

**SPECIAL EDUCATION: THE LAW
and
Advocacy Strategies/Role of CASA**

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Education Laws

Individuals with Disabilities Education Act (IDEA)

IDEA is the federal education statute which governs and funds special education.

IDEA requires that children receive a *free and appropriate public education* in the *least restrictive environment*.

Appropriate does not mean the best, it means that a child's needs must be met and must receive an educational benefit.

Other Education Laws

- New Jersey Administrative Code NJAC 6A
- New Jersey Statute Title 18A
- Intervention and Referral Services NJAC 6A
- Rehabilitation Act of 1973; Section 504

Identifying Children for Special Education

- Children between the ages of 3 and 21 are eligible.
- Must have a disability which affects ability to do well in school. (a serious problem in school)
- Anyone can identify a child for an evaluation for special education services. Written referral can only be made by parent, school personnel or state agency.*
- School districts are obligated to identify children.

*** Only Parent can consent to evaluations**

Who Is The Parent?

- Natural or Adoptive Parent
- Legal Guardian
- Foster Parent when willing to serve
- Person acting in place of the parent
- Surrogate Parent
- Adult Student

A government employee is not a parent and can never act as parent.

A parent retains all rights unless terminated by court order.

How do you Refer a Child for Special Education Services?

- Write a letter to the director of special education of school district, requesting child study team evaluations.
- The letter should state that child is having serious academic and/or behavior problems in school that are affecting child's ability to learn. See sample letters – ch. 4
- Include a relevant doctor's report/diagnosis.

Advocacy Tips

- ❑ Date and sign letters written to school.
- ❑ Keep copies of all letters to and from the school.
- ❑ Send a copy of letter requesting evaluations to the teacher and/or principal.

- ❑ Challenging a refusal to evaluate or classify:
 - Write to director of special education for help.
 - Get help from an advocate. See resource list—Ch. 6
 - Does parent and school understand all the facts?
 - File for due process as a last resort.

More Advocacy Tips

- Sometimes all a child needs is intervention and referral services (IR&S).
- The law requires IR&S: academic and behavioral help for any student having difficulties in school.
- Parents may reject IR&S and insist on child study team evaluations for serious problems.
- IR&S does not replace and should not delay the evaluation process.

How Long Does it Take to Evaluate, Develop and Implement an Individualized Education Program (IEP)?

The school district child study team has **110 days** from the date it receives the written letter requesting evaluations to complete the process. See timeline and special education steps – Ch. 4

Evaluation Timeframe

- 20 days to “screen” child and have an identification meeting with parents to decide if and which evaluations will be done and obtain parental consents for evaluations.
- 90 days from the date of written consent for evaluations to: give parents copies of evaluation reports, meet with parents to discuss eligibility for special education services, develop IEP, and provide services.

Advocacy Tip: Write child study team/Director of Special Education when timeframes are not met.

What is in the Individualized Education Program (IEP)?

The written agreement proposed by the IEP team and agreed to by the parent regarding:

- The child's disabling condition(s).
- The present academic levels of ability/knowledge of the child.
- Measurable annual goals and short-term objectives or benchmarks: what the child is expected to learn during the time frame of the IEP.

What is in the IEP? continued

- Related Services.
- Accommodations that child will receive.
- Transition services.
- Placement: where the child will be educated.
- Parent concerns.

The IEP contains all the services that the school district is obligated to provide. See IEP components – Ch. 4.

Advocacy Tips

- The IEP should state which evaluations (including dates of evaluations) are relied upon to develop IEP and include evaluation summaries and meaningful teacher comments.
- The IEP can be modified at any time, if its not meeting child's needs, after reasonable time of implementation.

More Advocacy Tips

- The school district is only obligated to provide services and/or accommodations that are listed in the IEP. **So details are important.**
- For related services such as speech, the IEP must state how many times a week, how long each session will be, and whether it will be given in a group or individual setting.

More Advocacy Tips

- Behavior plans should be based on a functional behavioral assessment conducted by qualified professional (psychologist/ behaviorist).
- Behavioral plan must be included in IEP.
- Behavioral plans should clearly explain the targeted behavior, the positive supports that will be used and consequences that are permitted.

What Does the Child Study Team do?

- Evaluate.
- Help develop appropriate education plan.
- Monitor progress.
- Provide services to classified students and work with teachers to help students.

The Members of the Child Study Team

- **school psychologist** - a specialist regarding a child's cognitive ability and intellectual functioning. Can also provide counseling.
- **a learning disabilities teacher consultant (LDTC)** – a specialist who determines a student's knowledge (what the child has learned in and out of school, and the nature of a child's learning disability (how a child learns).
- **a social worker** - evaluates a child's family and health history; can also provide counseling.

Other Specialists who may be on the Child Study Team

- **Psychiatrist** – behavior or emotional disorders.
- **Speech language therapist** – communication and articulation disorders.
- **Occupational therapist** – fine motor skill problems.
- **Physical therapist** – gross motor skill problems.
- **Neurologist** – neurological disorders such as ADD, ADHD, Autism Spectrum Disorders.

Who is IEP Team/What does it do ?

The IEP team develops, monitors and makes decision regarding changes to the IEP. It is made up of the child study team plus:

- Case Manager (a member of the child study team).
- The parents.
- At least one of the child's general education teachers.
- At least one of the child's special education teachers.

Members of the IEP Team

- At least one member of the child study team that can explain why particular services and placement is being offered – usually case manager.
- Specified school staff, including an administrator with supervisory authority.
- Other experts that the parent or school district invite, as needed.

What Does the Case Manager do?

- Coordination of education and transition services.
- Referral source for services outside of school as needed.
- Monitor the child's progress in all classes and facilitate resolution of parent's concerns.
- Bring to the parent's attention concerns regarding a child's progress and suggestions for modifying the IEP.

Advocacy Tip: If the case manager does not respond to the parent's verbal and written requests, the parent should write to the director of special education and consider contacting ACNJ for advice.

Advocacy Tips for the IEP Meeting

- Parents should always go to IEP and child study team meetings.
- IEP team can make changes to IEP without a meeting but only with written consent of parent.
- Meetings are preferable to ensure all parties understand reasons for the proposed changes.
- Parents should not give up their rights to attend an IEP meeting – face-to-face meetings are important.
- Parents who want an IEP or child study team meeting, must write to case manager. The parent should copy director of special education on the letter.

Advocacy Tips for an IEP Meeting

- An IEP meeting may also be requested just to review how a child is doing and discuss concerns.
- Prepare written questions in advance.
- Speak to teachers in advance to understand teacher's views and review records; request in writing that the teachers and therapists (if applicable) be present.
- Parents have 15 days to agree to the IEP and should never sign or agree to the proposed IEP at an IEP meeting – parents need time to review the IEP.

Advocacy Tips for an IEP Meeting

- Parents have a right to notice, to understand the IEP and to make suggestions, but the school district has the final say.
- Parents should try to informally resolve disputes on their own or with an advocate. Parents may file for Mediation and/or Due Process at the Office of Special Education, New Jersey Department of Education.
- A dispute can be resolved by State Mediator, if both parties agree, or by an Administrative Law Judge.

When can a student be classified as eligible for Special Education Services?

- Deafness/hearing impairment
- Autism
- Cognitively impaired/ mental retardation
- Communication impaired/ language disorder
- Multiply disabled (two or more equally disabling conditions)
- Orthopedically impaired

Eligibility for Special Education Services, continued

- Other health impaired/ chronically ill
- Preschool disabled (3 & 4 year olds)
- Social maladjustment
- Specific learning disability
- Traumatic brain injury
- Visually impaired

See classification list – ch. 4

Screening Process

- Within 20 days of a written request for child study team evaluations, the school district is responsible for the following steps:
 - vision and hearing screening by school nurse
 - school nurse summarizes health information
 - teacher is consulted regarding child's academic progress and behavior

Evaluation Process

- At identification meeting, if it is agreed that evaluations are needed, the parent must sign consents to evaluations in order for them to be conducted.
- At least 2 evaluations in suspected disability, but usually an educational, psychological and social work.
- Appropriate standardized tests must be used.
- A functional assessment of academic and/or behavior (based upon observations in school)
- Parents can request other evaluations, if needed, that child study team does not recommend.

Evaluation Requirements

- At least 10 days before an eligibility/classification meeting and IEP meeting, parents must receive copies of written evaluation reports in a language they can understand.
- Parents can disagree with evaluations if they believe that they are invalid or not accurate.

Independent Evaluations

When parents dispute the school district's evaluations, parents can make written request for independent evaluations.

- Performed by professionals not employed by the district.
- District pays for these evaluations.
- District and Parent must agree on the evaluator.
- Reasons to do an independent evaluation include
 - dispute regarding validity of evaluation,
 - qualifications of evaluator,
 - conclusions of evaluator,
 - the program/services that the district offers as a result of the evaluation.

Evaluation Requirements

- At least one reevaluation every 3 years.
- Reevaluations can occur sooner if needed because other problems arise or if the child is not making progress despite the child study team and teachers efforts and despite modifications.

Understanding Evaluations

- A child's services, program and placement must be based upon the evaluations and teacher observations and parent input.
- Evaluations are the evidence and the basis for making decisions regarding what a child needs in school and what kind of classroom a child needs to learn in.
- Evaluations are difficult to understand, yet parents should understand the evaluations to understand their child's disability and their child's needs.
- The child study team is responsible to explain evaluations to parents, but parents may also seek assistance from a parent advocate to understand evaluations.

What Kind of Related Services can a Child Receive Through the IEP?

- Counseling
- Occupational and/or Physical Therapy
- Speech-Language Services
- School Nurse Services
- Transportation
- Assistive Technology
- Recreation
- Social Work Services
- Medical Services
- Behavioral Services

Other Services that can be included in the IEP

- Transportation
- Extended School Year
- Aide - individual or shared

See list of services – ch. 4

Least Restrictive Environment

After evaluations, and agreement about the child's needs and required services, the **appropriate placement** is determined:

- General education class with supports/possibly inclusion classroom with regular and special education teacher.
- Resource classroom: a smaller class size taught by special education teacher; the child taught in special way, multi-sensory approach
- Self-contained classroom for serious disabilities
- Out-of-District: only if school district cannot meet child's needs
- Home instruction: most restrictive

See list of placement options – ch. 4

Transition Services

- Important services students need to prepare for life after high school.
- The case manager is responsible for developing and coordinating services.
- At least by age 14 or in 8th grade, child study team must plan transition services. The child should be invited to child study team meetings to provide input.
- Transition plan must be written into IEP.
- Students must be interviewed to determine interests, strengths and weaknesses should be considered to develop a plan.

Transition Services

- At age 16, the transition plan must be implemented.
- Students who are interested in vocational school must submit application in the fall of 8th grade - most programs are 4 years.
- Services include:
 - Instruction
 - Related Services
 - Community experiences
 - Post-School living and employment goals
 - Living skills and vocational evaluations.

Role of *CASA* Volunteer as an Education Advocate

- Find out about child's education status:
 - Does the child have learning or behavioral difficulties in school? Are IR&S being provided or needed/should child be evaluated for special education?
 - Is the child receiving special education services?
- Review school records, including IEP and evaluations (if applicable).
- If a parent is not available or willing to make education decisions, help ensure a surrogate parent is appointed.

Role of CASA Volunteer as an Education Advocate

- Understand the child's learning and/or behavioral disability – work with Case Supervisor.
- Know basic education law – be familiar with CASA manual; see ACNJ's Basic Guide to Special Education.
- Talk to teachers and if applicable: school social worker, school psychologist to find out about child's progress and to find out if child is receiving services listed in the IEP. Monitor progress.
- If you believe the services are not sufficient or the IEP is not being correctly implemented, speak with the Case Supervisor and request an IEP meeting in writing.

Role of CASA Volunteer as an Education Advocate

- Attend the IEP meetings/Child Study Team Meetings or ask Case Supervisor to sit in for you.
- Advise parents/foster parents to review evaluations and IEP before signing.
- Advise parents/foster parents that a school's refusal to evaluate, provide services or change school placement can be challenged.

Role of CASA Volunteer as an Education Advocate

- Understand the laws regarding Education Stability.
- If a child is moved between districts, ensure that the new district has a copy of child's education records including IEP and evaluations.