

An Overview of School Support Options

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EDUCATIONAL SUPPORT OPTIONS

Two federal laws, *the Individuals with Disabilities Education Act (IDEA)* and *Section 504 of the Rehabilitation Act of 1973 (Section 504)*, guarantee children with disabilities that impair their educational performance a free and appropriate public education (FAPE). Both laws also require that children with disabilities be educated to the maximum extent appropriate with children who do not have disabilities. Because there are different criteria for eligibility, different services available, different procedures for implementing the laws, and different procedural safeguards, it is important for parents, educators, clinicians and advocates to be well aware of the variations between these laws and to be fully informed about their respective advantages and disadvantages.

The most substantial difference between these two laws is that eligibility for IDEA mandates that a child have a disability requiring special education services, while eligibility for Section 504 may occur when the child needs special education OR related services (typically, only accommodations). Because of this distinction, children covered under Section 504 include those who typically either have less severe disabilities than those covered under IDEA, or have disabilities that do not require special education services such as resource-based instruction or modifications to curriculum.

SECTION 504 AND 504 PLANS

Section 504 is a civil rights statute requiring that schools not discriminate against children with disabilities and that they provide children with reasonable accommodations. Under some circumstances, these reasonable accommodations may include the provision of services. Eligibility for Section 504 is based on the existence of an identified physical or mental condition that limits substantially a major life activity. For example, since learning is considered a major life activity, children with ADHD are entitled to the protections of Section 504 if the disability is substantially limiting their ability to learn. It is important to note that the federal law does not dictate how frequently reviews of 504 Plans must be made, or even to what extent that parents must be involved in their development, so these issues may vary from school to school.

If the child is eligible under Section 504, the school district must develop a Section 504 plan, if the school receives federal funding. In other words, private schools for the most part are not legally bound to create 504 Plans, but do check with the private school to see if they collect any public funds; if they do, they must create a 504 Plan for any student with need.

Under a 504 Plan, a child can obtain a range of accommodations to ensure that their disability does not interfere substantially with their educational performance. Accommodations are essentially changes that do not require curriculum alterations; in other words, the student must still meet the same standards as a student without a 504 Plan. For example, a 504 Plan cannot state that a student does not have to learn their math facts, because this would change curriculum standards. But, a 504 Plan can state that the student can have extra time for timed math facts tests, have the test given to them in shorter chunks with breaks in between, or be done orally.

It is difficult to make a list of possible accommodations because the needs of students vary considerably depending on their disability, the severity of their disability, their grade, and their school environment. Accommodations, though, can be provided for any of the following areas:

- ✓ Learning, or classroom, environment (i.e., seating, visuals, increased teacher prompts, etc.)
- ✓ How the school day is arranged (i.e., more breaks, intensive classwork in the morning only, etc.)
- ✓ How information is presented to the student (i.e., written for them, repeated, simplified, etc.)
- ✓ Testing requirements (i.e., where taken, amount of time, read to them, teacher support, etc.)

- ✓ Use of materials to aid learning (i.e., computer, tape recorder, buddy notes, amplifier system, etc.)
- ✓ Use of behavior plans to improve performance or behaviors that are impeding learning
- ✓ Nursing services to supervise administration of medication

A 504 Plan can provide accommodations for standardized testing as well, such as the ISTEP test and the End-Of-Course-Assessments (ECAs) now used in Indiana high schools as the graduation proficiency tests.

IDEA and SPECIAL EDUCATION PLANS

IDEA is the law that governs all special education services in the United States. IDEA provides federal funding to school districts to support special education and related services. IDEA provides special education for those children who meet the eligibility criteria for one of a number of categories. Students in private schools are also allowed to receive special education, although in Indiana the special education services are provided by the public school that is in the same district as the private school. Indiana law allows for a limited level of services for students at private schools compared to students at public schools.

To obtain special education services, a child must be found eligible under a State-mandated list of approved classifications. Learning disabilities, mental retardation, emotional disabilities (i.e., depression, anxiety, mood disorder), ADHD, autism spectrum disorders, medical conditions such as Diabetes and Seizure Disorders, brain injuries, hearing impairments, speech/language impairments, and motor coordination problems (such as with Cerebral Palsy) can all lead to school-based performance impairments that can be covered by one of Indiana's classification labels. Each of these classifications has different requirements for determining eligibility, yet in general the school must be able to document that the student's educational performance has been impaired by their classification. For this reason, simply having a disability does not guarantee eligibility; a distinction that is very important for parents to appreciate.

An adverse effect on educational performance can incorporate all aspects of the child's functioning at school, including educational performance as measured by grades, standardized tests, or achievement test scores. It can also be manifested through behavioral difficulties at school, impaired/inappropriate social relations, or impaired work skills (i.e., answering questions in class, being disorganized, tardiness, forgetfulness, and difficulty with following the rules). Schools are required to address the effects of a child's disability in all areas of functioning, including academic, social/emotional, cognitive, communication, vocational and independent living skills.

A multidisciplinary evaluation procedure is required to determine if a child is eligible for special education under IDEA. If an evaluation/testing is warranted, it must be provided at no cost to the parents. IDEA requires that the school district consider the findings of outside evaluators and, under some circumstances, pay for independent evaluations. Parental consent is required before any evaluation begins.

A Case Conference Meeting determines the student's eligibility for special education. Indiana schools are required to invite parents to this meeting but their attendance is not required. Once a child is found eligible for special education, an individualized education plan (IEP) is written. The IEP establishes the specific educational needs of the student, with goals written to address these needs. Services to meet these goals are determined, and can include resource-based support or instruction or the use of other services such as speech/language therapy, occupational therapy, physical therapy, counseling, transportation, etc. Classroom accommodations and the need for any modifications (which are changes that will affect curriculum standards) are also devised in this meeting.

Once the IEP is completed, parents or the school can request changes to it. Indian law allows schools to make changes to an IEP without the parents' involvement, but they are required to inform the parents of the changes within 10 school days. There are legal guidelines for parents who are not in agreement with any IEP or its implementation, such as mediation, due process, etc. The IEP must be reviewed at least annually, but may be reviewed as often as needed with any needed changes made.

IDEA provides procedural safeguards for what is called the 'least restrictive environment'. This means that the child must be educated in the classroom that offers the most support with the least restriction to their educational setting; for example, the child needs to be with non-disabled peers as much as is feasible, must be

placed in a school as close to home as possible, etc. IDEA also affirms that before serious disciplinary action (e.g., suspension, expulsion) is taken with a student who has an IEP, a manifest determination meeting must occur to determine the extent to which the child's disability is related to the behaviors that occurred. Parents can request an impartial due process hearing when they disagree with the school's decision in such matters.

OBTAINING EDUCATIONAL SUPPORT

Despite the protection guaranteed by the IDEA and Section 504, many children with disabilities continue to be denied access to an appropriate range of special education and/or related services. Here are recommendations for parents who suspect that their child is in need of support in order to reach their educational potential:

- Bear in mind that schools are doing the best they can to meet the educational needs of a wide range of students. Go into all meeting with a cooperative and amiable mind-set, and work with the school to find solutions that are going to benefit your child.
- Always start off by meeting with your child's teacher to share your concerns and to see if the teacher has similar concerns. Obtain written documentation from the teachers describing their behavioral or academic concerns.
- Request an evaluation for special education services in writing. Indiana schools have guidelines for responding to your request that they are required to follow, but the full process of testing can take up to 50 school days.
- Be sure to attend the Case Conference Meeting or 504 Planning meeting. It often helps to bring someone with you to make sure that you have understood all the information and have brought up all of your concerns.
- Keep your own records of all meetings, all emails and phone calls, as well as interventions (and their impact) that you know the teacher(s) have been trying. Many parents use a notebook/binder to keep track of all the papers, which becomes very useful if there are any disagreements later on.
- Keep in mind that the findings of the evaluation team are not final. You have the right to appeal the conclusions. The school is required to provide you with information about appeal procedures.

[This information should not be construed as legal advice or a legal opinion on specific facts. Readers with particular questions should seek the assistance of their own legal counsel.]