

The Basics of an IEP and Procedural Safeguards



Objectives for Today

- IEP basics
 - Steps
 - Requirements
- Procedural Safeguards
 - Parental Rights, Responsibilities, Resources





Special Education

...specially designed instruction at no cost to parents, to meet the unique needs of a child with a disability



Child Find

- Schools are responsible for locating children with disabilities in the school district
- Schools must evaluate children suspected of having a disability



Referral

- **Referral.** The school may ask to evaluate your child. The request is made in writing.
 - You may say *Yes* or *No* to the request.



Referral continued

- Referral. Parents may ask in writing for an evaluation.
- The school district may say-
 - Yes. Written notice and written consent
 - No. Written notice and rights
- Let's try something else first.
 - Different teaching method
 - Accommodations



Evaluation

- Initiated by school staff, parents, or by referral
- Full and individual evaluation
 - To see if your child has a disability and needs special education and related services
 - To understand your child's needs and strengths
 - To make educational decisions
- To be completed within 25 school days after receiving parental consent



Evaluation Wrap Up

- Evaluation reports
 - Ask for a copy before the eligibility meeting
- Determination of eligibility
- IEP team meeting
 - **MUST BE COMPLETED WITHIN 30 DAYS FROM THE END OF THE 25 SCHOOL DAY EVALUATION TIMELINE**



Disability Categories

Deaf-Blindness

Emotional Disturbance

Cognitive Disability

Hearing Impairment

Specific Learning Disability

Multiple Disabilities

Orthopedic Impairment

Visually Impairment

Deafness

Speech/Language Impairment

Other Health Impairment

Autism

Traumatic Brain Injury

Developmental Delay



IEP Team

- Who?
 - Parents
 - School administrator
 - General Education Instructor
 - Special Education Instructor
 - Person who can interpret evaluation results
 - Anyone else who knows the child
 - The child, when appropriate



Developing the IEP

The IEP will describe:

- Present Level of Performance
- Annual goals
- Objectives
(for some children)
- Special education &
related services
- Least Restrictive
Environment



Developing the IEP continued...

The IEP will describe:

- Modifications
- Dates and places for services
- Transition services
 - age 16, or earlier if the team decides
- Age of majority
- How progress is measured



What to Consider When Developing An IEP

The child's strengths

The parents' educational concerns for their child

Evaluation results

Academic, developmental and functional needs



How do you prepare for an IEP meeting?

- Who will be attending?
- Meeting date and time.
- Request a copy of the IEP draft prior to the meeting.
- Do you have suggestions for additions to the IEP?



How do you prepare for an IEP meeting, continued?

- What is your child's behavior at home?
- Provide your child's abilities/inabilities, likes/dislikes, interactions with others .
- Child's feelings (at home, school, friends)?
- Keep all records



Questions you may want to ask during the IEP meeting:



What do the test and observations show about my child?

In which classes or activities will my child be with nondisabled children of his or her own age?

What goals are realistic for my child?

How will my child's progress be measured and reported to me?

How can I help at home with my child's educational program?

Is my child ready to participate in the development of his or her IEP?



Placement

Special Education is a program, not a place!

Placement is where services are provided –
FIRST: The team determines IEP goals and services

THEN: The team will talk about where services will be provided



Placement

- Services are in the Least Restrictive Environment
- Services must be provided in the most normal setting possible
 - The team will consider whether a child can be placed in the regular classroom
 - You will help decide placement



Placement

Parents may disagree with placement decisions.

If you disagree with placement:

- Disagree in writing
- Talk about why
- Try to find agreement

BUT

If this does not work,
use your rights.

Review

IEP Parent tips:

Ask for and review evaluation data

Know who will attend the meeting and that the meeting time accommodates your schedule

Gather information to share

Write down your questions

Write down your priorities



Review the IEP at least once per year:

Determine whether annual goals are being met

Revise the IEP if issues need to be addressed



Procedural Safeguards- Rights, Responsibilities, Resources



What are Procedural Safeguards?

(Hint: It serves as an umbrella)



Procedural Safeguards are a set of requirements to ensure that children with disabilities are provided with a free appropriate public education (FAPE), according to the standards and mechanisms established by the IDEA and its regulations.





- Parent Participation
- Written Notices
- Selected other concepts and definitions
- Overview of options for resolving disputes





Parent Participation

Parents must have the opportunity to inspect and review all education records related to:

- their child's identification, evaluation, and educational placement ; and
- the provision of FAPE (Free Appropriate Public Education) to their child.

The right to inspect and review includes:

- the right to a response from the school to the parents' reasonable request for explanations and interpretations of the records;
- the right to request copies of records; and
- the right to have a representative inspect and review the records.



Parents have the right to participate in meetings related to the:

- Identification
- Evaluation
- Educational Placement of their child



- Provisions of FAPE Including IEP meetings

Parents are members of the group that determines whether their child is a “child with a disability”, the IEP Team of their child and any group that makes educational placement decisions for their child.



School's Rights and Responsibilities

- Schools must comply with a parent's request to inspect and review records.
- Schools must respond to reasonable requests for explanations and interpretations of the records.
- Schools can charge a fee for copies of records made for parents if the fee does not effectively prevent the parents from exercising their rights.
- Schools may not charge a fee for searching for or retrieving, a child's records for parents.



Appropriate Notice of Meetings to Parents...

- Must be early enough to ensure parents have the opportunity to attend.
- Must include the purpose, time and location.
- Must include who will attend the meeting.
- Must tell parents they may invite individuals with knowledge or special expertise about the child.
- Must include certain early childhood transition information, if appropriate.



Prior Written Notice:



Written notice must be given to the parents of a child with a disability a reasonable time before the school:

- (a) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
- (b) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.





Written Notice Must Include:

- (a) A description of the action proposed or refused by the school;
- (b) An explanation of why the school proposes or refuses to take action;
- (c) A description of each evaluation procedure, assessment, record, or report the school used as a basis for their decision; and
- (d) A statement that the parents of a child with a disability have protection under the procedural safeguards and how the parents can obtain a copy of them;





Written Notice Must Include Cont:

- (e) Sources for parents to contact to obtain assistance in understanding these provisions;
- (f) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
- (g) A description of other factors relevant to the school's proposal or refusal.





Written Notice Must Be

Written in language understandable to the general public; and

Provided in the native language of the parent or other mode of communication used by the parent, unless clearly not feasible.



Procedural Safeguard Notice



A copy of the notice must be provided to parents once per school year.

A copy must also be given:

- 1) When a parent request it;
- 2) Upon initial referral or parent request for child's evaluation;
- 3) When a parent files a State complaint or due process complaint; and
- 4) In the event of disciplinary actions.



The Procedural Safeguard Notice must include a full explanation of all safeguards in the relevant IDEA regulations that cover:

1. Independent educational evaluations
2. Prior written notice;
3. Parental consent;
4. Access to education records;
5. The availability of mediation;
6. The child's placement during pendency of any due process complaint;



Procedural Safeguards Notice Continued...

7. Procedures for students who are subject to placement in an interim alternative educational setting;
8. Requirements for unilateral placement by parents of children in private schools at public expense;
9. Hearings on due process complaints;
10. State level appeals;
11. Civil actions; and
12. Attorneys' fees.





Disagreements

Parents who disagree with the school's evaluation may request an IEE (Independent Educational Evaluation) at public expense.

Upon an IEE request, school must inform parents of where one may be obtained and any applicable agency criteria.

School must either:

- a) agree to pay for an IEE; or
- b) request a due process hearing to defend its evaluation.





Disagreements Continued

If school successfully defends its evaluation, IEE may not be at public expense.

Results of an IEE that meets agency criteria, whether at public or private expense, must be *considered* when making any decisions about the provision of FAPE to the child.





Privately Funded Evaluations

If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the Evaluation:

- (1) Must be considered by the public agency;
- (2) May be presented by any party as evidence at a hearing or due process complaint.

If a parent obtains an evaluation at private expense, there is nothing in the Act or regulations that requires a parent to share that evaluation.





Dispute Resolution Options

**South Dakota
Parent Connection's
Navigator Program**



Dispute Resolution Options

- Meet with school staff
- Complaint
- Mediation
- Due process hearing



Due Process Rights

Meet with school staff: Talk about differences. Be clear about why you do not agree, and seek agreement. If this does not work, consider one of the other steps.



Due Process Rights

Complaint: a written complaint that a school is not following the law. Each state investigates complaints and issues decisions.



Complaint forms: available at the school or at the state department of education



Due Process Rights

Mediation: Parent/school meeting, where both sides agree to mediation. A person who does not work for the district (*a mediator*) helps people to reach agreement.



A mediator must be impartial



Due Process Rights

Due process hearing:
parents and schools each
present their position
before a hearing officer.
This person decides what
will happen, based on
evidence and law.



Attorneys may represent parents or schools in hearings

Final words...

- Responsibility
- Communication
- Partnership





SOUTH DAKOTA

ParentConnection

Resources for families of children with disabilities.

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