

# Parents Can Be the Key

*A Handbook on Rights and Responsibilities in Special  
Education for Parents of Children with Disabilities*



FIRST EDITION

This manual was developed by the Parent Information Center of Delaware with support from the Delaware Department of Education, Exceptional Children and Early Childhood Education Work Group.

*Graphics legend*

- Written document letter or notice ..... 
- Regulated time frame ..... 
- Parent must agree ..... 
- Question ..... 

**Who is considered a PARENT under the IDEA?**

A parent of a child with a disability can include a natural or adoptive parent, a guardian of the child, unless the State has assumed the responsibility, or a person acting in place of a parent such as a grand or step-parent with whom the child lives, or a person legally responsible for the child’s welfare. A parent may also include an Educational Surrogate Parent (ESP). An ESP is a trained volunteer who is appointed to advocate for a child who is in state custody, such as foster care, and whose parents are unable or unwilling to advocate for them (for more information, see the Useful Resources at the end of this brochure). For the purposes of this manual, we have used the generic word of parent to refer to any of the above.

*First Edition April 2004*



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Parents have a key role in their children's education

Dear Parents,

I am pleased to introduce this guide to special education services in Delaware. Parents who participated in a state assessment of special education services identified the need for such a booklet or guide for Delaware parents of children with disabilities. I believe everyone wins when parents, teachers, and even the students have a common understanding of special education services under the Individuals with Disabilities Education Act. I hope this guide is useful to you and your child as you move through the school system.



Martha A. Brooks, Ed.D.

State Director of Special Education

**As a parent, you know your child in a way no one else does.**

You are an expert about your child and a key member of the team that plans your child's education. *You, as a parent, can be the key to an appropriate education for your child.*

You have important and unique information to share about your child's needs and abilities and how they should be considered in your child's education. You can also take action to make changes when needed. However, *to be an effective advocate, you must know your rights and those of your child and you must be familiar with the education policies and processes in our state.* Exercising these rights and fulfilling your responsibilities are important steps in supporting your child on his or her journey through public education.

This book offers an overview of the special education process and services in Delaware. It has been designed so that you can skip to information that is important to you. For further information or individual assistance, contact the Delaware Department of Education or the Parent Information Center of Delaware. *(Contact numbers can be found in the appendix.)*

## Special Education Services

*What is the purpose of special education?*

In 1975, the U.S. Congress passed the first law (PL 94-142) to ensure that children with disabilities have access to and benefit from a free, appropriate public education. This law is now called the Individuals with Disabilities Education Act (IDEA), and continues to give children with disabilities opportunities to achieve at high levels, to prepare for post-secondary education, quality employment and community living. The most recent amendments to this law were written in 1997 to increase services to children and strengthen the involvement of parents in planning for their children's education.



Children who receive special education and related services are entitled to a Free, Appropriate Public Education (FAPE). This includes opportunities for children to participate in the school's general curriculum and to make progress toward meeting annual goals. Children who receive special education and related services must also have opportunities to take part in other typical school activities that are appropriate to their individual needs.

*Free and Appropriate Public Education*

*What disabilities are covered under the IDEA?*

Under the IDEA, "a child with a disability" is a child who may have one or more of the following disabling conditions:



- *Autism*
- *Deafness, including Hearing Impairment*
- *Deaf Blindness*
- *Emotional Disturbance*
- *Mental Retardation*
- *Multiple Disabilities*
- *Orthopedic Impairment*
- *Other Health Impairment*
- *Specific Learning Disability*
- *Speech or Language Impairment*
- *Traumatic Brain Injury*
- *Visual Impairment, including Blindness*

Some children have disabilities that are not visible or obvious, such as Attention Deficit [Hyperactivity] Disorder (ADD/ADHD) or depression. *If a disability interferes with learning, a child may be eligible for special education services.*

The term *developmental delay* may be used for some children under age four years if there is not a clear indication of a disability as described above.

Disability classifications under the IDEA are for educational purposes only. A classification should never determine what type of services a child will receive, or where those services will be provided.

Remember, regardless of whether or not a child has a particular medical diagnosis, once eligibility is determined, the IEP team decides on the appropriate educational classification. It is the eligibility, not a particular education classification that opens the door to special education services. The IEP must be developed based on identified needs and not on a particular classification or diagnosis. Educational classification or a medical diagnosis does not determine what services are provided or where a child might be placed. The unique needs of the child determine the special education and related services that are provided so that educational progress can be made.

*At what age can a child receive special education services?*

In Delaware, schools are required to serve eligible children until the end of the school year of their 21st birthday or graduation from high school, whichever comes first. Eligible children ages birth-to-three receive services from the Division of Public Health's Child Development Watch program.



*What are special education and related services?*

Under the IDEA, *special education* means “specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability.” It can be provided in the classroom, in a home, hospital or institution, or other settings; it also includes instruction in physical education. These services are provided by qualified, licensed personnel and consist of special teaching materials and techniques. Special education services may sometimes require the use of special equipment or facilities.





*Related services* most often are: Transportation and such developmental, corrective, or other support services as may be required to assist a child with a disability to benefit from special education. Other related services may include:

- *Speech-language pathology and audiology services*
- *Physical and occupational therapy*
- *Recreation, including therapeutic recreation*
- *Counseling and psychological services, including rehabilitation counseling*
- *Parent training*
- *Orientation and mobility services*
- *Social work in schools*
- *Medical services for diagnostic and evaluation purposes only*
- *Assistive technology devices and training*

Supplementary aids and services that benefit a child should always be considered and must be provided to the child at no cost to the parent.

If the school chooses to use third party payments (insurance), it can only do so if it won't cost the parent anything, now or in the future.

*Special education and related services may include direct or indirect services.*

*Direct services are those delivered directly to the student by a special education teacher or a related-services professional.* Special education staff provide indirect services to regular education teachers, parents, or others who have direct contact with the student. Indirect services include: consultations, ongoing progress reviews, accommodations in the environment, curricula, materials, equipment and monitoring, and observing, and reviewing of the student's progress.

Children who attend private school may receive some special education services such as speech-language therapy from the public school system. If and how those services are provided will depend on individual school district policy.

## Evaluation

*How do I start the process?*

Under a process known as *Child Find*, school districts and charter schools have a legal obligation to identify, locate, and evaluate all children with disabilities who live in their boundaries, or attend a charter school, and may need special education and related services. This includes children who attend private schools.



When a child has a disability, or is suspected of having a disability, and may need special education and related services, a referral for evaluation should be made. A *referral* is simply a request to the school, or school district, to have a child evaluated. A referral can come from the child's parents, from school personnel, a community agency, or a professional.



Whether a child attends a public or charter school, it is best that parents *make their request for an [educational] evaluation in writing to their building principal.* They should also send a

copy of their request to the district special education director and keep a copy for their own records. If a child attends a private or religious school, a letter should be addressed to the local school district's special education director. In all cases, the public agency (school or school district), after receiving a parent's written permission, shall conduct a full, free, and individual initial evaluation, before considering to provide special education and related services to a child with a disability.

Once the building principal or the district special education director has received a request and a parent has given permission for an initial evaluation, a meeting to determine eligibility must take place within 45 school days or 90 calendar days, whichever comes first. An evaluation consists of collecting and interpreting information to decide whether a referred child needs any special education and related services in order to learn. An evaluation should identify what your child does well in addition to what is difficult for him/her.



People often think of tests when they hear the word evaluation. Special education evaluation involves more than just tests. Professionals may observe your child, administer tests, and use other procedures such as interviews to assess your child in areas such as:

- *Speech and language abilities*
- *Sensory functioning (e.g., vision and hearing)*
- *Emotional and social functioning*
- *Vocational interests and ability*
- *Potential or aptitude (intelligence)*
- *Motor skills*
- *Academic achievement*
- *Functional skills*



An evaluation must look at a child in all areas of “suspected” disability and should identify all areas of need. Although tests are an important part of an evaluation, information provided by parents and those who are familiar with the child is equally important. That information can include:

- *Observations by staff who have worked with the child*
- *Medical information when it affects school performance*
- *Recent tests (less than 2 years old) that may be important in determining a child’s need for special education services*
- *Parent input about the child’s school experiences, abilities, and behaviors in other settings, and feelings about school*

*All tests must be given to a child individually and in the child’s primary language or mode of communication. Tests should not discriminate based on disability, race, or culture. Qualified professionals who have knowledge in the suspected area of disability must perform tests, observations, and evaluations.*

This includes assessing your child’s general health, social and emotional well-being, general intelligence, communication and motor abilities.

*There are reasons why a child may not be found to be eligible for special education and related services*

For instance:

A child who has not had the right instruction, or whose first language is other than English, or who may need additional services, but not special education.

A particular test or a recommendation by a doctor or therapist may provide important information, but will not automatically qualify a child for special education services.

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### *What are pre-referral interventions?*

When a child, who is already enrolled in school, experiences difficulties with learning or behaviors, he may be referred by his teacher to the school's instructional support team (IST). By doing so, the teacher enlists the help of the instructional support team to assist them in finding different instructional strategies or solutions to a child's learning or behavior problems. Depending on the outcome of those strategies, the instructional support team may refer the child for an initial evaluation to determine eligibility and possible need for special education services. If the instructional support team determines that a child should be evaluated, the parent should then be notified within 10 days of the team's recommendation.



### *What if I disagree with the school's evaluation results?*

If you disagree with the school/district's evaluation results, you must tell them so in writing. You may then request an independent educational evaluation (IEE) for your child. Qualified professionals, not employed by the school/district, should conduct an IEE. When you request an IEE, the school has two choices:



- 1. To provide an independent educational evaluation (IEE) at no cost to parents, or*
- 2. To initiate a timely [due process] hearing to show that its evaluation is appropriate.*

If the results of the due process hearing agree with the school/district's findings, parents still have the right to an independent educational evaluation (IEE), but at their own expense.

### *How often are children evaluated?*

Children who are eligible for special education must be reevaluated at least once every three years, or more often, if necessary.



*Reevaluation does not always mean more testing.* If you have new information about your child, or are concerned that his/her needs are not being met, you may ask for a reevaluation. A number of measures show whether children make progress. Examples of those measures include: Progress on IEP short term objectives, benchmarks and goals, tests teachers use with all children, and performance on state and district-wide assessments.

### *What is a functional behavioral assessment?*

Sometimes a child has behavior problems that don't respond to common interventions. A functional behavioral assessment can help the IEP team understand why a child behaves in certain ways and plan more effective interventions.



A typical functional behavioral assessment includes the following:

- *Clear description of the problem behavior.*
- *Observations of the child at different times and in different settings.*

These observations should record:

- *What was happening around the child before the behavior occurred.*
- *What the actual behavior was.*
- *What the student accomplished as a result of the behavior. (e.g., getting sent to the principal's office to avoid doing work in class)*
- *Positive intervention strategies used to teach appropriate behavior.*

Once the functional behavior assessment has been completed, the results should be used to write a positive behavior support plan and to develop behavior goals for the individualized education program.

*Parents or school staff may request a functional behavioral assessment as part of a child's evaluation or reevaluation.*

A functional behavioral assessment must be given when a child, who receives special education, is removed from his or her educational program for more than 10 school days in a school year because of behavioral problems.



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## How can parents play a role in the evaluation process?

- Read information the school/district gives you.
- Ask for explanations if you don't understand the information the school/district gives you.
- Respond to the school/district's request for signed permission promptly.
- Share important facts about your child with the school/district.
- Ask the school to explain evaluations and assessments to you and give you copies.



## How will the school let me know about actions they take?

The school/district must inform parents through *prior written notice*.



Notice must be understandable and provided to parents in their native language or usual mode of communication, unless it is impossible to do so. Notice must be given within 10 business days unless parents and school/district agree otherwise. Notice is required before the school/district proposes to:

- Initiate or refuse to initiate services.
- Change the identification, evaluation, educational placement, or provision for a free, appropriate public education (FAPE) for a child.



When a child's placement needs to be changed for disciplinary removal, the notice to parents must be given within 3 business days.



## When does the school need my approval?



Parents must give signed approval before their child's first special education evaluation and before special education services begin. In the case of reevaluations, parent approval is usually not required before reviewing current information. However, parental approval is required when a new test is given, or not given, to all children. If a parent does not give approval for reevaluation, the school/district must show that it has tried to inform the parent, and has asked for his/her approval. If for some reason, and after several attempts, the school/district cannot get the parents' approval, it may proceed with the evaluation.



## The Individualized Education Program

Once a child has been determined eligible for special education and related services, the school/district must put together a team of individuals knowledgeable about the child. This team will be knowledgeable about the child's disability and specific special education methods and programs.



*This team, which must also include the parent, has to meet within 30 calendar days after a child has been determined eligible for special education and related services. Any time after the initial meeting, the team must meet at least annually.*



In cases where children transfer between agencies, between schools or from out-of-state, the school must hold an IEP meeting within 30 days for in-state transfers and 60 days for out-of-state transfers.

*The individualized education program (IEP) is a written plan that describes the educational program and related services designed to meet a child's specific needs. A team at a meeting develops it, and its components are based on the present levels of educational performance (PLEP) which are summary statements of a child's abilities in assessed areas.*

*Every child who receives special education and related services must have an IEP. The child's parents must be invited to help develop the IEP, and must be given a copy when it is completed. In addition, the IEP must:*

- *Be implemented as soon as possible after the IEP development meeting.*
- *Be accessible to all the teachers and others who are responsible for putting the IEP program into action, including general education teachers.*
- *Be in effect at the beginning of each school year.*
- *Be reviewed at least once a year to determine whether the annual goals are being achieved and to determine if additional needs have to be addressed.*

*Because every child is unique, each IEP should be, too. Your child's IEP must be based on his or her assessed needs and tailored to fit your child.*

### *Individual family service plan*

For a child between the ages from birth-to-three years, an Individualized Family Service Plan (IFSP) is used instead of an IEP. An IFSP requires that the team look at the concerns, priorities, and resources of the family as they relate to the child's development. The agency responsible for providing services to children ages birth-to-three in Delaware is the Division of Health and Social Services. If your child is under age three, another manual provided by the Division's Birth-to-Three Program is available for parents. (Please look in the Appendix about getting a copy).

*While the IFSP's focus is on the family and the child, the IEP focuses strictly on the child.*

### *Who is included in the IEP meeting?*

Schools must ensure that the IEP team for each child with a disability includes:

- *The child's parent(s).*
- *The child's regular education teacher (if the child participates in regular education).*



- *The child's special education teacher.*
- *A representative of the school district who is qualified to provide or supervise special education services and is knowledgeable about the general curriculum; and who can commit that services set out in the IEP will actually be available and provided.*
- *Someone who can explain based on the evaluation, what kind of instruction the child will need and how he or she should be taught. (This may be one of the above people.)*
- *Others, at the discretion of parents or school staff, who have knowledge or expertise regarding the child, including related services staff or a support person for the child and parents.*
- *The child, when appropriate.*

### *IEP for students of transition age*

Transition planning from school to post-school outcomes must be a part of the IEP for any child in eighth grade or age 14 years. The school/district must invite the student to the IEP meeting when transition needs and services are discussed. If the student does not attend, the school must ensure that his or her preferences and interests are considered. This can be done by using interviews or questionnaires.

*School/districts use additional forms to collect information about children who are of transition age.*

Schools/districts must also invite representatives of any other agencies likely to be responsible for transition or post-school programs. If an agency does not send a representative, the school/district must take other steps to get participation. For example, by scheduling another meeting.

*Who is responsible for inviting representatives to the IEP meeting?*

The school/district is responsible for inviting those individuals who should be a part of the IEP process. Parents may bring anyone they choose to the meeting, as long as that person has knowledge and expertise about the child.



*As a courtesy, parents should always tell the school when they have invited an additional person to their child's IEP meeting.*

*What must be considered in developing an IEP?*



When developing an IEP, the team must consider:

- *The child's strengths, needs, and preferences, and the parents' concerns for their child's education.*
- *The results of the initial or most recent evaluation.*
- *The results of the child's performance on any statewide or district-wide assessments, as appropriate.*

The IEP team must also consider special factors:

- *The team must consider the child's communication needs.*
- *For a child whose behavior interferes with learning, the team must consider strategies to address the behavior, including positive behavior interventions and supports.*
- *For a child whose first language is not English, the team must consider the child's language needs.*
- *For a child who is deaf, hard of hearing, or nonverbal, the team must consider the child's language and communication needs, opportunities to communicate with others in the child's language or communication mode, the child's academic level, and need for direct instruction in the child's language and communication mode.*
- *The team must consider the child's needs for assistive technology devices and services.*
- *For a child who is blind or visually impaired, the IEP team must provide for instruction in Braille and the use of Braille, unless the IEP team determines it is not appropriate for the child.*

## What must be included in an IEP?



The IEP for each child must include the following:

- *Descriptions of the child's present levels of educational performance (PLEP) and how the child's disability affects involvement and progress in the general curriculum.*
- *Measurable annual goals, including benchmarks or short-term objectives, for meeting the child's needs that result from the disability, so the child can participate and make progress in the general curriculum.*
- *A description of the special education and related services, supplementary aids, and services to be provided to the child, and a description of the program modifications and, if necessary, supports for school personnel to better assist the child.*
- *A description of special education and related services and other supports so that the child can advance toward annual goals, progress in the general curriculum, participate in extracurricular and nonacademic activities, and be educated with and participate in activities with typical peers.*
- *A statement that shows the extent to which the child will not participate with children in regular education classes or extracurricular activities.*
- *Any modifications or accommodations needed for the child to participate in state-wide and district-wide assessments, or a statement of the type of [alternate] assessment to be used if the team determines that a child cannot participate in the standard assessments.*
- *The date services and modifications begin, including how often, when and where those will be provided.*
- *A description of how progress toward annual goals will be measured, and how parents will be regularly informed of the child's progress. Parents of special education students must be informed of their child's progress at least as often as parents of children who do not have disabilities.*

• For students who are 14 years old or in eighth grade, the IEP must address the student's transition service needs. Transition services may be provided earlier if the team decides the child needs them.

• At least one year before the student turns 18 years of age, the IEP must show that both the parents and the student have been informed that parental rights will transfer from the parents to the student at age 18, unless a legal guardian has been appointed. Both the parents and the student will continue to receive special education notices after the transfer of rights occurs.

• A consideration of the need for Extended School Year Services (ESY).

*Children with disabilities must participate in general state-wide and district-wide assessment programs, with appropriate accommodations and modifications.*

*Where and how will the IEP be implemented?*



All students with disabilities must receive special education services in the least restrictive environment (LRE). This means that your child must be educated, to the maximum extent appropriate, with children who don't have disabilities. Schools must apply the LRE concept when planning services or programs for children with disabilities. To be sure all children with disabilities receive services with the fewest restrictions possible, a variety of settings or placements must be available. For example, special education and related services for children ages birth-to-three years may be provided in the child's home, child care center, or other places where infants and toddlers without disabilities are typically found. Once the child turns three years of age, services may continue to be provided in similar community settings including preschools or programs like Head Start.



School districts may also provide services in their own programs. Districts must consider the least restrictive environment (LRE) for young children who have disabilities so that there are opportunities for them to interact with peers who do not have disabilities.

*Special education for school-aged children may be provided in a number of settings:*

- *A regular setting such as a general education classroom for children with disabilities who are outside of the general education classroom no more than 21% of the school day.*
- *Special education classes in both a general education classroom and outside the regular classroom (i.e. a Resource Room) for children outside of the general education classroom between 21% and 60% of the school day.*
- *A special education classroom in an integrated school setting for children who are outside the general education classroom for more than 60% of the school day.*
- *A separate day school for children who spend more than 50% of their day in the separate day school program.*
- *A homebound or hospital placement, for children who, for health or other reasons, cannot attend any of the above described programs but are still entitled to a free and appropriate public education.*

### *Educational placement*

The educational placement for a child must be determined by the IEP team.

The educational placement is:

- *Reviewed at least annually.*
- *Based on the child's IEP.*
- *As close to the child's home as possible.*

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- *In the least restrictive environment after due consideration that such placement will not have a potential harmful effect on the child or the quality of educational and related services.*
  - *The delivery of program and services in an age-appropriate regular classroom with needed modifications and accommodations to the general curriculum.*
  - *Not based on availability of services or funds.*
  - *Not based on a medical or educational diagnosis.*
  - *Not based on administrative convenience.*
  - *Not based on availability of transportation.*

## *How can parents contribute to the IEP process?*



### *Before the meeting*

- *Review your child's evaluation information and records. You can always inspect and review your child's records and the school/district should meet with your request to do that within 45 days. You can ask that a qualified person explain the evaluation results before the meeting.*
- *Make notes about what information you want to bring to the meeting, such as observations about your child's strengths and the goals you would like your child to work on.*
- *The school/district may bring a draft IEP to the meeting to which changes and additions can be made.*
- *Involve your child in his or her IEP. Talk with your child about his or her feelings about school. Plan your child's involvement in the IEP process, taking into consideration your child's age and specific strengths/needs.*



• You may take a relative, a friend, another parent, or a special education advocate to the IEP meeting. If you feel your child could benefit from a person with particular expertise in a specific area, you may invite such a person as well.

• If transition will be discussed at the IEP meeting, be sure to talk to your child about his or her dreams and aspirations for the future, along with his/her current interests, needs, and skills.

• Consider observing your child in his/her classroom before the meeting.

### At the meeting and after...

• Contribute ideas and information to the IEP planning process. Share your visions for your child, both short-term and long-term. Discuss your child's strengths and needs and your expectations for your child's education. Expect that what you know about your child will be used in making decisions.

• Be a good listener.

• Ask if you don't know or understand.

• Make sure you understand. If you do not understand something, ask to have it explained in a way that you can understand.

• Use school information, your child's progress reports, and things you know about your child to make decisions.

• Carefully read the IEP and be sure that everything the team discussed and agreed to is included.

• If you are comfortable with the IEP that has been developed and reviewed at the meeting, you will be asked to sign it. This will indicate that you participated in the meeting and that you agree with the plan.

- *If you wish, you may take the IEP document home to review or ask that a copy be sent to you. If you are unsure, you have a reasonable amount of time to review and approve the IEP before returning it to the school/district.*
- *If you disagree with some or all of the IEP, you must let the school/district know which portions of the IEP you disagree with, and how you would like the team to address your concerns.*
- *If you don't let the school know that you have concerns, then the school will assume you agree and will go ahead and follow the IEP as written.*
- *It is best to put your concerns in writing.*

## Conflict Resolution

*What can I do when I don't agree with the school?*

Parents have the right to disagree with the school/district's decisions concerning their child's evaluation, IEP, or educational placements. Some situations where you the parent and school personnel should meet to resolve disagreements:



- *You refuse consent for an evaluation or you don't agree with the school/district's evaluation of your child.*
- *You disagree with the IEP or portions of it and have said so in writing.*
- *You believe your child is not receiving appropriate special education and related services and is not making reasonable progress.*
- *You think additional services are needed.*
- *You do not think the educational placement is appropriate for your child.*





*When parents and schools/districts disagree, it is important first to try to resolve differences informally. Ask the school/district for its written recommendations. If you disagree with the school's recommendations, you or the school district can use one or more of the following options:*

### *Facilitated Individualized Education Program meeting*

A facilitated IEP meeting is an IEP meeting that uses an outside neutral party who is trained to be a meeting facilitator. This can be a useful service to request when your IEP team is having difficulties that prevent it from agreeing about one or more issues concerning the IEP. The facilitator's role is to help team members improve communication and come to an agreement that is acceptable to all members of the team. Parents can request this free service from their school/district.

### *Mediation*

Mediation is another process to resolve disagreements between parents and school personnel. It is provided at no cost to parents or the school/district. Both parties must agree to mediation, and it cannot be used in place of a due process hearing. A neutral trained mediator will facilitate the meeting to help both parties resolve their disagreements. The mediator is not a decision-maker; rather, he or she works to help parties find a solution agreeable to both sides. Information about mediation is available from the Delaware Department of Education and the Parent Information Center of Delaware.

*When parents request a due process hearing, the Department of Education will automatically provide information about mediation services.*

### *State administrative due process hearing*

If parents are unable to resolve differences with their school/district they may request a due process hearing at any time. A due process hearing is more formal than a facilitated IEP meeting or mediation, and the parties may be represented by attorneys. In Delaware, an impartial three-member panel composed of the hearing officer (attorney), community representative,



and educator not associated with the school district, hears both sides of the disagreement and issues a written decision within 45 calendar days of the hearing request. \*To request a due process hearing, you must send a letter to the Delaware Secretary of Education, or you can request such a hearing by using a form available on the Delaware Department of Education <http://www.doe.de.us>. (You must still send the signed form to the Delaware Secretary of Education). Before requesting a hearing, you may want to discuss your concerns with a special education advocate or attorney.



You may ask the school district or the Department of Education for a list of free or low-cost attorneys. Parents must also be told that federal law (IDEA) allows them to recover reasonable attorney's fees, if they prevail in a special education due process hearing, providing the court approves the fee.

Unless the school district and the parents agree otherwise, a child will stay in their current educational placement for the length of the due process hearing/proceedings.

If the complaint involves an application for initial admission to a public school program, the child, with the approval of the parents, will be admitted to such a program for the length of the due process hearing/proceedings.

*\*The hearing panel may grant a time extension.*

*Can the panel's decision be appealed?*

Delaware is considered a "one tier" state, which means that it offers one level of administrative hearings. Parents can appeal the due process hearing decision by filing a civil action in Federal District Court or in Delaware Family Court. Such an appeal must be filed within 30 days of the due process panel's decision.





## *State administrative complaint procedure*

A complaint is a claim that a school district is out of compliance with state and federal special education law (Title 14 of the Delaware Code or the federal IDEA law.) For example:

- *The district is not providing services agreed upon in the IEP;*
- *A teacher fails to provide accommodations that are part of the IEP;*
- *A parent is told the school does not provide Extended School Year (ESY).*

Parents should first contact their school/district with their concern to see if the problem can be resolved before filing a complaint. A complaint may be filed by any individual (parent, teacher, or other person). Complaints should be addressed in writing to the state Director of Special Education at the Department of Education. The Administrative Manual for Special Education Services (\*AMSES) has further information about special education regulations including the administrative complaint process.

## *Procedural safeguards notice*

Parents must be fully informed by the school/district of all the rights provided to them and their child under both state and federal law (title 14 of the Delaware Code or the federal IDEA law) and of the procedures that are in place to safeguard their rights. Schools must give parents a copy of the procedural safeguards and must ask them if they understand those rights.

\*You may order a copy of the AMSES from the Delaware Department of Education.

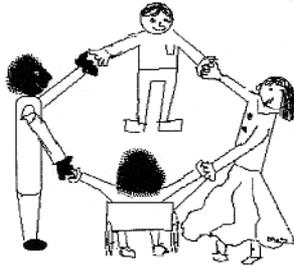
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# Acknowledgements

Special thanks to:

- *Members of the Parent Involvement Committee of the Partners Council for Children with Disabilities for their invaluable input.*
- *Parent Information Center of Delaware*
- *Delaware Department of Education, Exceptional Children/Early Childhood Work Group*

Additional information for this booklet was taken from “Parents are the Key”, 20th Edition PACER Center and the Delaware Administrative Manual for Special Education Services.



First Edition April 2004



*NOTES*

## Appendix Useful Resources

### **Delaware Department of Education**

Information about special education practices and process in Delaware. Including: The Administrative Manual for Special Education Services (free) Up-to-date information — school/districts profiles and activities Complaint procedure forms that can be downloaded from the website

John G. Townsend Building  
401 Federal Street  
P.O. Box 1402  
Dover, DE 19903-1402  
302-739-4601 Voice  
302-739-4654 Fax  
<http://www.doe.state.de.us/>

### **Parent Information Center of Delaware, Inc. (PIC)**

Information, education, advocacy, support, problem solving and referrals for families of children with disabilities and special needs.

PIC Main Office  
5570 Kirkwood Highway  
Wilmington, DE 19808  
302-366-0152 Voice  
302-366-0276 Fax  
Toll free for families: 1-888-547-4412  
web: [www.picofdel.org](http://www.picofdel.org)  
e-mail: [picofdel@picofdel.org](mailto:picofdel@picofdel.org)

PIC City of Wilmington  
3707 N. Market Street  
Wilmington, DE 19802  
302-764-3252 Voice  
302-764-3371 Fax

PIC Kent & Sussex Counties  
109 N. Bedford Street  
Georgetown, DE 19947  
302-856-9880 Voice  
302-856-9882 Fax

### **Delaware Department of Health and Social**

**Services (DHSS) Part C/Child Development Watch Birth to Three Program** Information about services for children ages birth to three with developmental delays or disabilities. A family guide to services is available.

### **Child Development Watch (CDW)**

New Castle County  
1901 N. duPont Highway  
New Castle, DE 19720  
302 255-9135 Voice  
302 255-4407 Fax

Kent/Sussex County  
18 N. Walnut Street  
Milford, DE 199631  
302-422-1335

### **CDW Spanish Assistance**

Statewide 1-800-221-2266  
(a translator will assist you in talking with CDW Office) Kent/Sussex County 302-424-5310

### **U.S. Department of Education**

Information about the IDEA and best practices in special education Office of Special Education Programs Office of Special Education and Rehabilitative Services  
400 Maryland Avenue,  
S.W. Washington, DC 20202  
202-205-5507 Voice  
<http://www.ed.gov/offices/OSERS/OSEPin dex.html>

**NICHCY** Dissemination Center for children with disabilities. Information and handouts about disabilities and special education  
P.O.Box 1492  
Washington, DC 20013  
1-800-695-0285 Voice  
202-884-8200 Voice  
<http://www.nichcy.org/>

### *Useful websites*

Delaware Department of Education  
<http://www.doe.state.de.us/>  
US Department of Education, <http://www.ed.gov/>  
IDEA Practices, <http://www.idea.practices.org/>  
Parent Information Center of Delaware  
<http://www.picofdel.org/>  
National Alliance for Parent Centers, [www.pacer.org](http://www.pacer.org)  
Federal Resource Center for Special Education  
[www.dssc.org/frc/regs99btm](http://www.dssc.org/frc/regs99btm)  
Special Ed Advocate, <http://www.wrightslaw.com/>



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*Delaware*



*Department  
of Education*

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