

## Educational Advocacy: Special Education & 504 Accommodation Plans FAQ

### Q: WHAT SHOULD CLUE ME IN THAT MY CHILD NEEDS EXTRA SCHOOL SERVICES?

A: Research shows that the earlier a child gets help with a learning difficulty, the better the results, so keep your eyes and ears open for signs and developmental milestones. If your student has a temporary or permanent disability that is impacting his/her ability to learn, such as a mental, physical, behavioral or emotional impairment then you will want to pursue an evaluation. Clues might be that your student's teacher expresses concern about how your student doesn't keep up with class or standardized testing shows that your student is performing grade levels below their current grade. Examples of possible disabilities that might qualify a student are: a learning disability (slow connection between word and sounds, reading difficulties, etc); visual impairments; health impairments such as Diabetes or ADD; Autism; a mental health concern; poor coordination; speech impediments and many more. Remember, "Special Ed is a service, not a place."

### Q: WHAT ARE MY RIGHTS? AND WHAT DO THOSE LETTERS MEAN?

A: If the general education program isn't meeting the needs of a child with disabilities, s/he may be eligible to receive special education services in public schools. Services are free to parents under the Individuals with Disabilities Education Act (IDEA) and its regulations. Here are descriptions of rights:

**IDEA:** Individuals with Disabilities Education Act is a Federal law enacted to ensure that students with disabilities receive meaningful educations through 12th grade.

**FAPE:** Free Appropriate Public Education is the right to all students: 1) education provided at no cost to the parent, 2) designed to provide educational benefits despite the child's disability and 3) it is provided in an environment that affords the greatest exposure to non-disabled peers (see LRE).

**LRE:** Least Restrictive Environment is the setting that allows the disabled youth the most exposure to non-disabled peers while still allowing student to receive appropriate education.

**IEP:** Individualized Education Program is the written description of an appropriate instructional program for a student with special needs. The use of an IEP in the classroom is made up of seven steps to be followed, these are: pre-referral, referral, evaluation, eligibility, development of an IEP, implementation of an IEP, and an annual review.

**SpEd:** Special Education consists of educational programs designed to support students whose singular needs or disabilities require special teaching approaches, equipment, or care within or out of a regular classroom.

**504:** A 504 Accommodation Plan provides a student with accommodations to be implemented by the general education teacher in the general education classroom. It is easier to qualify for and quicker to implement than an IEP and not a part of Special Education. It sources from Section 504 of the Rehabilitation Act, a broad federal civil rights law.

### **Q: WHAT QUALIFIES AS A DISABILITY UNDER IDEA?**

A: A Specific Learning Disability, which can be determined subject by subject; Health Impaired (e.g. ADHD/ADD or mental health issues); Serious Emotional/Behavioral Disturbance (EBD); Communication Disorder (speech, language); Hearing or Visual or Orthopedic Impairment; Autism; Developmentally Delayed (for youth 0-8); Mental Retardation; Traumatic Brain Injury.

### **Q: HOW DO WE GET AN IEP? WHAT IS THE REFERRAL PROCESS?**

A: The child can be identified by parent, school personnel, social worker or another knowledgeable adult as possibly needing special education and related services. This referral must be in writing. It's important to document each of your concerns in the letter because all areas of suspected disability will be assessed. The school will have 25 school days to decide whether or not to evaluate and then another 35 school days to evaluate in all areas related to his/her suspected disability. The school psychologist will convene a meeting of school staff, teachers, a district representative and parent to present the evaluation results and discuss eligibility. The IEP meeting is held within 30 days of eligibility and the IEP is written as a team.

### **Q: WHAT IS IN AN IEP?**

A: An IEP, or Individualized Education Program, is a documented description of the specific Special Education services that a student will receive to meet the standard for a meaningful education. The education plan should provide for the student in the "least restrictive environment" whenever possible.

#### **An IEP must include:**

1. Student's current level of education performance
2. Annual educational goals
3. Plans to measure and report a student's progress
4. Description of all the services that the child will receive
5. A description of all "related services" such as transportation or counseling
6. Description of accommodations to be provided: i.e. modified assignments, tape recorder, etc
7. Description of how the student will participate in regular classes & activities, and if not, why
8. Any modifications for standardized tests
9. The location, duration, and frequency of services to be delivered
10. Dates on which services will begin
11. A description of transition services for students 14 and older
12. A functional behavior assessment (FBA) and behavior intervention plan (BIP) should be included if behavior problems exist

13. A determination of whether the student will need “assistive technology devices or systems”

14. Eligibility for adaptive PE

15. If specialized transportation is needed

16. If Extended School Year (ESY) is needed

**Q: WHO IS A PART OF THE IEP TEAM?**

A: Following the evaluation, a multidisciplinary team meeting will be held to discuss the results of the evaluation and decide whether or not your child is eligible for special education and related services. The IEP team consists of: the student, if appropriate; a parent or guardian; at least one regular education teacher; at least one special education teacher; a representative of the school district qualified to supervise special education services who is knowledgeable in regular education and the district’s resources; someone who can interpret evaluation results; anyone else having knowledge about the child (could include social worker); transition service providers.

**Q: WHO IS “PARENT” UNDER IDEA (SPECIAL EDUCATION LAW)?**

A: IDEA defines a parent as:

1. a natural, adoptive or foster parent of a child. (Under voluntary placements, the natural or adoptive parent would be the parent.)
2. a guardian (but not the Social Worker if the child is a ward of the State) – conflict of interest
3. an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative with who the child lives, or an individual who is legally responsible for the child’s welfare; or
4. an individual who is assigned to be a surrogate parent by the school district.

In most cases, the “parent” is going to be the foster parent or relative caregiver. However, if there is a birth parent still involved in the youth’s life, then they may be considered parent before a foster or relative caregiver. Social workers cannot act as a “parent” under the IDEA, but they should participate as a IEP team member.

**Q: HOW CAN I PREPARE TO BE AN EFFECTIVE MEMBER OF THE IEP TEAM?**

A: Consider these questions before you attend the meeting: what are your child’s strengths, her/his challenges, goals you’d like him/her to meet in the next year and before graduation, things your child likes to do in and out of school, etc. Your feedback about best ways to approach the child and interact is crucial so don’t be afraid to share your knowledge. When thinking of a comprehensive plan be creative, positive and make sure there are measurable and achievable goals. Remember, it is your right to call an IEP meeting if you feel like the methods and goals of the IEP need to be reviewed, evaluated and changed.

### **Q: HOW IS THE IEP REVIEWED AND CHANGED?**

A: One important thing to remember is that if you feel the current IEP is ineffective, call a meeting to revise it! It must be reviewed once a year and revisions can be made at any point during the year. Changes can only be made if the parent is present, or if the parent agrees otherwise – in writing.

As far as reevaluations from the psychologist, here are some technicalities of the law: A reevaluation is conducted if a) the school determines that the services, needs and the child's performance warrant a reevaluation or b) if the parent or teacher requests a reevaluation. A reevaluation a) may occur not more than once a year, unless the parent and agency agree otherwise and b) must occur at least once every 3 years, unless the parent and agency agree that a reevaluation is necessary.

### **Q: WHAT IF I DON'T AGREE WITH THE INTERVENTIONS WRITTEN IN THE IEP?**

A: During the meeting ask the rest of the IEP team to consider a different way to accomplish the same goal, give some solid examples of the ideas you would like to implement. Usually, the school will come into the meeting with a draft of the IEP with their recommendations, but remember it is only meant to be a draft and you may make notes on it, cross stuff out or add comments. If the school is not budging on changing their plan, then it is within your rights to not approve it. In that case, you may still sign the actual document to indicate attendance only or to begin services, but make sure to indicate that you have objections and list your grievances. If you are still in a disagreement, you may exercise your rights of due process. These include participating in mediation and/or an administrative hearing. For further information, review the legal rights that were sent to you with the evaluation plan, or contact your district's special education administrator.

### **Q: WHAT IF MY KID DOESN'T QUALIFY FOR SPECIAL EDUCATION BUT STILL NEEDS HELP?**

A: Sometimes a student will not qualify for Special Education, but there is still a clear need for extra help. A 504 Plan can be a great option. It is different than SpEd in that all accommodations are provided in the General Ed classroom and no federal funding is provided. To qualify, a child must have "have a physical or mental impairment that substantially limits a major life activity", including temporary impairments such as illness or health concerns. A 504 Plan includes a summary of evaluation data, documentation of eligibility determination, and a description of accommodations and placements. Ask for a 504 evaluation even if you are also asking for a special education evaluation. It may be used as a stop-gap until the IEP is put in place.

### **Q: WHAT ARE SOME EXAMPLES OF AN ACCOMMODATION UNDER A 504 PLAN?**

A:

- Study and Note-taking habits: use of teacher notes, peer notes, use of keyboard, tape recorder, etc.
- Test-taking: longer time, location, open book exams, given orally
- Physical Environment: seating, grouping, buddy-system, reduce distractibility, specialized chair
- Behavior Management Plan: communication plan for teacher, parent & student; de-escalation area for student; incentives and reinforcement for positive behavior

**Q: WHAT IF I DON'T AGREE WITH THE OUTCOME OF THE EVALUATION?**

A: For both Special Ed and a 504 there is a standardized grievance process. First, talk with school personnel to request mediation (voluntary and free). Call or write the Office of the Superintendent of Public Instruction in Olympia. File a citizen complaint with the Washington State Office of the Superintendent of Public Instruction (for special education).

**Q: WHAT OTHER SERVICES ARE AVAILABLE TO SPECIAL ED STUDENTS?**

A: Extended School Year (ESY) is not the same as traditional summer school, but a specific summer program, designed to fit a Special Ed student's needs, available only to students who qualify – basically, it is an acknowledgement that a student's educational needs cannot be met in the traditional 180 day school year. Many factors help determine if a student qualifies. Two main ones are whether your student loses a significant amount of skills during summer break and how long it takes your student to regain these skills. Other factors are the type and severity of the disability, and even the age of the youth. Each youth should be considered individually.

Transition Services should be included for all students before their 16th birthday. Transition Services Promote movement into college, vocational training, independent living, adult services, and/or supported employment. Other agencies providing such services should be listed in the IEP, and the team should follow up to be sure they are being provided.