (IDEA) to describe the right of students with disabilities to receive special education and related services which meet his/her individual learning needs, at no cost to the parents. |
| Functional Behavioral Assessment | FBA | A process to improve understanding of problem behavior in order to identify what skills need to be taught. The process includes observation, interviews, and data collection to identify when, where, and why the behavior is occurring. |
| General curriculum | | Curriculum adopted by LEA or SEA for all children from preschool through high school. |
| Guardian | | Person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem. |

| Word or Term | Acronym | Definition |
|--|--------------|---|
| Guardian ad litem | | Person appointed by the court to represent the rights of minors. |
| Head Start | HS | A child development program for children ages 3 to 5 and their families that focuses on increasing the school readiness of young children from low-income families by increasing opportunities for learning. |
| Hearing Impairment | HI | A hearing impairment is one that is either permanent or fluctuating and that adversely affects a child's educational performance, but that is not included under the definition of deafness. |
| Hearing Officer | HO | An impartial person in charge of a due process hearing who issues a written decision based upon the evidence and witnesses presented at the hearing. |
| Illinois Administrative Code | IAC | The regulations relevant to the provision of special education are located in volume 23 at part 226. |
| Illinois Freedom of Information Act | IFOIA | This statute (I.R.S. Ch. 116) regulates access to public records. It is useful for accessing the policies and minutes of public bodies, but does not provide for access to individual student records. |
| Illinois Revised Statutes or Illinois School Code | ILCS | Chapter 122. Commonly called the "Illinois School Code." It includes state law regulating the operation of public schools. Article 14 is specific to special education matters. |
| Illinois Student Records Act | ISRA | A portion of the school code regulating the management of all student records whether or not those students have disabilities. |
| Illinois State Board of Education | ISBE | The state agency responsible for educational services. |
| Independent Educational Evaluation | IEE | An assessment conducted by someone who is not employed by the school district. The person(s) completing the assessment must be fully trained and qualified. |
| Individual Family Service Plan | IFSP | The document which outlines the services to be delivered to families of infants and toddlers receiving special services. |
| Individualized Education Program | IEP | The written educational program for a student receiving special education and related services with goals and objectives to be attained during a calendar year, that is developed and implemented to meet unique educational needs. |
| Individualized Education Program (IEP) Conference | | A meeting held annually to develop, review, and consider changes in a student's special education and related services and educational placement. |

| Word or Term | Acronym | Definition |
|---|---------------------------|--|
| Individualized Education Program (IEP) Team | | The group of individuals enumerated who determines the special education and related services to be provided to an eligible student. The IEP team and other qualified professionals are required to participate in meetings when identifying specific assessments, determining eligibility, and conducting manifestation determination reviews. |
| Individualized functional assessment | IFA | An assessment that examines whether a child can engage in age-appropriate activities effectively. |
| Individualized transition plan | ITP | Transition services begin when a student is ready to transition from high school to postsecondary education, vocational training, independent employment, continuing and adult education, adult services, or independent living. When transition services begin for students with an IEP, they will complete a transition planning interview to identify their needs. The IEP team will use this information to develop an ITP, which is designed to accomplish the student’s goals. |
| Individuals with Disabilities Education Improvement Act of 2004 | IDEA IDEA '04 IDEIA | The federal law mandating 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 employment and independent living. |
| Individuals with Disabilities Education Law Reporter | IDELR | Individuals with Disabilities Education Law Reporter. Specialized full text reporting service publishes policy letters and administrative level actions as well as case law. |
| Initiation Date | | The date, month, and year in which a program or service will begin as documented on the IEP. |
| In-school suspension | ISS | An alternative placement program that allows students to come to school, but they are not allowed to attend regular class. They are placed in an isolated, supervised, small-group setting where they can still complete their school work. |
| Interrogatories | | Written questions served on a party that must be answered under oath before trial; method of discovery. |
| Joint agreement | | Also called a “cooperative.” A joint agreement is a voluntary association of school districts who join together to provide special education services. |
| Judgment | | Order by a court |

| Word or Term | Acronym | Definition |
|---|------------|--|
| Learning Disability | LD | An eligibility category under IDEA. A neurological disorder that affects the brain's ability to receive, process, store and respond to information. A person may have difficulties in the areas of reading, writing, mathematics, listening, and/or speaking. |
| Least Restrictive Environment | LRE | A requirement of IDEA. This provision describes procedures that ensure, to the maximum extent appropriate; students with disabilities are educated with students who are not disabled. The IEP team must determine the LRE for each student based on his or her individual needs. |
| Limited English Proficient | LEP | A term used to describe a student who is not fully proficient in English, speaks a language other than English at home, and does not demonstrate English language skills of comprehension, speaking, reading, and writing at a level that would allow him to be placed in a mainstream class setting where only English is spoken. |
| Local Educational Agency | LEA | Local education agency or school district |
| Manifestation Determination Review | MDR | A meeting of the IEP team convened by the school to determine whether the behavior of a student who receives special education services was caused by the student's disability. |
| Mediation | | A process in which parents and school personnel try to settle disagreements with the help of a trained mediator provided by ISBE. |
| Medicaid | | A federal-state public medical assistance program administered by the Illinois Department of Public Aid that enables eligible recipients to obtain medical benefits outlined within the state Medicaid guidelines. |
| Medical Services | | Related service. Includes services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services. |
| Modifications | | Substantial changes in what the student is expected to demonstrate; includes changes in instructional level, content, and performance criteria, may include changes in test form or format; includes alternate assessments. |
| Multiple disabilities | | Multiple disabilities means a combination of various impairments that cause such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness. |
| Native language | | Language normally used by the child's parents. |

| Word or Term | Acronym | Definition |
|---|---------|--|
| No Child Left Behind Act of 2001 | NCLB | Its purpose is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments. |
| Notice | | Mandatory written notice provided to parents before the school’s proposal or refusal to initiate or change the student’s identification, evaluation, or educational placement. Notice in the parent’s native language must also be provided in advance of any scheduled IEP meetings. |
| Occupational Therapist | OT | A trained professional who provides occupational therapy. |
| Occupational Therapy | OT | A special education related service which is usually focused upon the development of a student’s fine motor skills and/or the identification of adapted ways of accomplishing activities of daily living when a student’s disabilities prevents him/her from doing those tasks in typical ways (e.g. modifying clothing so a person without arms can dress himself/herself). |
| Office of Civil Rights | OCR | The federal agency that serves student populations facing discrimination and the advocates and institutions promoting solutions to civil rights problems. An important responsibility is resolving complaints of discrimination, as well as developing creative approaches to preventing and addressing discrimination. |
| Office of Special Education and Rehabilitative Services | OSERS | An agency of the federal government’s executive branch within the Department of Education. |
| Office of Special Education Programs | OSEP | Part of the U.S. Department of Education, its goal is to improve results for infants, toddlers, children and adolescents with disabilities ages birth through 21 by providing leadership and financial support to assist states and local districts. |
| Opinion | | Formal written decision by judge or court; contains the legal principles and reasons upon which the decision was based. |
| Orthopedic Impairment | OI | An orthopedic impairment means a severe orthopedic impairment that adversely affects a child’s educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). |

| Word or Term | Acronym | Definition |
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| Other Health Impairments | OHI | <p>Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that—</p> <ul style="list-style-type: none"> • Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and • Adversely affects a child's educational performance. |
| Parent | | Natural or adoptive parent; a guardian, but not the State if the child is a ward of the State; a person acting in the place of a parent (e.g., a grandparent or step-parent with whom the child lives, or a person legally responsible for the child's welfare); or an educational surrogate parent. |
| Parent-Teacher Association | PTA | A school district-based group that is part of the National PTA. |
| Permanent Record | | A file that includes the following information: parent name(s) and address(es), student name, address, birth date, birth place, gender, transcripts, grades, class rank, graduation date, grade level achieved, scores on college entrance exams, attendance reports, accident reports, health records, release of information forms, honors/awards received, and participation in school-sponsored activities and events. |
| Physical Therapist | PT | A trained professional who provides physical therapy. |
| Physical Therapist Assistant | PTA | A professional who works under the direction and supervision of a physical therapist and provides rehabilitative services to students with physical or developmental impairments. |
| Physical Therapy | PT | Instructional support and treatment of physical disabilities provided by a trained physical therapist, under a doctor's prescription, that helps the student remediate gross motor skills and improve the use of bones, muscles, joints, and nerves. |

| Word or Term | Acronym | Definition |
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| Placement | | Where the IEP will be carried out. The placement decision is made by the IEP team, including the parents and others who know about the child, what the evaluation results mean, and what types of placements are appropriate. The parents have the right to be members of the group that decides the educational placement of the child. Placement decisions must be made according to IDEA's least restrictive environment requirements—commonly known as LRE. These requirements state that, to the maximum extent appropriate, children with disabilities must be educated with children who do not have disabilities. |
| Precedent | | A court decision that will influence similar cases in the future. |
| Pre-Kindergarten | PRE-K | The year of education that occurs before kindergarten. The goal of pre-K is to promote school readiness so that children have a better chance of later success in school. |
| Present Levels of Performance | PLOP | A required IEP component, statements in an IEP that specifically describe what a student can or cannot do. |
| Prior Written Notice | | Required written notice to parents when school proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the student. |
| Pro Se | | Representing oneself without assistance of legal counsel. |
| Procedural Safeguards | | Precautions taken to insure that an individual's rights are not denied without due process of law. |
| Procedural Safeguards Notice | | Requirement that schools provide a full and easily understood explanation of procedural safeguards at least once a year to parents. It must include information on independent educational evaluation, prior written notice, parental consent access to records, complaint process, mediation process, due process and the child's placement during due process, interim alternative educational settings, private school placements by parents at public expense, disclosure of evaluation results and recommendations, state-level appeals, civil action, and attorney's fees. |
| Psychological services | | A related service that includes administering psychological and educational tests, interpreting test results and student behavior related to learning. Can include services such as student and parent counseling. |

| Word or Term | Acronym | Definition |
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| Psychologist | | Person with an advanced degree who specializes in administering and evaluating psychological tests including intelligence, aptitude, and interest tests. A psychologist could also provide counseling and apply principles of human behavior. |
| Reasonable Accommodation | | Modifications of a facility or program that can be accomplished without undue administrative or financial burden. |
| Reevaluation | | An assessment that occurs every three years, or more if needed, to determine continued eligibility for special education. |
| Referral | | The process of requesting that a student be evaluated for special education and related services. Any concerned person may refer a student, including teachers, principals, parents, other agency personnel, or the student. |
| Regression/recoupment | | The amount of loss of skills a child experiences over an instructional break (primarily summer vacation) and the amount of time it takes him/her to recover the lost skills. Standards for when regression and recoupment concerns require ESY are noted in case law and in state and federal policy letters. |
| Rehabilitation Act of 1973 | | Civil rights statute designed to protect individuals with disabilities from discrimination; purposes are to maximize employment, economic self-sufficiency, independence, inclusion and integration into society. |
| Rehabilitation Counseling Services | | Related service; includes career development, preparation for employment, vocational rehabilitation services funded under the Rehabilitation Act of 1973. |
| Related Services | | IDEA requires that school districts provide whatever related services (other than medical care which is not for diagnostic purposes) a child needs in order to benefit from his or her special education program. Related services are support services needed by a student in order to benefit from special education services. These may include, but are not limited to, speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, early identification and assessment, counseling, rehabilitation counseling, orientation and mobility services, school health services, social work services, parent counseling, and training. |

| Word or Term | Acronym | Definition |
|--|---------|--|
| Response to Intervention | RtI | The response-to-intervention (RtI) model is also often called the Three-Tiered Model. Under IDEA 2004, school districts can use this model as an alternative to the discrepancy model, as a process of determining whether a student has a learning disability. |
| School Day | | Any day, including a partial day, during the regular school year that students are in attendance at school for instructional purposes. |
| School Health Services | | Related service; services provided by a qualified school nurse or other qualified person. |
| Screening | | A review of all children in a given group to identify those students who may need an evaluation to determine the need for special education services. |
| Section 504 | | Provision of the Rehabilitation Act of 1973 which prohibits recipients of federal funds from discrimination against persons with disabilities. An evolving area of administrative procedures. School districts must make a Section 504 hearing process available; but that process need not be the same as the IDEA hearing mechanism. |
| Settlement | | Conclusion of a legal matter by agreement of opposing parties in a civil suit before judgment is made. |
| Short-Term Instructional Objectives/Benchmarks | STO | Statements in an IEP that describe the steps that allow the student to reach the annual goals. |
| Special Education | | Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. |
| Specific Learning Disability | SLD | <p>Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.</p> <p>Disorders not included—Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of cognitive disability, of emotional disability, or of environmental, cultural, or economic disadvantage.</p> |

| Word or Term | Acronym | Definition |
|--|------------|--|
| Speech Language Pathologist | SLP | Sometimes referred to as speech therapists or speech teachers, these professionals assess, diagnose, treat students who need help with speech, language, cognitive, communication, voice, swallowing, fluency and other related disorders. |
| Speech or Language Impairment | SLI | Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance. |
| Speech Therapy | | Process for remediation of speech disorders, such as stuttering, lisping, misarticulation, conducted by a qualified speech-language pathologist on an individualized or small group basis. |
| Standardized Tests | | Tests which have norms reflecting a larger population (usually these are age or grade based norms reflecting the performance of children throughout the country on the same tests). |
| State Education Agency | SEA | State departments of education. i.e., Illinois State Board of Education. |
| Statute of Limitations | | Time within which a legal action must be commenced. |
| Statutory Law | | Written law enacted by legislative bodies. |
| Statutory Rights | | Rights protected by statute, as opposed to constitutional rights that are protected by the Constitution. |
| Student Assistance Team | SAT | See SST |
| Student Support Team | SST | Student support team, can also be called student assistance team (SAT): a team of school professionals (including classroom teachers, curriculum specialist, school psychologist, speech-language therapist, and principal or assistant/vice principal,) and parents who meet to discuss problems a child is having in general education classes. The goal of SST is to discuss ways in which to assist a child so that his learning or behavior problems minimize the effect they have on his or her education. |
| Supplementary Aids and Services | | Aids, services, and other supports provided in general education classes or other educational settings to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate (in the least restrictive environment). They are required under IDEA. |

| Word or Term | Acronym | Definition |
|--|---------|--|
| Surrogate Parent | | An individual trained and appointed by ISBE to exercise special education rights on behalf of children with disabilities who are wards of the Illinois Department of Children and Family Services (DCFS) or are otherwise without access to parents. |
| Suspension | | Removal from all school programs by administrative action for gross disobedience or misconduct. |
| Telecommunication Devices for the Deaf | TDD | Special telephones with typewriter keyboards and visual displays that provide people who are deaf with access to telephones. |
| Temporary record | | A file that includes, but is not limited to, family background information, intelligence test scores, aptitude test scores, special education evaluations, achievement level test results, participation in extracurricular activities, disciplinary information, eligibility conference summary reports, IEPs, reports or information from non-educational persons or agencies, and other information of relevance to the education of the student. Access is governed by the Illinois Student Records Act. |
| Testimony | | Evidence given by a person as distinguished from evidence from writings and other sources. |
| Transcript | | Official record taken during a trial or hearing by an authorized stenographer. |
| Transition planning | | At a minimum, this is planning for adolescents' post-school lives and must begin by age 14-1/2. Helping a student transition from school to adult life. This requires effective planning, school experiences, services, and supports so that he/she can achieve his desired outcome. |
| Transition services | | Transition services means a coordinated set of activities for a child with a disability that— <ul style="list-style-type: none">• that is focused on improving the academic and functional achievement of the child with a disability to assist in the child's movement from school to post-school activities, and• is based on the individual child's needs, taking into account the child's strengths, preferences, and interests. |

| Word or Term | Acronym | Definition |
|-------------------------------|------------|--|
| Traumatic Brain Injury | TBI | Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma. |
| Visual Impairment | VI | Visual impairment includes any type of sight problem which, even with glasses/contacts, adversely affects school performance. Children with visual impairments can be further described as partially sighted or blind based on the degree of visual impairment and their educational needs. |
| Weapon | | Means a "dangerous weapon" as defined in the United States Code [Weapon, device, instrument, material, or substance, animate or inanimate that is used for or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length (18 USC 930(g)(2)). |

Appendix D:

Sample Forms

The following few pages provide the reader with some important sample forms dealing with a few of the key topics in the book. You will find the following in this appendix:

- Illinois Alternate Assessment Participation Criteria, page 218 (see Chapter 6 for more information)
- Delegation of Rights form for students aged 18 or older, page 219 (see Chapters 6 and 8 for more information)
- Parental Request for a Due Process Hearing, page 220 (see Chapter 11 for more information)

Below each form, you will also find a web address to take you to the same form online.

Please call us at 217-782-5589 or 866-262-6663 if you have any further questions.

ILLINOIS STATE BOARD OF EDUCATION
Student Assessment Division
100 North First Street, E-216
Springfield, Illinois 62777-0001

Illinois Alternate Assessment Participation Guidelines 2008-2009

As determined by the IEP, students with significant cognitive disabilities take the IAA if participation the state's regular assessments – the Illinois Standards Achievement Test (ISAT) or the Prairie State Achievement Examination (PSAE) – is not appropriate even with accommodations.

The options for participating in a state assessment of academic achievement are:

- The regular state assessment for the student's grade, the ISAT or the PSAE, without accommodations.
- The regular state assessment for the student's grade, the ISAT or the PSAE, with accommodations.
- The Illinois Alternate Assessment (if the answer to both Participation Criteria is "Yes").

| Yes | No | Participation Criteria | Reason(s) for Yes or No Response |
|--------------------------|--------------------------|---|----------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | The points at which the student accesses the general education curriculum more closely reflect the Alternate Assessment Framework than age/grade-appropriate benchmarks. | |
| <input type="checkbox"/> | <input type="checkbox"/> | When compared to other students with disabilities, the student requires more frequent, more intensive instruction given in small incremental steps in order to apply and transfer skills across settings. | |

IMPORTANT NOTE: The IEP team's decision that a student will take the IAA cannot be based on the following facts; however, the existence of one or more of these factors does not prevent a student from taking the IAA if they meet the other participation criteria.

- The student's achievement is significantly below that of same-age peers, even when compared to other students with disabilities.
- The student has an IEP.
- The student has a certain special education eligibility label or receives certain services.
- The student has emotional and/or behavioral challenges.
- The student has visual, auditory, or physical challenges.
- The student has excessive or extensive absences.
- The student has social, cultural, or economic differences.
- The student may not perform well on the regular assessment , which may affect the Adequate Yearly Progress (AYP) status of the student's home school and/or district.

| |
|---|
| DELEGATION OF RIGHTS TO MAKE EDUCATIONAL DECISIONS |
|---|

STUDENT'S NAME: _____ DATE: _____

DATE OF BIRTH: _____ DATE OF AGE OF MAJORITY: _____

I, _____, am 18 years of age or older and a student who has the right
(Student Name)

to make educational decisions for myself under State and federal law. I have not been adjudged incompetent and, as of the date of the execution of this document, I hereby delegate my right to give consent and make decisions concerning my education to the individual identified below. This individual will be considered my "parent" for purposes of the Individuals with Disabilities Education Improvement Act of 2004 and Article 14 of the School Code and will exercise all of the rights and responsibilities concerning my education that are conferred on a parent under those laws.

I understand and give my consent for this individual to make all decisions relating to my education on my behalf. I understand that I have the right to be present at meetings held to develop my Individualized Education Program (IEP) and that I have the right to raise any issues or concerns I may have and that the school district must consider them.

This delegation will be in effect for one year from the date of execution below and may be renewed by my written or other formal authorization. I also understand that I have the right to terminate the Delegation of Rights at any time and assume the right to make my own decisions regarding my education. I understand that I must notify the school district immediately if I revoke this Delegation of Rights prior to its expiration.

☐ (OPTIONAL) - I have received this form and have chosen **NOT** to delegate my rights

Student Signature_____
Date

☐ (REQUIRED) - I have received this form and have **CHOSEN** to delegate my rights to the individual listed below.

Name of "Parent" Representative_____
Relationship (Optional)_____
"Parent" Representative Signature_____
Date_____
Student Signature_____
Date_____
Authorized School Personnel Signature_____
Date

☐ (REQUIRED, WHEN APPLICABLE) - I wish to **TERMINATE** the Delegation of Rights at this time and assume the right to make my own decisions regarding my education.

Student Signature_____
Date

ILLINOIS STATE BOARD OF EDUCATION
Special Education Compliance Division
100 North First Street
Springfield, Illinois 62777-0001

PARENTAL REQUEST
FOR AN IMPARTIAL DUE PROCESS HEARING

INSTRUCTIONS: This form has been developed to assist parents in requesting an impartial due process hearing. The completed form must be given to the superintendent of the student's resident district. Within 5 days of receipt of the request for a hearing, the local school district will forward a copy of the completed form to the Illinois State Board of Education to be shared with the appointed hearing officer. A local school district may not deny a request for a due process hearing. All parties involved in the dispute are advised to review the due process regulations found at 23 Illinois Administrative Code 226.605 and Section 14-8.02 of the School Code. The information reported on this form will be subject to the confidentiality requirements of the Individuals with Disabilities Education Act and the Illinois School Student Records Act.

| | |
|--|--------------------------------------|
| NAME OF STUDENT ON WHOSE BEHALF THE HEARING IS REQUESTED | STUDENT'S BIRTHDATE (Month/Day/Year) |
|--|--------------------------------------|

PARENT'S/GUARDIAN'S LANGUAGE/MODE OF COMMUNICATION

A BILINGUAL OR SIGN LANGUAGE INTERPRETER IS REQUESTED

☐ YES ☐ NO IF YES, specify language/mode of communication _____

| | |
|--|--------------|
| NAME AND ADDRESS OF THE PARENT/GUARDIAN | PHONE NUMBER |
| | FAX |
| | E-MAIL |
| NAME AND ADDRESS OF THE ATTORNEY OR REPRESENTATIVE FOR THE PARENT GUARDIAN <i>If this section is completed all information and correspondence regarding the due process will be forwarded directly to the attorney or representative.</i> | PHONE NUMBER |
| | FAX |
| | E-MAIL |

NAME AND ADDRESS OF DISTRICT

NAME AND ADDRESS OF THE SCHOOL THE STUDENT ATTENDS

A DESCRIPTION OF THE DISPUTE (*Attach additional pages if necessary*)

A DESCRIPTION OF THE RESOLUTION OR ACTION YOU ARE SEEKING (*Attach additional pages if necessary*)

| | |
|---------------------------------------|-------------------------------------|
| _____ Signature of Parent/Guardian | _____ Date Submitted to District |
|---------------------------------------|-------------------------------------|