

New Jersey Protection and Advocacy, Inc.
New Jersey's designated protection and advocacy system for people with disabilities

SPECIAL EDUCATION ADVOCACY GUIDE

SPECIAL EDUCATION ADVOCACY GUIDE

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SPECIAL EDUCATION ADVOCACY GUIDE

Questions and Answers

1. What is the legal basis for special education, and what does the law require?

The right to individualized educational programming for students with disabilities is legally guaranteed by the Individuals with Disabilities Education Act (20USC 1400 *et seq.*), commonly referred to as IDEA. Under IDEA, every child with a disability is entitled to a “free appropriate public education” in the least restrictive environment. This includes special education and related services that make it possible for every child to make meaningful educational progress. Children with disabilities are entitled to equal treatment with children without disabilities. They are entitled to equal participation in non-academic classes and activities, and they are entitled to the general curriculum, to the maximum extent appropriate. IDEA requires specific timelines and deadlines for parents and school district personnel involved in the provision of a student’s special education, as well as strict procedural rules that must be followed.

Additionally, Section 504 of the Rehabilitation Act of 1973 entitles children with disabilities to educational programs, services, and accommodations and applies to a broader range of students than IDEA. While IDEA is more detailed and contains more comprehensive procedural safeguards than Section 504, students who cannot meet IDEA’s eligibility requirements may be able to rely on Section 504 for services.

Privacy and confidentiality, and parental access, amendment, and destruction of educational records are governed by the Family Educational Rights and Privacy Act (FERPA).

Federal Regulations

Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*
Rehabilitation Act of 1973, 29 U.S.C. 794
Family Educational Rights and Privacy Act, 34 C.F.R. 99
Federal Implementing IDEA Regulations, 34 C.F.R. 300

State Regulations

New Jersey Special Education Administrative Code, N.J.A.C. 6A:14-1 *et seq.*

Case Law

Polk v. Central Susquehanna Intermediate Unit 16, 853 F.2d 171 (1988)
Lascari v. Board of Ed. of Ramapo Indian Hills Reg. HS District, 560 A.2d 1180 (1989)
Beth v. Carroll, 87 F.3d 80 (1996)

Resource Materials

ELC: Pages 4-7
SPANNJ: IDEA Fact Sheet, You and the Law, 504 Overview, 504 vs. IDEA
NAPAS: Questions 1, 3, and 4
Binder: “Timelines and Deadlines”

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2. How do I get an initial evaluation?

If a parent believes that his or her child is in need of special education services, the parent should file a written request for an evaluation with the school district, which is treated as a formal referral.¹ Alternatively, school district personnel, such as a child's teacher, may become aware through classroom observations that a child may have a disability. Within 20 calendar days, the full child study team must hold a meeting with the parent and the student's teacher to determine if an evaluation should take place.²

The child study team must inform the parent in writing of the decision to evaluate within 15 calendar days of the referral meeting, and at least 15 days before conducting the evaluation.³ Within this 15-day period, the school district must obtain the parent's written consent.⁴ If the parent refuses, the school board may request a due process hearing before an administrative law judge to obtain permission to proceed.⁵ If the parent agrees, the school district has 90 days to complete the evaluations, develop an IEP, determine appropriate placement, and begin programming.⁶

The initial evaluation must consist of assessments by at least two members of the child study team, as well as any other necessary specialists.⁷ For some categories of suspected disability, the state mandates specialized assessments. A single test or procedure cannot constitute the entire evaluation, nor can standardized tests.⁸ Additionally, an initial evaluation must include a functional assessment of academic performance.⁹

Federal Regulations

- 1: 20 U.S.C. § 1412(a)(6)(B), (a)(7); 34 C.F.R. § 300.126
- 3: 20 U.S.C. § 1415(b)(3), (b)(4), (c); 34 C.F.R. § 300.503
- 5: 20 U.S.C. § 1414(a)(1)(c)(ii); 34 C.F.R. § 300.505(b)
- 8: 20 U.S.C. § 1414(b)(2)(B); 34 C.F.R. § 300.532(f)

State Regulations

- 1: N.J.A.C. 6A: 14-3.3(d)(2)
- 2: N.J.A.C. 6A: 14-2.3(f)(5), -3.3(e)
- 3: N.J.A.C. 6A: 14-2.3(e), (f)
- 4: N.J.A.C. 6A: 14-2.3, -3.3(e)
- 5: N.J.A.C. 6A: 14-2.7(b)
- 6: N.J.A.C. 6A: 14-3.4(c)
- 7: N.J.A.C. 6A: 2.5(b)(6), -3.4(d)
- 8: N.J.A.C. 6A: 14-2.5(a)(2)
- 9: N.J.A.C. 6A: 14-3.4(d)(2)

Resource Materials

- ELC: Pages 9-13
- SPANNJ: Evaluation

NAPAS: Question 2

Sample Letters

ELC: Requesting Evaluation

SPAN: Parental Notice of Proposed Initial Evaluation

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Questions and Answers

3. How is special education eligibility determined?

After the child is evaluated, an eligibility meeting must be held to determine whether, and which, special education services are appropriate for the child.¹ The parent, the student (where appropriate), at least one regular education teacher, at least one child study team member who participated in the evaluation, and the case manager must be present at the meeting.² Additional people familiar with the child's educational progress may attend also, as well as any other individuals the parent or school district wish to attend.

If a child has one or more of the disabilities as defined by the state code, the disability adversely affects the child's educational performance and the child requires special education, he or she is eligible for special education and related services.³ In order to be found eligible under IDEA, the student must fit into one of twelve defined categories.⁴ Section 504's language is more expansive and is often easier to meet than IDEA.⁵

After the eligibility meeting, the district must send the parent written notice of the eligibility determination. This notice must include an explanation of how the parent can contest the district's findings.⁶ The parent must consent to the implementation of these services before the school district may proceed in supplying them.⁷

Federal Regulations

1. 20 U.S.C. § 1414(b)(4); 34 C.F.R. § 300.534
3. 20 U.S.C. §§ 1414(b)(4), 1401(3); 34 C.F.R. §§ 300.534, 300.7
4. 20 U.S.C. § 1401(3)(a), (b), 20 U.S.C. § 1401(26); 34 C.F.R. § 300.7
5. 29 U.S.C. § 794, 30 C.F.R. § 104.3(k)(2)
6. 20 U.S.C. § 1415(b)(3); 34 C.F.R. § 300.503
7. 34 C.F.R. § 300.505(a)

State Regulations

1. N.J.A.C. 6A: 14-3.5(a)
2. N.J.A.C. 6A: 14-3.5(a), -2.3(i)(1), -3.6(c)
3. N.J.A.C. 6A: 14-3.5(c)
6. N.J.A.C. 6A: 14-2.3
7. N.J.A.C. 6A: 14-2.3(a)

Resource Materials

- ELC: Pages 17-18
SPANNJ: Student Identification, Child Study Team, Eligibility
NAPAS: Question 2

Sample Letters

- SPANNJ: Parental Notice of Eligibility

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Questions and Answers

4. How do I get a re-evaluation or independent evaluation?

Every three years, every student receiving special education services must be re-evaluated.¹ The child study team must complete this evaluation to ensure that the child still has a disability that qualifies him or her for special education and related services. If the district is considering declassifying the child or significantly changing the child's programming, the re-evaluation may take place sooner than every three years.² Additionally, if a teacher or parent requests a re-evaluation, it may take place sooner.³

To request a re-evaluation, a parent should send a written request to the child's case manager and a copy to the district's director of special education.

Aside from school district evaluations, a parent has the right to obtain additional opinions in the form of independent evaluations.⁴ The child study team must consider these evaluations alongside the district evaluations.⁵ If a parent disagrees with the school's evaluation, the parent has the right to request that the school pays for the independent evaluation, and the parent is not required to provide a reason for the request.⁶ This request should be filed with the case manager and the director of special education, who must respond to the parent with a decision within 20 days.⁷ The school is further obligated to provide the parent with information about where to obtain an independent evaluation.⁸ Independent evaluators may include clinics or agencies certified by the New Jersey Department of Education, a licensed private practitioner, another school district, or an educational service commissioner.⁹ The independent evaluator must follow the procedures and requirements followed by the child study team.¹⁰

Federal Regulations

- 1: 20 U.S.C. § 1414(a)(2); 34 C.F.R. § 300.536(b)
- 4: 20 U.S.C. § 1415(b); 34 C.F.R. § 300.502(a)
- 5: 20 U.S.C. § 1414(c)(1)(A); 34 C.F.R. § 300.533(a)(1)
- 6: 34 C.F.R. § 300.502(b)(1), (4)
- 10: 34 C.F.R. § 300.502(e)(1)

State Regulations

- 1: N.J.A.C. 6A: 14-3.8(a)
- 2: N.J.A.C. 6A: 14-3.8(a), (e)
- 3: N.J.A.C. 6A: 14-3.8(a)
- 4: N.J.A.C. 6A: 14-2.5(c)
- 5: N.J.A.C. 6A: 14-2.5(c)(4)
- 6: N.J.A.C. 6A: 14-2.5(c)(1), (5)
- 7: N.J.A.C. 6A: 14-2.5(c)(1)
- 8: N.J.A.C. 6A: 14-2.5(c)(1)(i)
- 9: N.J.A.C. 6A: 14-2.5(c)(2)(ii)
- 10: N.J.A.C. 6A: 14-2.5(c)(2)(i)

Resource Materials

ELC: Pages 15-17
SPANNJ: Evaluation
NAPAS: Question 19

Sample Letters

ELC: Requesting Re-evaluation, Requesting Independent Evaluation

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Questions and Answers

5. What services and environment are required for children in special education?

The “free appropriate public education” mandated for all children found eligible for special education includes not only educational services to help the child progress, but also related services without which the child would be unable to advance educationally.¹ Aside from medical services, the school district is obligated to provide and pay for these developmental, corrective, and supportive services that can help a child benefit from his or her education.² Related services can include, but are not limited to, transportation needs, psychological services, nursing services that do not require a medical doctor, and physical therapy.

A school must have a full continuum of placements in which to provide the above services to meet a child’s needs, from additional services within the general education classroom to home instruction.³ The law requires the child to be educated in the least restrictive environment, and this obligates the school district to keep the child with children without disabilities to the maximum extent possible.⁴ The law supports a preference for inclusion, where the primary placement is within the general education classroom with additional supports where necessary, over mainstreaming, where the primary placement is in a self-contained class for students with disabilities with certain periods of the day shared with general education students.⁵

The law requires continuity of special education and related services. Even when a child’s services are in dispute, the child has the right to “stay-put” until the conflict is resolved.⁶ Additionally, a child has the right to obtain compensatory educational services if time has elapsed during which the school district knew, or reasonably should have known, that a child’s I.E.P. was inappropriate.⁷

Federal Regulations

- 1: 20 U.S.C. § 1401(8); 34 C.F.R. § 300.13
- 2: 20 U.S.C. § 1401(22); 34 C.F.R. § 300.24
- 3: 34 C.F.R. § 300.551(a)
- 4: 20 U.S.C. § 1412(a)(5)(A); 34 CFR § 300.550
- 5: 20 U.S.C. § 1412(a)(5)(A); 34 CFR § 300.550
- 6: 20 U.S.C. § 1415(j); 34 C.F.R. § 300.514
- 7: 20 U.S.C. § 1415(i)(2)(B)(iii)

State Regulations

- 3: N.J.A.C. 6A: 14-4.2(a)(3)
- 4: N.J.A.C. 6A: 14-4.2
- 5: N.J.A.C. 6A: 14-4.2
- 6: N.J.A.C. 6A: 14-2.7(o)

Case Law

Board of Education of Hendrick Central School District v. Rowley, 458 US 176 (1982)

M.C. v. Central Regional School District, 81 F.3d 389 (1996)

T.R. v. Kingwood Township Board of Education, 205 F.3d 572 (2000)

Cedar Rapids Community School District v. Garret, 526 US 66, 119 S.Ct. 992 (1999)

Irving Independent School District v. Tatro, 468 US 883, 104 S.Ct. 3371 (1984)

Honig v. Doe, 484 US 305, 108 S.Ct. 592 (1988)

Oberti v. Board of Ed. of the Borough of Clementon School Dist., 995 F.2d 1204 (1993)

Resource Materials

ELC: Pages 5-7, 24-27.

SPANNJ: Supports and Services, Least Restrictive Environment

NAPAS: Questions 5, 6, and 9.

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Questions and Answers

6. What is an IEP, how do we write an IEP, and what must it include?

An Individualized Education Program (IEP) is a written plan that prescribes the special education and related services that the child will receive in order to make meaningful educational progress.¹ In addition to explaining all of the programs and services that will meet the needs uncovered during the child's evaluations, the IEP must also include information about the child's present levels of performance, goals, and objectives.²

The IEP is crafted by the IEP team at an IEP conference.³ The IEP team must include the child's parents, at least one of the child's general education teachers (if the child is participating in the general education classroom), at least one of the child's special education teachers, at least one child study team member, the case manager, a representative of the district board of education (child study team member, special education administrator, or principal) who is qualified to provide or supervise special education and knowledgeable about both the general education curriculum and the special education resources available, the student (when appropriate), a representative from a transition agency likely to be providing transition services, and any other person whom the parent or school would like to attend.⁴

The law requires the IEP to be developed by the IEP at an IEP conference.⁵ The initial conference must be scheduled within 30 calendar days of the determination that the child is eligible.⁶ Additionally, the development and implementation of the IEP must be in place within 90 days of the parent's written consent to evaluate the child.⁷ After the IEP is developed, the parent must be given a copy along with a notice of the parent's procedural rights.⁸ The parent has 15 calendar days to decide whether to approve the IEP.⁹ The school cannot implement an initial IEP without parental consent.¹⁰

An IEP conference must be held at least once a year for every classified child, and the IEP must be revised as needed.¹¹ A parent can call an IEP conference at any time if he or she wishes to alter the IEP.¹² After the first IEP, a school district may implement an IEP without a parent's signature, unless the parent requests mediation or due process within 15 calendar days of the district's written notice.¹³

Federal Regulations

- 1: 20 U.S.C. § 1414(d)(1)(A)
- 2: 20 U.S.C. § 1414(d)(1)(A), (ii); 34 C.F.R. § 300.47(a)(1), (2)
- 3: 20 U.S.C. § 1414(d)(1)(B); 34 C.F.R. §§ 300.343, 300.344
- 4: 20 U.S.C. § 1414(d)(1)(B); 34 C.F.R. § 300.344
- 5: 20 U.S.C. § 1414(d)(1)(B); 34 C.F.R. § 300.343
- 6: 34 C.F.R. § 300.343(b)(2)
- 7: 34 C.F.R. § 300.301(c)
- 8: 20 U.S.C. § 1415(b)(3); 34 C.F.R. § 300.345(f); 34 C.F.R. § 300.503
- 10: 34 U.S.C. § 300.505(a)(1)(ii)

State Regulations

- 1: N.J.A.C. 6A: 14-1.3
- 2: N.J.A.C. 6A: 14-3.7(d)(1), (2)
- 3: N.J.A.C. 6A: 14-3.7(a), (b)
- 4: N.J.A.C. 6A: 14-3.7(b), -2.3(i)(2)
- 5: N.J.A.C. 6A: 14-3.7(a), (b)
- 6: N.J.A.C. 6A: 14-3.7(a)
- 7: N.J.A.C. 6A: 14-3.4(c)
- 8: N.J.A.C. 6A: 14-3.7(j); N.J.A.C. 6A: 14-2.3(d), -3.7(k)
- 9: N.J.A.C. 6A: 14-2.3(f)(2)
- 10: N.J.A.C. 6A: 14-2.3(a)(2)
- 11: N.J.A.C. 6A: 14-3.7(h)
- 12: N.J.A.C. 6A: 14-3.7(h)
- 13: N.J.A.C. 6A: 14-3.7(k), -2.3(f)(3)

Resource Materials

- ELC: Pages 18-23
- SPANNJ: Goals and Objectives, Ongoing Support and Monitoring, IEP Document,
IEP FAQs
- NAPAS: Question 7

Sample Letters

- ELC: Requesting IEP Services
- SPANNJ: Parental Notice of IEP when IEP is not used as Notice
Parental Notice Following IEP Annual Review when IEP is not used as
Notice

Sample Forms

- NJ OSEP: Model IEP Form, Speech-Language Services
- Binder: Sample IEP Form

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Questions and Answers

7. How do I challenge school district action?

Under federal and state laws, a parent has the right to disagree with decisions made by the school district and to seek recourse. Under IDEA, the parent has the right to bring a complaint against the school through three avenues: participating in mediation, requesting a due process hearing, or filing a complaint investigation. IDEA also allows for emergency relief. Parents are also afforded procedural rights under Section 504.

Although he or she is not required to do so, a parent may elect to engage in voluntary mediation with the school district before filing for a due process hearing.¹ The state must pay for the mediation, which must be conducted by a trained, qualified, impartial mediator.² To request mediation, a parent should fill out the request form and sending it to the Director, Office of Special Education Programs, New Jersey Department of Education; PO Box 500; Trenton, New Jersey; 08625-0500. The request must include the student's name and address, the school attended, a description of the problem, including relevant facts, a proposed resolution, and the relief sought. OSEP must schedule mediation within 10 days of receiving the request.³ At the mediation, the mediator assists the parties in reaching an agreement. If such an agreement is reached, the mediator will write it up and have it signed by both parties.⁴ If no agreement is reached, the date of mediation is documented, and no content of the conference may be used by either side in a later court proceeding.⁵

Every parent with a child receiving special education services has the right to request a due process hearing before an administrative law judge (ALJ). This request is made by the same procedure as is used to request mediation. A due process hearing is a formal trial-like procedure that allows both sides to present evidence and legal arguments. Both sides have the right to request information, evaluations and records from each other before the hearing.⁶ Hearings dealing with disciplinary issues are expedited to ensure continuity of services for the child, and must be scheduled within 10 days.⁷ In all due process cases, the school board bears the burden of proving the appropriateness of its actions.⁸ The ALJ must issue a formal, written decision within 45 days of the request for due process, which is formal and binding on both parties, and must be implemented immediately.⁹ This decision may include relief, such as making changes to an I.E.P. or changing placement, compensatory education, and reimbursement of costs incurred by parents.¹⁰ The parent and the school district each have the right to appeal the ALJ decision to the New Jersey Superior Court or federal district court.¹¹

If a child needs a speedy resolution of a dispute in order to avoid some serious harm, IDEA allows for emergency relief through a due process hearing.¹² This occurs most commonly in cases of interrupted or terminated services. The parent's request for emergency relief must be through written application and supported by an affidavit or notarized statement describing the basis of the request.¹³ In order to prevail, the parent must prove that the child will suffer irreparable harm without the relief, the legal right

underlying the claim is settled, the child has a likelihood of prevailing on the merits of the legal claim, and the child will suffer greater harm than the school board if the relief is not granted.¹⁴

IDEA also provides for a complaint investigation procedure by which any person may file a complaint with OSEP to investigate a wrongdoing and provide for corrective action.¹⁵ The complaint must be filed in writing at the same address above. If the issue in the complaint is under dispute at a due process hearing, the investigation on that issue must be postponed until the due process hearing is complete.¹⁶ The alleged violation must have taken place within one year of the filing of the complaint, unless its purpose is to request compensatory services, in which case the violation must have taken place within three years of the complaint.¹⁷ OSEP has 60 days from the receipt of the complaint to complete its evaluation and issue its findings.¹⁸ Any school district or private educational agency found to be in noncompliance with the law must develop a corrective action plan.¹⁹

Section 504 requires each school district to have a grievance coordinator to facilitate procedural safeguards within the district.²⁰ A parent is additionally entitled to an impartial administrative hearing, which is handled in New Jersey in the same manner as an IDEA due process hearing.²¹ Parents may also file complaints under Section 504 with the Office of Civil Rights (OCR) at Office for Civil Rights, Region II; U.S. Department of Education; 75 Park Place, 14th Floor; New York, NY; 10017.²²

Federal Regulations

- 1: 20 U.S.C. § 1415(e); 34 C.F.R. § 300.506
- 2: 20 U.S.C. § 1415(e)(2)(A)(3), (D); 34 C.F.R. § 300.506(b)(1)(iii), (3)
- 4: 20 U.S.C. § 1415(e)(2)(F); 34 C.F.R. § 300.506(b)(5)
- 5: 20 U.S.C. § 1415(e)(2)(G)
- 6: 20 U.S.C. § 1415(h)(2); 34 C.F.R. § 300.509(a), (b)
- 8: 20 U.S.C. § 1415(f)(3); 34 C.F.R. § 300.508
- 9: 20 U.S.C. § 1415(f); 34 C.F.R. §§ 300.509, 300.511
- 10: 20 U.S.C. § 1415(i)(2)(B)(iii)
- 11: 20 U.S.C. § 1415(i)(2); 34 C.F.R. § 300.510(b)
- 15: 20 U.S.C. § 1415(b)(6); 34 C.F.R. § 300.660-662
- 18: 34 C.F.R. § 300.661(a), (b)(1)
- 19: 34 C.F.R. § 300.661(b)(3)
- 20: 34 C.F.R. § 104.36
- 21: 34 C.F.R. § 104.36
- 22: 29 U.S.C. § 794

State Regulations

- 1: N.J.A.C. 6A: 14-2.6(a)
- 3: N.J.A.C. 6A: 14-2.6(d)(1)
- 4: N.J.A.C. 6A: 14-2.6(d)(6)
- 6: N.J.A.C. 1:6A-10.1(d)
- 7: N.J.A.C. 6A: 14-2.7(g), (h)

- 8: N.J.A.C. 6A: 14-2.7(a)
- 9: N.J.A.C. 6A: 14-2.7(e)
- 11: N.J.A.C. 6A: 14-2.7(p)
- 12: N.J.A.C. 6A: 14-2.7(h), (l)
- 13: N.J.A.C. 6A: 14-2.7(l)
- 14: N.J.A.C. 6A: 14-2.7(m), (l)
- 15: N.J.A.C. 6A: 14-9.2(b)
- 16: N.J.A.C. 6A: 14-9.2(d)
- 17: N.J.A.C. 6A: 14-9.2(b)(3)
- 18: N.J.A.C. 6A: 14-9.2(c)
- 19: N.J.A.C. 6A: 14-9.2(f)

Resource Materials

- ELC: Pages 27-34, 50
- SPANNJ: 504 vs. IDEA, Mediation, Due Process, Complaint Investigation, Emergency Relief, Conflict Resolution Q&A, 504 Complaints
- NAPAS: Questions 8 and 20
- Binder: “Timelines and Deadlines”

Case Law

- Lascari v. Board of Education of Ramapo Indian Hills Regional High School District*, 560 A.2d 1180 (1989)
- Oberti v. Board of Education of the Borough of Clementon School District*, 995 F.2d 1204 (1993)

Sample Letters

- ELC: NJDOE Request for Mediation/Due Process Hearing/Expedited Due Process Hearing
- NJDOE Request for an Emergency Relief Hearing
- NJDOE Request for Complaint Investigation
- USDOE: OCR Complaint Form

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Questions and Answers

8. What is a 504 Plan and how is it enforced?

Because IDEA provides more detailed requirements and procedural safeguards for children with disabilities, pursuing special education services through IDEA should be attempted before turning to Section 504 of the Rehabilitation Act of 1973. However, in some cases, a student with disabilities does not qualify for the rigid eligibility criteria defined by IDEA.¹ For example, a child with asthma or Attention Deficit Disorder may require certain educational modifications, but be found ineligible under IDEA.² When this happens, a 504 Plan should be created for the student.

A 504 Plan is a legal document designed to develop a program of instructional services to assist students with special needs who are in a regular education setting.³ The school district must provide reasonable accommodations to help the student learn.⁴ The general education teacher, parent, and principal must meet to establish a 504 Plan. The Plan should contain detailed responses to the child's needs. For example, the Plan might allow for a diabetic child to eat while in class, a child's seat might be moved to accommodate her disability, or a child may be allocated additional time during tests.

The law requires 504 Plans to be reviewed annually, although the review process may be informal.⁵ If the Plan is not enforced, the school district may be held accountable. A parent has the right to file a complaint with the Office of Civil Rights, as well as the right to an impartial due process hearing.⁶

Federal Regulations

- 1: 29 U.S.C. §§ 705, 794, 794b
- 2: 29 U.S.C. § 705(20)(B); 34 C.F.R. § 104.3(j)
- 3: 34 C.F.R. § 104.33(b)(2)
- 4: 34 C.F.R. §§ 104.33(b), 104.34(a)
- 5: 34 C.F.R. §§ 104.36, 104.35(d)
- 6: 34 C.F.R. § 104.36

Resource Materials

- ELC: Pages 49-50
SPANNJ: 504 Overview, 504 vs. IDEA

Sample Forms

- Mickes: Sample 504 Plan

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Questions and Answers

9. How do I acquire extended school year?

IDEA allows for additional educational programming beyond the standard 180-day school year for those students who need it.¹ This additional education is called “Extended School Year,” or ESY.² ESY may be provided during summer or other school vacations, on weekends, or after the regular school day. The IEP team is responsible for determining ESY eligibility. This must be considered for every student with a disability.³

To determine eligibility for ESY, the IEP team must consider a number of factors. Integral to the determination is a regression analysis that considers how much a child will regress during time away from school if ESY is not implemented. Additional considerations include the nature and severity of the child’s disabilities, the ability of the child’s parents to provide an educational structure at home, the child’s rate of progress, behavioral and physical problems, the availability of alternative resources, the ability of the child to interact with peers who do not have disabilities, the curricular areas that require special attention, the child’s vocational needs, and whether ESY is extraordinary to the child’s disability, as opposed to necessary for all children with the disability.⁴

The type, duration and frequency of ESY services must be tailored to the child, with the goals and objectives being compatible with the IEP for the school year. ESY may take the form of personal home instruction, group instruction, recreational services, or other options. Eligibility must be decided every year; just because a child received ESY the previous year does not qualify him or her for services.⁵ If parents and the school district disagree about ESY, parents are entitled to all of the procedural safeguards afforded to them at all times in the special education process, including mediation and the right to a due process hearing.⁶

Federal Regulations

- 1: 34 C.F.R. § 300.309(b)
- 3: 34 C.F.R. § 300.309(a)(2), (3)
- 4: 34 C.F.R. § 300.309(a)(2), (3)
- 5: 34 C.F.R. § 300.309(b)
- 6: 20 U.S.C. § 1415(b)(6); 34 C.F.R. §§ 300.506(a)(1), 300.507(a)(1)

State Regulations

- 2: N.J.A.C. 6A: 14-1.3
- 3: N.J.A.C. 6A: 14-4.3(b)
- 4: N.J.A.C. 6A: 14-4.3(b)
- 6: N.J.A.C. 6A: 14-2.6(a), -2.7(a)

Resource Materials

- ELC: Page 36
- SPANNJ: Extended School Year FAQs

SPECIAL EDUCATION ADVOCACY GUIDE

Questions and Answers

10. How do I acquire assistive technology?

An assistive technology device is 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 fundamental capabilities of individuals with disabilities.¹ An assistive technology service is any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.² IDEA requires that the IEP team consider both for each child's special education program.³

The child study team must arrange for assistive technology evaluations at the district's expense if further documentation is needed than the standard evaluations.⁴ The parent may seek an independent evaluation if he or she disagrees with the district's evaluation.⁵ If the evaluations demonstrate that the child requires assistive technology, this must be written into the IEP, and its use should be reflected in the goals and objectives.⁶

The school is ultimately responsible for the purchasing of assistive technology, although if the parent voluntarily agrees, Medicaid or private insurance may also be used to cover the expense. The parent is not required to approve this option. If the school purchases the item, the school owns it, although the device may be used outside of the school if required by the IEP.⁷

Federal Regulations

- 1: 20 U.S.C. § 1401(1)
- 2: 20 U.S.C. § 1401(1)
- 3: 20 U.S.C. § 1414(v); 34 C.F.R. § 300.308(a)
- 4: 20 U.S.C. § 1414(b)(3)(B)(ii)
- 5: 20 U.S.C. § 1415(b); 34 CFR § 300.502(a)
- 7: 34 C.F.R. § 300.308(b)

State Regulations

- 1: N.J.A.C. 6A: 14-1.3
- 2: N.J.A.C. 6A: 14-1.3
- 3: N.J.A.C. 6A: 14-3.7(c)(8)
- 4: N.J.A.C. 6A: 14-3.4(a)(1)(i)
- 5: N.J.A.C. 6A: 14-2.5(c)
- 6: N.J.A.C. 6A: 14-3.7(c)(8), (d)
- 7: N.J.A.C. 6A: 14-3.7(c)(8)(ii)

Resource Materials

ELC: Page 36

NAPAS: Question 17

National Assistive Technology Project, "The Public School's Special Education System as an Assistive Technology Funding Source: The Cutting Edge"

SPECIAL EDUCATION ADVOCACY GUIDE

Questions and Answers

11. When is a private placement appropriate, and what is required?

Every child is entitled to an appropriate placement in the least restrictive environment.¹ However, if a parent is unsatisfied with the services provided by their child's public school, he or she may decide to remove the child and place him or her in private school. In some cases, the public school may be ordered to reimburse the parents. This occurs when an administrative law judge finds that the school district did not offer FAPE in a timely manner, and that the child did receive an appropriate program at the private school.² The private school selected by the parents need not meet the state educational standards applied to public schools in order for the parents to be reimbursed.³

To pursue reimbursement, a parent must generally prove at a due process hearing that he or she gave the school district advance notice that the child would be taken out of public school and placed in private school, and that the parent would be seeking reimbursement.⁴ This notice should be given 10 business days before the child is removed from school, or at the IEP meetings prior to this occurrence.⁵

Private schools are not legally obligated to provide services to any individual student. Instead, private schools are required to provide a certain amount of service to students generally, based on a percentage of the total federal funds received.⁶ Local education agencies consult with private school representatives to determine the amount of services to be provided.⁷

IDEA requires local school districts to provide some special education services to children who are placed in private schools by their parents.⁸ Public schools are required to locate, identify, and evaluate private school children in the same respect as they do public school children.⁹ The school district must provide a service plan when serving a private school student describing the special education and related services being provided.¹⁰ A representative of the private school must be involved in the development of the plan and it must be reviewed annually, or as needed.

When a parent disagrees with a school district over the provision of services at the private school, that parent is not entitled to mediation or due process. Instead, the parent's recourse may only be through filing a complaint investigation with the Department of Education.¹¹ A parent is entitled to mediation and due process if location, identification, evaluation, re-evaluation, and eligibility are under dispute.¹²

Federal Regulations

- 1: 20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 300.550
- 2: 20 U.S.C. § 1412(a)(10)(C)(ii); 34 C.F.R. § 300.403
- 3: 34 C.F.R. § 300.403(c)
- 4: 20 U.S.C. § 1412(a)(10)(C)(iii), (iv); 34 C.F.R. § 300.403(d), (e)
- 5: 20 U.S.C. § 1412(a)(10)(C)(iii)(I)(aa), (bb); 34 C.F.R. § 300.403(d)(1)(i), (ii)

- 6: 20 U.S.C. § 1412(a)(10)(A)(i)(I); 34 C.F.R. § 300.453
- 7: 20 U.S.C. § 1412(a)(10)(A); 34 C.F.R. § 300.454(b)
- 8: 20 U.S.C. § 1412(a)(10)(A); 34 C.F.R. § 300.450 *et seq*
- 9: 34 C.F.R. § 300.451
- 10: 34 C.F.R. § 300.455(b)
- 11: 34 C.F.R. § 300.457(a)
- 12: 34 C.F.R. § 300.457(b)

State Regulations

- 1: N.J.A.C. 6A: 14-4.2
- 2: N.J.A.C. 6A: 14-2.10(b)
- 3: N.J.A.C. 6A: 14-2.10(b)
- 4: N.J.A.C. 6A: 14-2.10(c), (d)
- 5: N.J.A.C. 6A: 14-2.10(c)(1), (2)
- 9: N.J.A.C. 6A: 14-6.1(c)(1)
- 10: N.J.A.C. 6A: 14-6.1(d)(1)(i)
- 11: N.J.A.C. 6A: 14-6.1(c)(2)
- 12: N.J.A.C. 6A: 14-6.1(c)(1)

Case Law

- Ridgewood Board of Education v. N.E.*, 172 F.3d 238 (1999)
- Florence County School District Four v. Carter*, 510 US 7, 114 S.Ct. 361 (1993)
- Bernardsville Board of Education v. J.H.*, 42 F.3d 149 (1994)
- Florence County School District Four v. Carter*, 510 US 7, 114 S.Ct. 361 (1993)
- Board of Education of the East Windsor Regional School District v. Diamond*, 808 F.2d 987 (1986)
- Lascari v. Board of Education of Ramapo Indian Hills Regional High School District*, 560A.2d 1180 (1989)

Resource Materials

- ELC: Pages 26-27
- NAPAS: Questions 14 and 15

SPECIAL EDUCATION ADVOCACY GUIDE

Questions and Answers

12. How do I acquire early intervention services and preschool services?

IDEA requires special education services for all eligible students between the ages of three and twenty-one.¹ However, children below age three are eligible for publicly paid early intervention services tailored to their needs if they have developmental delays or physical or mental disabilities that are likely to result in developmental delays.² Developmental delays are manifested in physical development, language and speech, cognitive, emotional or social development, or in self-help skills. Early intervention services are provided by the New Jersey Department of Health and their contracting agencies, not through the school district.³

Parents who believe that their children are eligible should contact PROJECT CHILD FIND at 1-800-322-8174 for information and referral to an early intervention program for evaluation. If a parent disagrees with the evaluation, he or she has the right to request a hearing to resolve his or her concerns.⁴

At age three, public schools are required to provide free and appropriate preschool programs to all children with disabilities or developmental delays until that child begins kindergarten at age five.⁵ Preschool children and their parents are afforded the same protections and requirements as school-age children and their parents, including the rights to the least restrictive environment and due process.⁶ Evaluation, eligibility, and IEP procedures are all the same, with the addition of participation of a speech-language specialist.⁷

School-age and preschool programs differ most noticeably in the types of services that can be provided and where. For example, it is possible that the most appropriate placement for a three-year-old might be in his or her home. However, because preschool children are required by law to receive their education with children without disabilities to the maximum extent possible, every child for whom an integrated environment is appropriate should be educated with his or her peers. The school district may meet its obligation through placement in either a district-run or privately operated program. Within these programs, the percentages of children with and without disabilities must reflect natural proportions. If this is not possible in a district-run program, the district must place the child in a private, non-sectarian, licensed and approved program that can meet the child's IEP needs.⁸

Federal Regulations

- 1: 20 U.S.C. § 1412(a)(1)(A); 34 C.F.R. § 300.13
- 2: 20 U.S.C. § 1432(1), (4), (5)
- 4: 20 U.S.C. § 1439(a)(3), (6)
- 5: 20 U.S.C. §§ 1412(a)(1)(A), 1401(3)(B); 34 C.F.R. § 300.7(b)

State Regulations

3: N.J.A.C. 6A: 14-10.1

6: N.J.A.C. 6A: 14-3.3(e), -3.3(e)(3), -3.4(c), -3.5(a)

7: N.J.A.C. 6A: 14-3.3(e), -3.3(e)(3), -3.4(c), -3.5(a)

8: NJAC 6A: 14-4.3(c)

Resource Materials

ELC: Pages 34-35

NAPAS: Question 13

SPECIAL EDUCATION ADVOCACY GUIDE

Questions and Answers

13. How do I handle discipline issues?

Discipline of children with disabilities is a very complex issue. IDEA reflects the possibility that disruptive behavior might be caused by a child's disability, and as such affords children with disabilities numerous protections. IDEA also recognizes the particular harm that can come to children with disabilities when services are stopped following an expulsion or a suspension. With this in mind, the law entitles children with disabilities the right to FAPE and education services even after expulsion or suspension. This holds true for students in public placements as well as for students who have been placed out-of-district by their school district.¹

All children facing disciplinary action are entitled to the due process protections of meeting with a school administrator to discuss their sides of the story, having impartial hearings, and cross-examining the school's witnesses, all within 21 days of a long-term suspension. It is important to remember that children with disabilities are entitled to these safeguards.

If school officials believe that a child's placement is inappropriate, and thus the cause of his or her behavioral difficulties, they should work with the child's parents through the IEP process. If the parents disagree, they continue to hold the right to dispute through mediation or due process.² During a dispute, the child has the right to "stay put" to ensure continuity of programming.³

The law makes a clear distinction between the services required for students in short-term suspension and a change in placement (a series of short-term suspensions constituting a long-term suspension.) A short-term removal consists of 10 or fewer days in a row of suspension from school, and additional removals of 10 or fewer days for separate incidents, as long as they do not form a pattern of exclusion.⁴ When a child with disabilities faces a short-term suspension, the school principal is required to provide the child's case manager with a written description of the incident and reasons for the suspension.⁵ The school district is not required to provide these students with any educational services if none are provided to similarly situated students without disabilities.⁶

When a suspension amounts to more than 10 days, educational services must be provided to meet the child's IEP.⁷ Additionally, the IEP team must meet within 10 business days of the start of the suspension to develop a behavioral intervention plan explaining how the child's functional behavior assessment (FBA) is to be implemented.⁸ School districts are required to conduct an FBA for all children with behavioral problems in school.⁹ The FBA should be used to determine the environment in which the behavior occurs, why it occurs, when it is most and least likely to occur, and its function for the student. The purpose of the FBA is to determine how an environmental change can effect a behavior change for the child.

Different rules apply to children whose suspensions constitute a long-term suspension, or change of placement. A change in placement suspension is any removal or more than 10 consecutive school days, or a series of removals that amount to more than 10 school days in a school year, and form a pattern of exclusion from school.¹⁰ Per New Jersey's special education laws, the determination of whether a series of suspensions can be categorized as a pattern is assigned to school administrators in consultation with the child's case manager. The parent is not part of the decision-making process.¹¹ However, IDEA indicates that the decision be made by the IEP team, which includes the parent.¹² If a parent is faced with this situation, he or she should call a meeting of the IEP team so that a joint decision may be arrived at.

Districts may only impose a change in placement for discipline reasons in three narrow circumstances, and only if the district complies with strict procedural requirements. First, a change in placement may be imposed if the IEP team conducts a manifestation determination and finds that the student's inappropriate behavior was not caused by or related to his or her disability.¹³ A manifestation determination is the process of assessing the relationship between the child's disability and his or her behavior. To do so, the team must consider all relevant information and may only determine the behavior to be not a manifestation if the IEP, services and placement were appropriate vis a vis the behavior, and if the disability did not impair the child's ability to control the behavior or understand its impact.¹⁴ If these criteria are met, the school may discipline the child as it would any child without disabilities. However, the school must continue to provide FAPE to children who are expelled or suspended long-term, with the services and location to be determined by the IEP team.¹⁵

The second situation in which a change of placement is allowable is if the student brings a weapon to school or a school function, or knowingly uses, possesses, sells, or solicits illegal drugs while at school or a school function.¹⁶ In this case, the district must place the child in an appropriate interim alternative educational setting for not more than 45 days. The alternative setting is to be determined by the IEP team, and must include both the regular education curriculum and the special services provided by the IEP.¹⁷ The problematic behavior must also be addressed. Again, a behavioral intervention plan and manifestation must be used to ensure that the behavior is not because of the disability, in which case long-term suspension is not permitted.¹⁸

The final grounds on which change in placement to an alternative setting is acceptable is when an ALJ orders the suspension at an emergency due process hearing. This can occur when the school district proves by substantial evidence (defined as by a preponderance) that the child is substantially likely to cause injury to him or herself or others in the current educational setting.¹⁹ This must be determined by the ALJ, not the school district itself. The ALJ must also consider the appropriateness of the current placement, whether the school has made a reasonable effort to minimize the risk of harm, and determine that the proposed alternative placement can meet the needs in the IEP.²⁰ The ALJ may order additional services or changes to the IEP before removing the student, which should be a last resort.

A parent may challenge an interim educational setting by filing for an expedited due process hearing and emergency relief. During the appeal, the child’s placement depends on the nature of the appeal; if the manifestation determination is in dispute, the child remains in the original setting, if the parent is disputing the alternative setting on the basis of drugs, weapons, or dangerousness issues, the child remains in the alternative setting, unless the parents and district agree to another placement.²¹ At the end of the 45-day interim placement, the district must propose a new educational placement, which parents may dispute through a due process hearing. Throughout this time, the child must return to the original placement from before the suspension began.²²

A child who is not classified as eligible for special education is still entitled to all of the above safeguards if the school district knew or should have known before the behavioral problem that the student has a disability.²³ A school is considered to have had knowledge if the parent expresses written concern to school personnel that the child has a disability, the student’s behavior or performance is indicative of having a disability, the parent submitted a written request for an evaluation, or a teacher or other school personnel expressed that the child should be evaluated.²⁴ If the parent requests an evaluation after the suspension or expulsion, the child is not entitled to any services until after he or she is found eligible, at which time the district must provide FAPE. The evaluation process must be expedited.²⁵

Federal Regulations

- 1: 20 U.S.C. § 1412(a)(10)(B)(ii); 34 C.F.R. § 300.401(c)
- 2: 20 U.S.C. § 1415(j)
- 3: 20 U.S.C. § 1415(j)
- 4: 20 U.S.C. § 1415(k)(1)(A)(i); 34 C.F.R. § 300.520(a)(1)(i)
- 6: 34 C.F.R. § 300.121(d)(1)
- 7: 34 C.F.R. § 300.121(d)(2)
- 8: 34 C.F.R. § 300.520(b)(2)
- 9: 20 U.S.C. § 1415(k)(1)(B)(i); 34 C.F.R. § 300.520(b)(1)(i), (ii)
- 10: 34 C.F.R. § 300.519
- 12: 34 C.F.R. § 300.501(a)(2)
- 13: 20 U.S.C. § 1415(k)(4)
- 14: 34 C.F.R. § 300.523(c)(1)
- 15: 20 U.S.C. § 1412(a)(1)(A)
- 16: 20 U.S.C. § 1415(k)(1)(A)(ii)(I), (II); 34 C.F.R. § 300.520(a)(2)(I)(ii)
- 17: 20 U.S.C. § 1415(k)(1)(A)(ii)(I), (II); 34 C.F.R. § 300.520(a)(2)(I)(ii)
- 18: 34 C.F.R. § 300.523(d)
- 19: 20 U.S.C. § 1415(k)(2)(A)
- 20: 20 U.S.C. § 1415(k)(2)(A)-(D); 34 C.F.R. § 300.521(a)-(d)
- 21: 34 C.F.R. § 300.524(c)
- 22: 20 U.S.C. § 1415(k)(7)(B); 34 C.F.R. 300.526(b)
- 23: 20 U.S.C. § 1415(k)(8)
- 24: 20 U.S.C. § 1415(k)(8)(B)(i)-(iv); 34 C.F.R. § 300.527(b)(1)-(4)
- 25: 20 U.S.C. § 1415(k)(8)(C)(ii); 34 C.F.R. 300.527(d)(2)(ii)

State Regulations

- 2: N.J.A.C. 6A: 14-2.3(f)(2)
- 3: N.J.A.C. 6A: 14-2.3(f)(2)
- 5: N.J.A.C. 6A: 14-2.8(a)
- 6: N.J.A.C. 6A: 14-2.8(a)(1)
- 7: N.J.A.C. 6A: 14-2.8(d)
- 10: N.J.A.C. 6A: 14-2.8(b)
- 11: N.J.A.C. 6A: 14-2.8(b)(2)(i)
- 15: N.J.A.C. 6A: 14-1.1(b)(1)
- 23: N.J.A.C. 6A: 14-3.3(f)

Case Law

Goss v. Lopez, 419 U.S. 565, 95 S.Ct. 729 (1975)

Strickland v. Inlow, 519 F.2d 744 (1975)

Jackson v. Franklin County School Board, 806 F.2d 623 (1986)

Newsome v. Batavia Local School District, 842 F.2d 920 (1988)

Nevares v. San Marcos Consolidated Independent School District, 111 F.3d 25 (1997)

Riggan v. Midland Independent School District, 86 F.Supp.2d 647 (2000)

Resource Materials

ELC: Pages 40-48

NAPAS: Questions 10 and 11

Rebecca K. Spar, Esq. "Discipline: Legal Issues of Suspension and Expulsion"

Rebecca K. Spar, Esq. "Complex FAPE Issues: Compensatory Education and Post-Disciplinary Services"

SPECIAL EDUCATION ADVOCACY GUIDE

Questions and Answers

14. How do I make a functional behavioral assessment and a behavioral intervention plan?

In order to prevent disciplinary problems before they start, school districts have an affirmative obligation under IDEA to address potentially challenging behavior of students with disabilities.¹ Part of a student's IEP must address behavioral issues, and the school must provide qualified teachers, social workers, counselors and psychologists to provide the child with a support system to prevent him or her from impeding his own education, or that of his or her classmates.² The consideration and addressing of behavioral problems is a necessary part of FAPE as required by law.

School districts are required to conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan for children with behavior problems.³ The purpose of the FBA is to determine the relationship between a child's environment and a child's behavior. The FBA should be used to determine where, why, and when the behavior is most and least likely to occur, and its function for the student. The idea behind the FBA is that if the environment can be changed, the child's behavior can change accordingly. A psychologist or other trained professional should conduct the FBA.

Once the FBA is complete, the IEP team should use the FBA and, in consultation with its administrator, create a behavioral intervention plan.⁴ The behavior plan should explain the proactive and reactive measures that should be taken by the school to limit the child's disruptive behavior. It should contain the target behaviors to be addressed, their operational definitions, functions, and contexts, objectives, antecedent conditions, behavioral interventions, replacement behaviors, criteria for outside intervention, and plans for reviewing and assessing progress.

Federal Regulations

- 1: 20 U.S.C. §§ 1412(A)(14), 1453(c)(3)(D)(v)
- 2: 20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.346(a)(2)(I)
- 3: 20 U.S.C. § 1415(k)(1)(B)(i); 34 C.F.R. § 300.520(b)(1)(i), (ii)

State Regulations

- 2: N.J.A.C. 6A: 14-3.7(c)(3)
- 4: N.J.A.C. 6A: 14-3.7 (c)(3)

Resource Materials

- ELC: Pages 40-41
NAPAS: Question 18
Eric P. Hartwig, Ph.D., "Creating the Perfect Behavior Plan"

Sample Forms

Sample Behavior Plan

ABC Log

Functional Behavioral Assessment Matrix

SPECIAL EDUCATION ADVOCACY GUIDE

Questions and Answers

15. How do I make a transition plan?

The state's obligation to provide educational services to children with disabilities ends at age 21.¹ However, the state is required to prepare the child for transition out of the public school system, whether that be to further education, employment, adult services, independent living, or any other environment.² The child study team case manager is responsible for transition planning.³

The IEP team must consider the child's abilities and begin preparing for his or her transition at age 14, or younger if appropriate. At this time, evaluations must include post-secondary assessments to determine where the child is heading after graduation.⁴ All children above age 14 must also be invited to participate in their IEP meetings.⁵ Additionally, regular IEP notices to the child's parent must state that transition planning will be discussed. At the IEP meeting, the team must develop a transition statement to include in the IEP as a long-range plan.⁶

Beginning at age 16, the IEP must include a transition plan describing the services to be rendered in addition to the transition statement.⁷ The child's interests and preferences must guide this plan. It should include the instruction plan begun at age 14, related services, community experiences, the development of employment or post-secondary skills, and, if appropriate, the acquisition of daily living skills and a functional vocational evaluation.⁸

The school district is responsible for coordinating efforts between the agencies that will guide the child through transition. The school must invite a representative of the Division of Vocational Rehabilitation Services (DVRS) or other public agencies to the IEP meeting.⁹ A child is eligible for DVRS services if she or he has a mental or physical impairment that constitutes a significant impairment to employment, and can benefit from DVRS services with respect to employment outcome. DVRS may not turn away a student for being under 18, because its caseload is full, or because of the severity of his or her disability. DVRS eligibility should be determined up to two years before the student's graduation. If a child is eligible for services from the Division of Developmental Disabilities (DDD), a representative should likewise be invited to plan for adult living support services.

If DVRS, DDD, or another agency fails to provide the child with the agreed upon services, the school district is ultimately responsible to convene a meeting to identify other strategies to meet the transition goals.¹⁰

At least one year before a student turns 18, the IEP team must meet with the student and provide information to him or her about the rights under special education law that will legally transfer to the student at age 18.¹¹ At 18, the student must receive a copy of the state regulations and procedural safeguards statement (PRISE).¹² From that point,

correspondence is to be sent to the student, who must be invited to participate at IEP meetings until graduation and is granted all of the procedural safeguards previously held by his or her parents.¹³ A child with disabilities has the right to stay in school until either the school year in which he or she turns 21 or graduation.¹⁴

Federal Regulations

- 1: 20 U.S.C. § 1412(a)(1)(A); 34 C.F.R. § 300.13
- 2: 20 U.S.C. § 1401(30); 34 C.F.R. § 300.29
- 6: 20 U.S.C. § 1414(d)(1)(A)(vii)(1); 34 C.F.R. § 300.347(b)(1)
- 7: 20 U.S.C. § 1414(d)(1)(A)(vii)(2); 34 C.F.R. § 300.347(b)(2)
- 8: 34 C.F.R. § 300.29
- 10: 20 U.S.C. § 1414(d)(5); 34 C.F.R. § 300.348(a)
- 11: 20 U.S.C. § 1414(d)(1)(A)(vii)(III); 34 C.F.R. §§ 300.347(c), 300.517
- 13: 34 C.F.R. § 300.517(a)(1)
- 14: 20 U.S.C. § 1421(a)(1)(B); 34 C.F.R. § 300.122(a)(3)(i)

State Regulations

- 2: N.J.A.C. 6A: 14-1.3, -3.7(d)(9), (12)
- 3: N.J.A.C. 6A: 14-3.2(c)(4)
- 4: N.J.A.C. 6A: 14-3.4(d)(3)
- 5: N.J.A.C. 6A: 14-2.3(i)(4)(ii)(2)
- 6: N.J.A.C. 6A: 14-3.7(d)(9)
- 7: N.J.A.C. 6A: 14-1.3, -3.7(d)(10)
- 8: N.J.A.C. 6A: 14-3.7(d)(10)(I)
- 9: N.J.A.C. 6A: 14-2.3(i)(2)(ix), -3.7(d)(f), (g)
- 10: N.J.A.C. 6A: 14-3.7(f)
- 11: N.J.A.C. 6A: 14-3.7(d)(9)
- 12: N.J.A.C. 6A: 14-1.3, -2.3(k)
- 13: N.J.A.C. 6A: 14-2.3(k)(1), (3), (4)
- 14: N.J.A.C. 6A: 14-1.1(c)(1), -1.3

Resource Materials

- ELC: Pages 37-38
- NAPAS: Question 12

Sample Letters

- SPANNJ: Student Notice of Transfer of Rights
- Parent Notice of Transfer of Rights
- Request for Student Participation in a Transition IEP Meeting
- Request for Parental Participation in an IEP Meeting for Students who Require a Transition Plan
- Request for Adult Student (Over 18) Participation in a Transition IEP Meeting
- Notice of Graduation