

FACTS *for* FAMILIES

No. 83

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SERVICES IN SCHOOL FOR CHILDREN WITH SPECIAL NEEDS: WHAT PARENTS NEED TO KNOW

Some children experience difficulties in school, ranging from problems with concentration, learning, language, and perception to problems with behavior and/or making and keeping friends. These difficulties may be due to one or more of the following: physical disorders, psychiatric disorders, emotional problems, behavioral problems, and learning disorders (or disabilities). These children with special needs are usually entitled to receive special services or accommodations through the public schools. Federal law mandates that every child will receive a free and appropriate education in the least restrictive environment. To support their ability to learn in school, three Federal laws apply to children with special needs:

- The Individuals with Disabilities Education Act (IDEA) (1975)
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act (ADA) (1990).

Different states have different criteria for eligibility, services available, and procedures for implementing the laws. It is important for parents to be aware of these laws and regulations in their particular area.

The Laws

IDEA is a federal law (1975, amended by the Office of Special Education Programs in 1997) that governs all special education services for children in the United States. Under IDEA, in order for a child to be eligible for special education, they must be in one of the following categories: serious emotional disturbance, learning disabilities, mental retardation, traumatic brain injury, autism, vision and hearing impairments, physical disabilities, and other health impairments.

Section 504 is a civil rights statute (1973) that requires that schools not discriminate against children with disabilities and provide them with reasonable accommodations. It covers all programs or activities, whether public or private, that receive federal financial assistance. Reasonable accommodations include untimed tests, sitting in front of the class, modified homework and the provision of necessary services. Typically, children covered under Section 504 either have less severe disabilities than those covered under IDEA or have disabilities that do not fit within the eligibility categories of IDEA. Under section 504, any person who has an impairment that substantially limits a major life activity is considered disabled. Learning and social development are included under the list of major life activities.

The ADA (1990) requires all educational institutions, other than those operated by religious organizations, to meet the needs of children with psychiatric problems. The ADA prohibits the denial of educational services, programs or activities to students with disabilities and prohibits discrimination against all such students.

Evaluation of Your Child

As a parent, you may request an evaluation of your child to determine his or her needs for special education and/or related services. The evaluation may include psychological and educational testing, a speech and language evaluation, occupational therapy assessment and a behavioral analysis. These are the steps you need to take:

1. Meet with your child's teacher to share your concerns and request an evaluation by the school's child study team. Parents can also request independent professional evaluations.
2. Submit your requests for evaluations and services in writing. Always date your requests and keep a copy for your records.

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3. Keep careful records, including observations reported by your child’s teachers and any communications (notes, reports, letters, etc.) between home and school.

The results of the evaluation determine your child’s eligibility to receive a range of services under the applicable law. Following the evaluation, an Individualized Education Program (IEP) is developed. Examples of categories of services in IEPs include: Occupational Therapy, Physical Therapy, Speech and Language Therapy, and/or the provision of a classroom aide.

Parents do not determine whether their child is eligible under the law, however, parents are entitled to participate in the development of the IEP. Additionally, the findings of school’s evaluation team are not final. You have the right to appeal their conclusions and determination. The school is required to provide you with information about how to make an appeal.

What a Parent Can Do

Children with special needs are guaranteed rights to services in school under federal and state laws. Parents should always advocate for their child, and must be proactive and take necessary steps to make sure their child receives appropriate services. The process, however, can be confusing and intimidating. Here are some tips:

- Parents should request copies of their school district’s Section 504 plan. This is especially important when a school district refuses services.
- If the school district does not respond to your request, you can contact a U.S. Department of Education Office of Civil Rights Regional Office for assistance.
- If the school district refuses services under the IDEA or Section 504 or both, you may choose to challenge this decision through a due process hearing. (A legal hearing in which you and your child have an advocate who can express your views and concerns.)
- It may also be necessary to retain your own attorney if you decide to appeal a school’s decision.
- Other resources for parents include: the State Department of Education, Bazelon Center for Health Law at www.bazelon.org.

For additional information see *Facts for Families*: #06 Children Who Can’t Pay Attention/ADHD, #11 The Child With Autism, #16 Children With Learning Disabilities, #23 Mental Retardation, #69 Asperger’s Disorder, #74 Advocating for Your Child.

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