

Partnership for Educational Advocacy and Parity (PEAP)

Parent's Guide to Special Education Advocacy

Getting Started

I am concerned that my child may be delayed, but he/she is not yet in school, what can I do?

Early Intervention

- What is Early Intervention?
 - Available for children from ages 0-36 months
 - The way services, education and support are provided to young children who have an established developmental delay, or a high probability of having such a delay

Early Intervention

- How does my child qualify for Early Intervention?
 - Evaluation and Assessment
 - Contact Tennessee Early Intervention Services (1 - 800-852-7157)
 - Ask your pediatrician
 - Contact local school district

Early Intervention

- Eligibility for Early Intervention
 - In Tennessee, eligibility is determined by “qualified personnel”
 - A “multidisciplinary team” determines if the criteria is met for the child to receive services

Early Intervention

- Eligibility for Early Intervention
 - Using appropriate diagnostic instruments
 - The team must find that the child meets the criteria for a developmental delay
 - Diagnosis of developmental delay may be used to get educational services for the child until age 9

Early Intervention

- A child will qualify as developmentally delayed if it is determined that the child meets one of the four criteria that follow:
 - Functions at least 25% below her chronological age in two or more developmental areas, such as cognitive development or physical development; or
 - Functions at least 40 % below chronological age listed above; or

Early Intervention

- A child will qualify as developmentally delayed if it is determined that the child meets one of the four criteria that follow:
 - The child is diagnosed with a physical or mental condition that has a high probability of resulting in a developmental delay- e.g. hearing loss, visual loss prematurity; or
 - The child has been determined to be eligible based on informed clinical opinion...

My child is struggling to learn in school, what can I do?

- Look for signs of learning issues
- Gather information
- Talk to other people that know your child

What are the signs that my child may have a learning disability?

Examples:

- Spelling the same word differently in one paper
- Doesn't want to do reading & writing assignments
- Weak memory skills
- Hard time adapting skills from one setting to another
- Takes a long time to finish work
- Regularly misreading information

If problems like these are persistent and negatively affect daily life, then you may want to consider getting your child evaluated.

How do I gather the right Information?

- Keep copies of all papers sent home from school
- Keep notes with dates in a journal that include the following
 - Social behavior
 - Homework issues
 - Discussions with teachers
- Keep copies of graded assignments, progress reports, standardized tests (like TCAP), report cards and any written comments from teachers

Who should I talk to if my child is struggling in school?

- Talk to your child's teacher
- Teachers are generally the best source of information on how your child is progressing in this classroom
- Teachers can help you find available school resources and come up with ways to address your child's unique needs

How do I know if special education is appropriate for my child?

- There are two criteria that must be met in order to qualify for special education services:
 - The child must have a disability; AND
 - That disability must create a need for special education and related services

How do I know if special education is appropriate for my child?

- There are 13 specific categories of disability under federal law, including autism, orthopedic impairment, serious emotional disorder, and other health impairments
- Tennessee defines a child with a disability more broadly, to include children with a “developmental delay”, “functional delay”, and “intellectually gifted”

If it appears that my child might be eligible for special education services, what do I do?

- Consult with your child's pediatrician
- Request an Evaluation
 - Ask child's teacher for a referral
 - Or make request to school principal
- School District must obtain informed consent from you before it conduct's it's own evaluation of your child
- Federal law requires that evaluation meet particular criteria

How do I know what the evaluation means?

- Schedule an appointment to meet with the evaluation team and ask for all your child's scores to be given as standard scores, grade equivalents, etc.

How do I know what the evaluation means?

- Make an appointment to meet with them again in two or three weeks. During that time study the evaluation carefully, and come up with questions for the team

What if I disagree with the Evaluation?

- You have a right to an independent educational evaluation
- You may be able to get this done at the school's expense

What if I disagree with the Evaluation?

- The School district must either pay for the evaluation, or initiate a due process hearing to prove that their evaluation is adequate

After Determination

What services are available for my child?

- If your child is in public school, your child qualifies for free services under either the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973
- If your child attends a private, non-federally funded school, the school may still be required to provide free accommodations for your child under the Americans with Disabilities Act (ADA).

What services are available for my child under IDEA?

- Under IDEA your child is entitled to an Individualized Educational Plan (IEP)
- An IEP is drafted by an IEP team, this team must include:
 - You, a regular education teacher, a special education teacher, a school representative, someone who can explain the evaluation results, other people who know about the child, and in some cases, the child

What services are available for my child under IDEA?

- An IEP must include:
 - Statement of the child's present level of achievement and functioning
 - Statement of measurable annual goals
 - Description of how progress will be measured
 - When periodic reports will be provided
 - Statement of services to be provided

What services are available for my child under IDEA?

- An IEP must include:
 - Statement of program modifications OR supports for school personnel provided
 - Explanation of extent to which the child will NOT participate in regular class
 - Beginning date, frequency, location, and duration of services and modifications
 - Statewide assessments
 - Transition

What services are available for my child under IDEA?

- Related Services can include: Occupational therapy, speech, social work services, and school health services
- If your child is accused of doing something dangerous in a school, the school may suspend him/her for up to 10 ten days, while the IEP is reconvened
- A child with an IEP may obtain a regular education diploma and can enroll in advanced or college prep courses

What services are available for my child under Section 504?

- Under section 504 your child is entitled to a Section 504 Plan
- A section 504 Plan is a written document developed by 504 Review Committee that includes the following people:
 - 504 coordinator
 - parents
 - and professionals who know about the student.

What services are available for my child under Section 504?

- The 504 Service Plan should identify the child's disability, and describe specific accommodations and/or describe related support services that will be provided to your child in the classroom

How are an IEP and Section 504 Plan Similar?

- Both an IEP and a 504 Plan provide for the following:
 - Free and Appropriate Public Education (FAPE)
 - Assessments in all areas of suspected need
 - Educational Program
 - Accommodations
 - Related services
 - Behavior support plans
 - Procedural safeguards
 - Impartial hearing

**How is Eligibility different for an IEP
and a Section 504 Plan ?**

Example 1

Tommy is eight years old and has been evaluated. The evaluation shows that Tommy has dyslexia and dysgraphia. Tommy is reading far below grade level, his writing skills are very poor, and it is difficult for him to handwrite assignments. The experts have decided that Tommy needs to be taught these skills using a particular learning technique, which is different than the one taught in the school system.

Example 1

IEP

Tommy needs special education services, related services, and modifications

Example 2

Jane is eight years old and has been evaluated. The evaluation shows that Jane has dyslexia and dysgraphia. Jane is reading at or above grade level but she reads slowly. Her handwriting is hard to read and it takes her twice as long to write an assignment as other children, but the substance of her writing is at grade level.

Example 2

Section 504 Plan

Jane might not qualify for an IEP because she doesn't necessarily need special education services. However, she does need accommodations that would allow her to have extra time on tests and assignments. She may also need to be able to type or dictate written work.

How are procedural protections different?

	IDEA	Section 504
Procedural Safeguards	Requires written notice regarding identification, evaluation, and placement. Notice requirements are specifically spelled out. Prior written notice required before any change in placement.	Written notice not required although it is recommended. Notice required before a significant change in placement.

What rights does my child have under IDEA?

- What is the IDEA?
 - The purpose is to guarantee that all children with disabilities get a free appropriate education that is designed to meet their educational needs and help prepare them for future education, finding a job, and living on their own
- What is a free appropriate education (FAPE)?
 - A program designed to provide a meaningful educational benefit to the child

What rights does my child have under IDEA?

- What is the least restrictive environment (LRE) for my child?
 - It means that your child should be in classes with children that are part of the general education program to the maximum extent appropriate
- What are transition services?
 - A coordinated set of activities that are designed to enable a child to move from school to life after high school

What other rights does my child have?

- No Child Left Behind (NCLB) is a law that protects educational rights of students and parents

What other rights does my child have?

- NCLB has provisions that provide for:
 - Annual proficiency testing
 - Research based reading programs
 - Highly qualified teachers
 - Parents' right to know qualifications of their child's teachers
 - Public school choice and supplemental educational services
 - Parent involvement and empowerment

**Once an IEP or Section 504 Plan is in
Place**

How do I make sure the Plan is implemented in my child's classroom?

- The school district must make your child's IEP available to:
 - You
 - Regular education teachers
 - Special education teachers
 - Related service providers
 - Any other provider of services for your child

How do I make sure the Plan is implemented in my child's classroom?

- **Make sure all teachers and providers of related services have a copy of the IEP**

How do I make sure the IEP is implemented in my child's classroom?

- If the school district fails, or refuses to make your child's IEP available to the appropriate teachers and service providers:
 - Give the teachers copies yourself
 - Write a letter to the School District's IEP Compliance Monitor
 - Request an IEP meeting to discuss the problem

How do I make sure the IEP is implemented in my child's classroom?

- After you try these remedies, if the school district fails to comply, you may:
 - File an Administrative Complaint with the Tennessee Department of Education; or
 - Due Process Complaint

Can my child be transferred without my permission?

- The school district must ensure that you are a member of any group that makes decisions about educational placement
- If you disagree with any decision by the group to change your child's placement, you have **14 days** to file a Due Process Complaint to “stay put” that decision
- On day 14 the decision will take effect and be in place until the dispute is resolved

What if my child changes schools?

- To another district in Tennessee:
 - If your child enrolls in a new school in the same year, the new school district must provide FAPE to your child until the new district either:
 - Adopts the previous IEP; *or*
 - Adopts a new one.

What if my child changes schools?

- To another district in a different state:
 - If your child enrolls in a new school in the same year, the new school district must provide your child with FAPE until the new district conducts a:
 - New evaluation; *and*
 - Develops and implements a new IEP.

What if my child is not making Educational Progress under the IEP?

- Create a good “paper trail”
 - Letter writing makes you take the time to carefully consider what you are trying to accomplish for your child
 - Put requests for meetings with teachers or service providers in writing

What if my child is not making Educational Progress under the IEP?

- Create a good “paper trail”
 - Follow-up meetings with service providers and teachers with letters or e-mail
 - A good letter should be written simply, but persuasively
 - Make a copy of all of your letters and keep them in a file.

Educational Records Requests

- How do I access my child's educational records?
 - You have the right to inspect and review your child's education records
 - Requests should be made in writing to your child's school

Educational Records Requests

- If my child's records have incorrect information, what can I do about it?
 - You have the right under the Family Educational Rights and Privacy Act (FERPA) to access your child's records, and seek amendments to those records
 - Schools must consider any request to amend incorrect or misleading information in your child's record

Can I call an IEP meeting?

- Yes, you can.
 - If there is an issue with your child's IEP, you **do not** have to wait until the annual IEP meeting to address it
 - You are a member of the IEP team, and you can call an IEP meeting at any time
 - Upon written request, the IEP team will be convened within ten (10) school days to review or revise your child's IEP

If I disagree with the decision of the IEP team, what can I do about it?

- Exhaust your options with school district first
 - Send letters to teachers, the principal, and school board

If I disagree with the decision of the IEP team, what can I do about it?

- File Administrative Complaint with the Tennessee Department of Education (TDOE)
 - You have one year to file an Administrative Complaint
 - Attach any letters you have sent to the school district to the complaint
 - Good for clear violations of the law
 - Not good for more complex issues, such as promotion or retention, grade assignment, abuse or discrimination

What about filing a Due Process Complaint?

- If all of your efforts to informally resolve the dispute with the school district have been exhausted; **AND**
- The issue is not appropriate for an Administrative Complaint; **OR**

What about filing a Due Process Complaint?

- There is a legal deadline to file Due Process
 - Such as the 14 day “stay put” order, or
 - If the two year statute of limitations is about to run out,
- Then you may want to file a Due Process Complaint

What is Due Process?

- Due Process is a legal proceeding that allows you to file a complaint against the school district on behalf of your child, and present your child's case to an administrative law judge (ALJ) in a hearing

What is Due Process?

- You may file a due process complaint on any matter relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to that child

What is Due Process?

- If you can show that the school district failed to provide your child with FAPE, the ALJ can award your child *educational compensation*

What if my child is not receiving the services in her Section 504 Plan, or the school district is refusing to provide any services at all?

- Section 504 of the Rehabilitation Act is an anti-discrimination law
- It protects children with disabilities from being treated differently and unfairly as compared to children without disabilities
- While IEPs are not required under Section 504, there should be a written plan with the agreed upon services and accommodations in it

What if my child is not receiving the services in her Section 504 Plan, or the school district is refusing to provide any services at all?

- If the school refuses to provide agreed upon services or accommodations to your child, or discontinues services without notice, you should contact the services provider immediately
- Send a copy of the letter to the principal of the school to put them on notice

What if my child is not receiving the services in her Section 504 Plan, or the school district is refusing to provide any services at all?

- If the services or accommodations are still not provided to your child, you should put the school district on notice by sending a letter to Shelby County Schools
- If you follow through with the school district's grievance procedure, and the district still refuses to provide the services or accommodations that your child needs, you may want to file a complaint with the Office of Civil Rights (OCR)

How do I file a complaint with the Office of Civil Rights (OCR)?

- If you believe that you or your child has been discriminated against because of his/her race, color, national origin, *disability*, sex or age by the school district, you may file a complaint for yourself, your child, or for someone else

How do I file a complaint with the Office of Civil Rights (OCR)?

- You are not required to use the school district's grievance process before you file a complaint
- You must file the complaint within **180 days** of the last act of discrimination.

How do I file a complaint with the Office of Civil Rights (OCR)?

- You may file the Complaint either electronically or by mail
- You will be contacted by an investigator, who will interview you (and your child if appropriate) and guide you through the remainder of the process.

Legal Disclaimer

- **THIS PRESENTATION IS NOT LEGAL ADVICE**
- The information in this presentation is provided as a public service for information purposes only, it is not legal advice and should not be relied upon in such a manner. You should consult a lawyer to address the specific circumstances of your matter. Legal advice cannot be provided in group settings or in a brief presentation.