

Understanding Special Education and Advocating for Your Child

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Introduction

Federal and state laws require that children with disabilities who are enrolled in public school receive a “free, appropriate public education” (FAPE). These materials provide an introduction to the process of obtaining services for your child. More detailed information is contained in the “Procedural Safeguards and Parental Rights” booklet, which is available through your local public school. If you have questions about a specific situation, get advice from a competent attorney.

What is a “free, appropriate public education”?

“Free, appropriate public education” is a legal term. It means that the education is provided at no charge to the parents, meets the requirements of federal and state law, and is in accordance with an individualized education program (IEP) that has been written specifically for your child.

For most children with disabilities, a FAPE is an education that enables the child to make progress in the general education curriculum and make progress on the goals and objectives contained in the IEP. The Individuals with Disabilities Education Act (IDEA) states that a FAPE should be designed to “meet [your child’s] unique needs and prepare [the child] for further education, employment, and independent living.” Reviewing your child’s education with this standard in mind can help you determine whether your child is receiving FAPE.

What should I do if I think my child has a disability?

If your child is currently in public school, begin by telling the child’s teacher that you think she has a disability and needs special education. The school will need to convene an IEP Team Meeting to consider whether your child is eligible for services.

If your child is in private school or does not yet attend school, contact your county’s Child Find office. You can get the telephone number for Child Find through your county’s board of education or your local public school. If your child is attending private school in a different county from the one where you live, contact the Child Find office in the county where the child attends school. For example, if you live in Baltimore County but your child’s private school is in Howard County, contact the Howard County Child Find office.

Important points to remember:

- After you talk to your child's public school teacher, **follow up with a letter** saying that you believe your child has a disability and you want her to be evaluated. Send the letter to the principal of your child's school. Make sure you date the letter, and keep a copy.
- The school will convene an IEP Team Meeting to consider your child's needs and develop an evaluation plan. You will receive 10 days' written notice of the meeting, unless you agree to have a meeting sooner. If the time and date of the meeting are not convenient for you, you have the right to have the meeting rescheduled.
- At your first IEP meeting, the school should give you a copy of the "Procedural Safeguards and Parental Rights" booklet. That booklet contains more specific information about your rights, including procedures for requesting a Due Process Hearing or filing a complaint with the Maryland State Department of Education.
- **As a parent or guardian, you are an equal member of your child's IEP team**, along with your child's teacher and other school personnel. You have the right to bring a lawyer to the meeting. You have the right to invite "persons with knowledge or special expertise" regarding your child to participate in the IEP team. For example, if your child is receiving private speech-language therapy, you can and should invite the therapist to attend the IEP meeting.
- **Once you have signed permission for an initial evaluation, the school has 60 calendar days to complete the evaluation and write reports.** Follow up with the principal as soon as possible to make sure that an IEP Team meeting is scheduled to review the evaluations. At the IEP meeting to review the evaluation results, the IEP Team will determine whether your child has a disability and is eligible for special education. **The school should give you copies of all evaluation reports before the meeting so that you have a chance to review them.**

How does the public school system make placement decisions for students with disabilities?

Once the IEP team determines that your child is eligible for special education, it **has 30 days to develop an IEP**. The IEP includes information about your child's current levels of performance in academic and other areas related to her disability (for example, social skills or speech and language), appropriate goals and objectives for each area, and the accommodations, modifications, services, and supports that will be provided to help your child achieve her goals and objectives. As a parent or guardian, you are an equal member of the IEP team, and you will participate in the process of developing the IEP.

The IEP is written to fit the child, not the school. The IEP should be based on your child's unique strengths and needs, which have been identified through the evaluation process. Accommodations, modifications, services, and supports are determined based on what your child needs to achieve her goals and objectives, not what services are available at the school. For example, if your child needs two hours a week of speech- language therapy, the IEP must

provide for two hours a week, even if the school's speech-language pathologist does not have two extra hours in her schedule. If your child needs smaller class sizes in order to be successful, that must be included in the IEP, even if smaller class sizes are not available at the school.

The IEP determines the placement. Once an IEP has been written to fit the unique needs of your child, the team must determine where the IEP can be implemented. By law, your child must be placed in the **least restrictive environment** (LRE) that can meet his needs. This means that your child must be placed in the school he would attend if he did not have disabilities if that school can meet the child's needs as specified in his IEP. If that is not possible, the child's placement must be as much like the regular school as possible. To the maximum extent appropriate, children with disabilities must be integrated into the same classrooms and programs that are attended by children who do not have disabilities.

First, the IEP team will look at your "home school," the school your child would attend if she did not have disabilities. If the IEP can be implemented at the home school with the services that are currently available, the process ends there. If the home school does not have the services your child needs, the team must consider whether changes can be made to make the school appropriate. For example, if your child needs psychological services and the school's psychologist does not have time in her schedule, another psychologist can be brought in. An additional teacher or aide might be assigned to your child's classroom to give him extra help.

If the home school cannot meet your child's needs, even with modifications, the team must consider whether there is another public school in your county that can meet your child's needs. The IEP team should include a representative from your county's central Office of Special Education who is knowledgeable about the different programs in your county.

If there is no public school available that can meet your child's needs, the IEP Team can place your child in a private school for children with disabilities (called a "non-public" school), such as a MANSEF member school. Decisions about non-public placement are often made at a separate Central IEP Team meeting, which you will be invited to attend. **Some children need intensive, specialized services that only a non-public placement can provide, and the child's needs are ultimately what determine the placement.**

What should I do if I don't think the public school placement can meet my child's needs?

First, ask for an IEP Team Meeting and tell the IEP team about your concerns. Often, changes can be made that will make the public placement work. Additional staff and/or assistive technology devices can be added. Staff may need specific training in order to meet your child's needs. **If you have had your child evaluated privately, bringing those outside professionals to an IEP meeting to talk to the team may help.**

If, after working with the IEP team, you still disagree about the appropriate placement for your child, **you can request mediation or a due process hearing.** In mediation, you and school system representatives will talk to a mediator and try to work out a solution. A due process

hearing is like a trial, with an Administrative Law Judge presiding. You can retain an attorney to represent you at the mediation or hearing. The Administrative Law Judge can order the school system to provide particular services or a specific placement to your child, or she can order the school system to hold another IEP meeting to reconsider your child's situation. Either the parents or the school system can appeal due process hearing decisions to state or federal court.

The law requires public school systems to place a child in a separate, non-public school if the public school cannot meet the child's needs and enable the child to learn.

Unilateral placements and important legal notice requirements: Sometimes, parents choose to place their child in a non-public school without the agreement of the IEP team, and then ask the public school system to reimburse them for the cost. This is called a "unilateral placement." **If you choose to make a unilateral placement, you must give the school system written notice of your decision.** This should be in the form of a signed, dated letter to your school's principal stating that you are rejecting the school system's proposed placement and intend to enroll your child in a specific non-public school at public expense. This "notice letter" must include the reasons you don't think the placement offered by the public school system is appropriate and you must ask the local school system to pay for the private placement including tuition, transportation and related services. It is also helpful to give reasons why you believe the non-public school is appropriate for your child. The school system must receive your letter **at least 10 school business days before you remove your child from public school.** Instead of writing a letter, you can also give notice orally at the last IEP team you attend *before* you remove your child from public school. The oral notice must include the same information and requests that are included in a written notice. **Make sure your notice statement is included in the written summary of the meeting.**