Educational Rights and Responsibilities: Understanding Special Education in Illinois

"THE PARENT GUIDE"

Illinois State Board of Education
Special Education Department
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(Updated to meet accessibility standards)

Acknowledgements

This parent guide, ***Educational Rights and Responsibilities: Understanding Special Education in Illinois***, has been revised by the Illinois State Board of Education (ISBE) Special Education Department to incorporate the changes in regulation and law that have occurred since its original release in 2009.

Foreword

Educational Rights and Responsibilities: Understanding Special Education in Illinois is for parents, teachers, administrators, and others to learn about the educational rights of children who receive special education and related services due to disabilities that affect their ability to achieve academically.

Special education laws and procedures are complicated and can be difficult to understand. This guide will clarify some of the procedures of special education; however, it is not a complete explanation of all the special education laws. The guide does contain information about many of the most common topics related to the broad special education landscape, from identification and evaluation to transition planning and complaint procedures.

If you are a parent reading this guide, your child may have been identified as having a disability or may be experiencing difficulties in school. All students possess differences, learn differently, and demonstrate varied abilities, factors that contribute to each person's uniqueness. Special education is more about ability than disability, strengths over deficits. What your child can do is far more important than any perceived or actual limitations he or she may be experiencing. Because you know your child better than anyone else does, your involvement in the educational process is critical. Your school district wants and needs your involvement in your child's education. This guide provides you with tips on how to work in partnership with your local school district on behalf of your child. We hope this information will give you a better understanding of the special education process in Illinois.

This guide is not meant to replace the Notice of Procedural Safeguards that districts must give to parents of eligible children at specific times during the school year. If you have any questions about special education rules or regulations, call a consultant at the Special Education Department of ISBE at (217) 782-5589. The ISBE Special Education homepage has many resources and is located at the following web address: https://www.isbe.net/Pages/Special-Education-Programs.aspx.

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Introduction: How to Use This Guide

This guide was written for parents of children who receive or may need special education and related services, teachers, education administrators, service providers, and other education professionals. Special education and related services are supports and services provided to children with disabilities. Certain procedures must be followed to determine if a child is eligible to receive special education services, and those procedures are written in federal and state laws. Special education laws and procedures can be complicated. This guide explains the legal requirements in a way that relates to all groups—parents, school professionals, and others.

This guide contains a wide variety of information about special education. Some information may be relevant to you now, and other information might be helpful in the future. Whenever you refer to this guide, we hope you will be able to expand your knowledge of special education. As your knowledge increases, your ability to make decisions that improve your child's academic outcomes will be strengthened.

Throughout the guide, we have provided additional important information and other resources. Specific types of information are categorized using the following icons:

Worth a Look
The "Worth a Look" icon indicates additional information and resources for you to review if you are interested in learning more about a topic.

Tips for Parents
The "Tips for Parents" icon indicates tips and suggestions primarily for parents; however, the information contained here can be useful to everyone.

Important Reminder
An "Important Reminder" icon indicates important information that must be kept in mind when thinking about the topic. This is information that both parents and school and district staff need to remember.

As you learn more about special education and talk to other parents, teachers, and school administrators, the whole process becomes easier and less overwhelming.

The guide contains a set of quick reference topic charts. A number of sections of this book have a corresponding chart in Appendix B. The charts are formatted as outlined below.

Topic (Lists the main topic.)

Citations	Lists the citation in federal and/or state law: **34 CFR 300** - Means you can find it in the federal regulations. **23 IAC 226** - Means you can find it in the state regulations. **20 USC 14** - Means you can find it in IDEA (federal law). **105 ILCS** - Means you can find it in the Illinois School Code (state law).
What Does It Mean?	Plain language wording about the law.
What Needs to Happen?	A description of the event or events that should occur because of the law.
What Parents Need to Know or Do	Explains what the school or the Individualized Education Program (IEP) team should do and contains ideas and tips for parents.

Please keep in mind that the beginning of anything new is always the most difficult time. We believe that this guide will help you to begin understanding this sometimes very complicated process.

Please note the contents of the educational rights guide are not to serve, and should not be construed, as legal advice from the Illinois State Board of Education. If you have specific concerns regarding your particular situation, you should consult with legal or other resources as appropriate.

Chapter 1: Child Find

In this chapter you will -

- learn the definition of Child Find
- understand that screening is different from evaluation

Overview

Child Find is an ongoing process through which all children, from birth through age 21 (i.e., through the day before the student's 22nd birthday, unless his or her 22nd birthday occurs during the school year, in which case he or she is eligible for services through the end of the school year), who may need special education services or who may be eligible for early intervention, are identified, located, and evaluated.

Worth a Look

The main legal provisions that address Child Find are: 20 USC Sec. 1412(a)(3) 34 CFR Sec. 300.111 23 IAC 226.100.

Each school district is responsible for actively locating, identifying, and evaluating all children who live within the district boundaries who may qualify to receive special education and/or related services. All school districts must have written procedures for Child Find activities for all schoolchildren, including those attending private, charter, and religiously affiliated schools. These procedures should describe the following activities:

- annual screening of children under the age of five to identify those who may need early intervention or special education services
- ongoing review of all children in general education classes
- ongoing coordination with early intervention programs like Child and Family Connections, Head Start, local preschools, and daycare facilities
- coordination and consultation with nonpublic schools located within the district
- referrals of children who might require evaluation for special education from parents, school staff, and representatives from community agencies.

Screening

Screening is the process of reviewing **all** children in a given group with a **set of criteria** for the purpose of identifying certain individuals for evaluations who may be in need of special education. One purpose of screening is to locate children, birth through age 21 (i.e., through the day before the student's 22nd birthday, unless his or her 22nd birthday occurs during the school year, in which case he or she is eligible for services through the end of the school year), who may benefit from special education services to maintain satisfactory educational performance. No child can be determined eligible to receive early intervention/special education and related services based only on the results of a screening procedure.

Screening is different from evaluation. Screening generally means reviewing all children in a given group (all kindergartners, all students who are new to the school district, all 3-year-old children in the community, etc.). It is not specific to an individual child except when it is used by a school district to determine whether a child that has been referred for evaluation is in need of evaluation. All children in the group are generally screened through the same review process.

Screening does not involve the administration of assessment instruments that would be used in an evaluation. The district must inform the public of the process for conducting group screenings through school handbooks, newsletters, Child Find activities, letters, or similar methods. Written parent/guardian permission is not typically required for this type of screening, although some districts will ask for parental permission. Screening results should be shared with the parents/guardians. Screenings are done to determine which students are in need of an evaluation. Evaluations are done to determine if a child has a disability and requires special education services.

Tips for Parents

Here are some suggestions for how you can best make use of the screening process for your child:

- Ask your child's daycare or preschool teachers if they have concerns about your child.
- Ask your child's doctor if he or she has any concerns about your child.
- Consider the observations of friends and family who may have worries about your child.
- Call your local school principal or local school district office and ask about having your child attend a school's Child Find screening.
- Bring any papers from teachers, doctors, or others to the Child Find screening.

Special education instruction and related services are available for children with special needs from birth through age 21 (i.e., through the day before the student's 22nd birthday, unless his or her 22nd birthday occurs during the school year, in which case he or she is eligible for services through the end of the school year) who meet specific criteria.

Special needs may be in the areas of –

- vision
- hearing
- health
- behavior

or involve skills in –

- fine or gross motor
- speech/language
- cognitive processing or learning
- social and emotional
- adaptive or self-help

Important Reminder
Please share this information with your relatives, friends, and neighbors. It is important that parents of young children are aware of the availability of services before school enrollment.

It is important to locate children with disabilities at a young age so that early help and support can be provided. Studies show that students learn and develop more successfully when they receive help early in their lives.

Screening and evaluation, as appropriate, are available at ***no cost*** to the family.

Child Find and English Learners

When your child has a limited English proficiency and you believe that your child also has a disability, you may find that school districts sometimes refuse evaluations for special education services for English Learner (EL) students. The rationale they provide is that they will conduct an evaluation only after your child achieves fluency in English. This approach is not allowed by current regulations. When a child is suspected of having a disability an evaluation must not be delayed because a child is an English learner. As stated, before in this chapter, it is important to locate children with disabilities at a young age regardless of their proficiency in English.

Worth a Look
A letter issued by U.S. Department of Justice, Civil Rights Division, and U.S. Department of Education, Office of Civil Rights, stated that some school districts have a formal or informal policy of "no dual services" allowing students to receive either EL services or special education services but not both. Other districts may be delaying evaluations of EL students due to their limited proficiency in English. Based on the federal laws, these policies are not allowed. You can read the full letter at https://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf.

With English learners, sometimes the opposite is true, and a child is referred for special education services only because that child cannot speak fluent English. It is especially common in relation to children who speak a language other than English at home and therefore cannot pronounce certain phonemes (sounds such as th) in English or cannot learn how to read, write, and access academic content in English as fast as their English-speaking peers. Remember that not speaking English is NOT a disability. Not speaking English or not speaking fluent English cannot be a determinant factor in providing special education services. If your child does not have a disability, English language supports should be provided to your child through EL services and not through special education services.

Chapter 2: Multi-Tiered System of Supports (MTSS)

In this chapter you will –

- learn the three parts of the MTSS process
- learn about progress monitoring and data collection
- understand the role of parents in the process
- learn that parents can request a special education evaluation at any point in the intervention process

What is MTSS?

A Multi-Tiered System of Supports (MTSS) is a framework schools use to ensure all students have the supports they need to be successful. Through MTSS, school teams identify students in need of additional academic, social/emotional, or behavioral support, as well as students who may need special education through a school-wide screening process.

Under MTSS, students receive support in the form of interventions. An intervention is a specific type of instruction or guidance that is used to help with a particular type of problem. A teacher will intervene with a solution in the form of an activity, academic programming, or a strategy that is matched to a student's needs. Student progress is monitored often to check the effectiveness of the intervention. The data collected on a student's progress is used to shape instruction or identify specific aids/strategies to help the student reach desired outcomes. Use of an MTSS process can help avoid a "wait to fail" situation because students get help promptly within the general education environment.

Worth a Look

MTSS has a broader scope than the Response to Intervention (RTI) framework. RTI focuses on how children respond to interventions, while the MTSS framework includes academic, social, and emotional, and behavioral supports.

MTSS has three important parts: a three-tiered model of school supports, a problem-solving method for decision-making, and the use of data to inform interventions.

One of the most common uses of MTSS, however, is to figure out why a student is not doing well in school and what program or strategy would help the student to succeed.

Three-Tiered Model of School Supports

In an MTSS framework, resources are determined by a student's needs. This framework is usually shown as a three-tiered model (see visual depiction on page 16) that uses more and more intense instruction and interventions. The level of intensity of instruction and interventions is determined by how a student responds to the instruction.

Tier 1

Tier 1 is the foundation. This is the instruction that all students receive in the general education classroom with their general education teacher. It is called Tier 1 instruction or core instruction. Schools need to make sure that the materials and instructional practices they use are of high quality and have been shown by evidence to be effective. Evidence-based interventions are teaching strategies or methods that have been proven to be effective in helping children learn. Another important issue related to high-quality instruction and interventions is the practice of using the materials faithfully for their intended purpose. Instructional materials are designed and

developed for a specific reason, and it is important that the materials are used as they are intended.

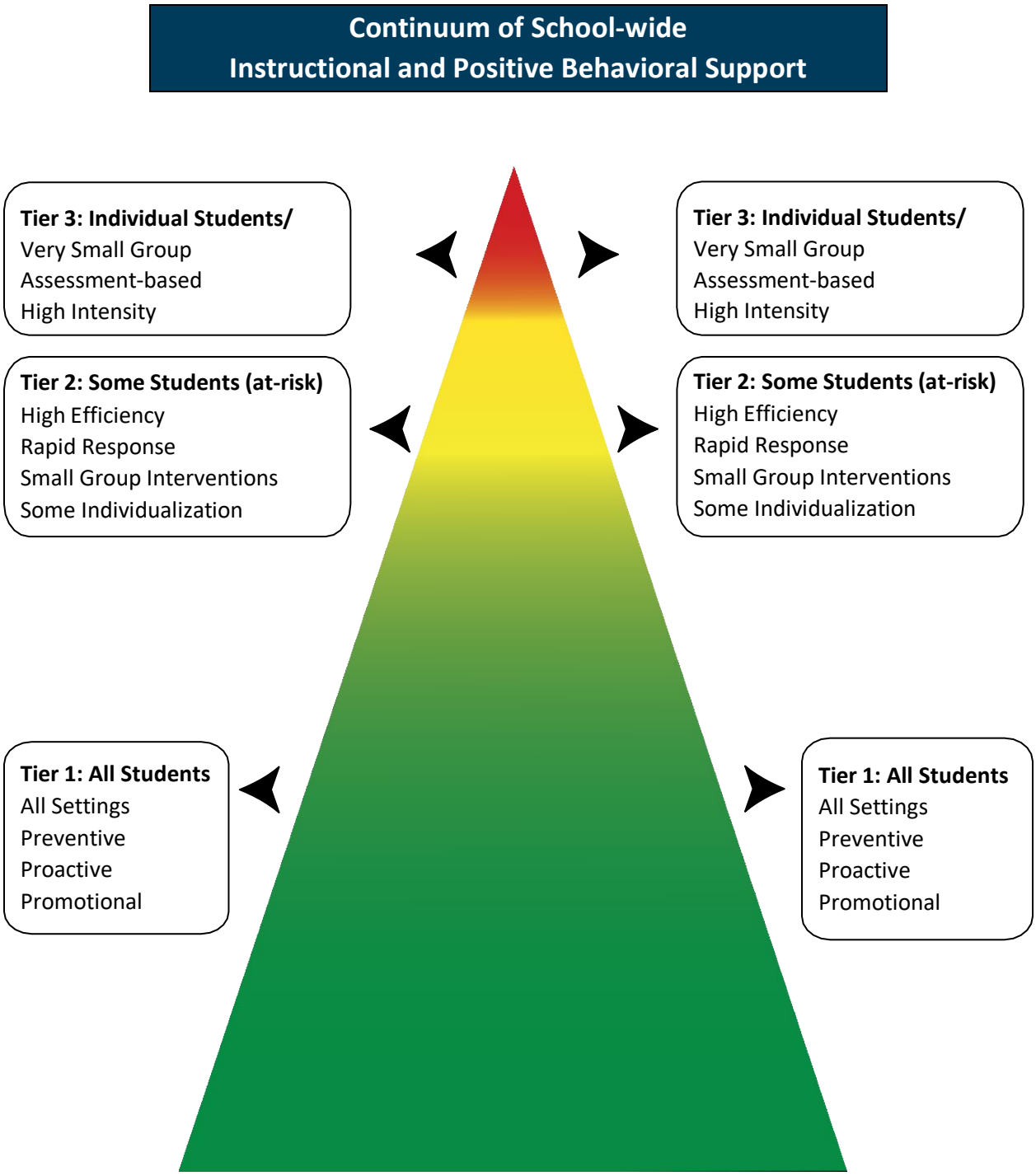
Schools use a universal or school-wide screening to identify students who are at risk for learning problems with core instruction and materials. When a screening test shows that a student is at risk for a learning problem, the student may receive extra help in the general education classroom with the general education teacher. The school begins a step-by-step teaching process and uses frequent assessments to collect data to determine if the teaching techniques are helping the student. If, after a brief period of time, the student does not show enough progress, the teacher will consult with other staff members at the school. Together the team might decide that the best way to help a student who has not progressed in the core instruction, even with extra help, is to use Tier 2 interventions.

Tier 2

Tier 2 interventions are provided with an increased level of intensity in addition to core instruction for small groups of students who show some risk of not meeting grade level standards. With fewer students in a group, an individual student has more opportunities to respond, and the teacher has more opportunities to give immediate and appropriate feedback to each student. The teacher can more easily guide a student along the right course. Tier 2 interventions usually involve additional practice and skill building. There are many different kinds of interventions and instruction that can happen in the classroom, outside the classroom, or in small groups.

Tier 3

Tier 3 interventions are an even higher level of intensity than Tier 2 interventions and are also provided in addition to core instruction. Tier 3 interventions are typically provided to an individual student or perhaps two to three students at one time by a staff member. Interventions are tailored specifically to meet the needs of each student. Students may move fluidly from tier to tier as a result of their response to their interventions.

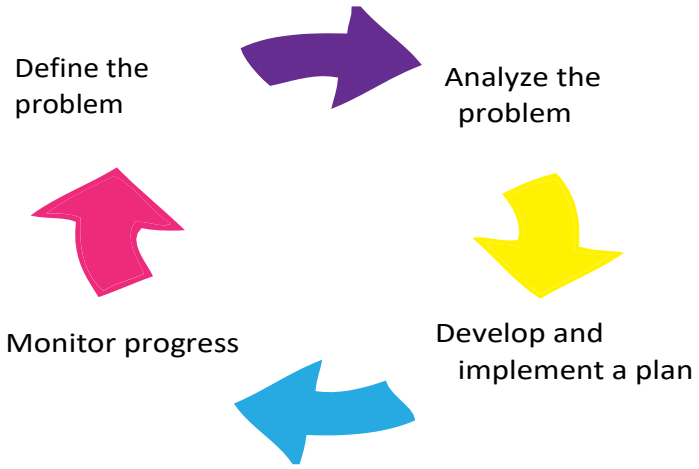


Three-Tiered Model of School Supports. Illinois Statewide Technical Assistance Center (ISTAC).

The Problem-Solving Method of Decision-Making

It is important to note that the decisions school staff make about a student's interventions are based on a standard problem-solving model which involves the following steps:

- **Define the problem:** Determine the gap or difference between what the student is expected to do and what the student is actually doing.
- **Analyze the problem:** Use information collected from a variety of sources, such as schoolwork, tests, parents' input, etc. to determine why the student may be having problems with learning.
- **Develop and implement a plan:**
    - Set a goal that describes the expected improvement in the student's learning.
    - Choose the intervention(s) specific to the problem.
    - Identify how the student's progress will be monitored. Carry out the interventions and check to make sure they are being done correctly.
- **Monitor progress:** Collect and use student data to determine if the intervention plan is working or if changes are needed.



***The Steps of Problem Solving**. Adapted from Response to Intervention: Policy Considerations and Implementation (Batsche, et al. 2005).*

Use of Data to Inform Interventions

All the steps in the problem-solving process require ongoing data collection and analysis. No decisions can be made about the type, intensity, or the success of an intervention without frequent monitoring of data to indicate the specifics of the problem, the appropriate interventions to be offered, and the outcomes of those interventions.

In an MTSS model, test materials or other tools used to collect data for screening should be in line with the district's instructional materials and practices. Progress monitoring tests should be similar across all three tiers. Additionally, all of the screening and progress monitoring tools should be evidence-based. The information collected from the screening and progress-monitoring materials are used to help the team answer the following questions about a student's learning:

- Is the student making progress?

- Are the current interventions helping the student in the identified problem area?
- Is the student making enough progress to close the gap in the identified area?
- If the interventions are discontinued, will the student continue to make progress? If not, can the current interventions be continued with general education resources?

MTSS for Other Interventions

MTSS is also used to respond to other factors that may impact a student's ability to make anticipated academic progress such as certain behaviors that can negatively impact student success. MTSS has also been found to be a useful way for schools to deal with a student who is absent from school too often. Students who miss, on average, two school days a month are on track to be identified as chronically absent since chronic absenteeism in most states, including Illinois, is defined as missing 10 percent of school days for any reason.

Worth a Look

Public Act 100-0156 was signed into law in June 2017 and amended the Illinois School Code with the addition of 105 ILCS 5/26-18, which defines chronic absence and encourages schools to provide supports to chronically absent students and their families through MTSS.

All students in a school receive Tier 1 interventions about behavioral expectations and attendance requirements from their teachers through classroom guidance, assemblies, school-wide supports and/or reward systems, and any corresponding policy guides or classroom notices. When behavior, attendance, or any other problem arises that affects a student's work at school, MTSS is used to solve the problem.

A teacher may consult with other staff members to define what a student's problem is when the student appears to be having trouble with behavior or is absent from school too often. The problem will be analyzed through a review of data related to the behavior or school attendance. Tier 2 interventions will be provided with goals that relate specifically to the student's difficulty meeting behavior or attendance standards and will feature appropriate plans to meet those goals.

Just as with most academic interventions, Tier 3 interventions will be provided on an individualized basis. At Tier 3, inventions for behavior will most often involve a Behavioral Intervention Plan (see Chapter 9). Tier 3 interventions for chronic absences will involve a high degree of interaction between school staff and the family to find a solution with lasting benefit for the student.

The Role of Parents in an MTSS Process

Parents are important partners in all aspects of their child's education. In an MTSS process, school teams are expected to involve parents from the beginning. Concerns about a student experiencing academic, attendance, and/or behavioral difficulties are presented by the child's teacher to a building-level team. The building team consists of school staff who review available student information and collect additional information from the parents to gain a better understanding of the student's needs. As the process continues, parents should be active members of the team and participate in the problem-solving process.

If your child is identified as being at risk for learning, behavioral, or attendance difficulties, to be involved you can -

- Attend team meetings. Remember, you are the expert regarding your child!
- Ask what interventions are being used for academic, attendance, and/or behavioral problems.
- When possible, use the same strategies or interventions at home.
- Ask the school what formal guidelines they are using for progress monitoring.
- Ask your school to provide you with regular progress monitoring reports.
- Praise your child for any progress or general improvement in the area(s) of concern. When possible, make suggestions for strategies or interventions based on what you know works well at home.
- Always ask questions when things are not clear.

It is also important to note that if you believe that your child needs special education services, you have the legal right to ask that the school evaluate your child to determine whether he or she is eligible to receive special education services. ***You can ask the school to evaluate your child at any time, regardless of where your child is at in the MTSS process.***

English Learners in MTSS

If your child is an English learner who struggles academically, sometimes it is difficult to distinguish language acquisition from a disability. When in doubt, it would be prudent to inquire about the MTSS process. The process should include consideration for cultural differences and linguistic patterns present in your child's dominant language. The process should start with assessing your child's dominant language literacy skills, followed by establishing similarities and differences between that language and English. This knowledge should then be used to design all three tiers of MTSS interventions.

Chapter 3: Referral and Evaluation

In this chapter you will –

- learn what “date of referral” means
- learn the timelines for the school to make a decision about conducting an evaluation
- understand what areas or “domains” are assessed when an evaluation is conducted
- learn how often the district must conduct a reevaluation
- get information on independent educational evaluations

Referral

A ***"referral"*** in the context of special education services is a process asking the school district to evaluate a student to decide if the student qualifies to receive special education services. A referral can be made either by the school district (through a teacher or other school personnel involved in the student's education), by a parent or guardian, a state agency, or a community service agency. The referral is a required first step before an evaluation can take place.

Parents need to submit a request for evaluation to have their child considered eligible for special education services. It is best if the parent puts the request in writing.

Not all referrals result in an evaluation being conducted.

Within 14 school days after receiving the written request, the district will decide whether to evaluate the child or not. If the district determines an evaluation is warranted, then the district must provide the parents with the paperwork to provide formal written consent.

Tips for Parents
Don't forget to put the request for evaluation in writing, either via a letter or email. Asking for one is not enough!

Keep a copy of the letter. If possible, it is best to have someone at the school sign and date it to indicate they the school received the letter or send it certified mail with a return receipt requested. If the request for evaluation is made via email, request an acknowledgement of receipt from the school.

If the district determines that the evaluation is not necessary, it must notify the parent in writing of the decision not to evaluate and the reasons for the decision.

The district must advise the parents of their right to request a due process hearing to challenge its decision.

To be eligible to receive special education services, the child must have a disability that impacts educational performance. Please see Chapter 4, "Eligibility Categories," for further information.

The evaluation may commence following the receipt of written parental consent to complete the needed evaluations. Screening procedures shall not be considered an evaluation.

Initial Eligibility: Step by Step

Step 1: Request for Evaluation
A request for an evaluation is made by the parent to determine the child's eligibility for special education.

District must respond in 14 school days

Step 2: Decision to Proceed
At this stage, the district meets with the parent to determine whether an evaluation should proceed. If yes, the district needs to determine what domains will be evaluated and request the parent's consent to do the evaluation.

Timeline does not start until parent signs consent

Step 3: Consent to Evaluate
The evaluation cannot proceed until the parent has provided informed written consent for the district to begin the evaluation. Timelines for completing the evaluation do not start until consent has been given by the parent.

Step 4: Evaluation
During a period of up to 60 school days, district personnel can take the steps needed to complete the evaluation. If any part of the evaluation has been written in final form, it may be shared with the parent.

Step 5 must occur by the 60th school day

Step 5: Eligibility Conference and IEP
By the end of the 60th school day, the evaluation team must meet with the parent to decide if the child is eligible for special education. If yes, an IEP team must then meet with the parent to develop the IEP for the student.

Initial Placement does not occur until parent signs consent for initial provision of services

Step 6: Consent for Placement
Before the special education services can begin, the parent must provide written informed consent to allow the district to proceed with the placement. Placement may begin no sooner than 10 days after the parent consents unless the parent gives permission for it to start sooner.

Parent Involvement in the Referral Process

Both state and federal laws and regulations governing the administration of educational programs for students with disabilities have recognized the important role of parents in the special education process. Parents and school personnel should establish a positive relationship with shared goals and a common understanding of the child's needs at home, at school, and in

the community. It is essential that parents and schools work cooperatively together to improve student performance. Below you will find some tips to help you with parent involvement.

Be an active participant in your child's education:

- Inform yourself about what help is available in or through your child's school.
- Talk to other parents, teachers, doctors, and community providers.
- Find resources like the Parent Training and Information Centers (PTIs), Parent Mentors, ISBE, and Parent Advocacy Groups.
- Be prepared and able to talk about your child's strengths and needs.
- Learn about your child's legal rights.
- Request to participate in the meetings where information is reviewed to decide if your child is eligible to receive special education services.
- Attend and be prepared to participate in IEP meetings. Parents are key decision makers and equal members of IEP teams.
- Ask questions if you do not understand terms, language, or other things that happen during meetings about your child.
- Call, email, or write a letter to request a meeting if you are worried about how your child is doing at school.

In addition:

- Share letters, reports, or other materials that can help the school understand your child and provide appropriate services to your child. This information could be from teachers, doctors, or community service agencies. Be sure to keep a copy of these items for your records.
- Start a file or log in which you write important dates and milestones of your child's learning. This will also be a good place to record the results of important conversations and meetings you have had with teachers and others regarding your child's progress. A binder works great! You may also use the ISBE Student Record Keeper which is available at https://www.isbe.net/Documents/student_records_keeper.pdf .
- Send emails or letters confirming important conversations regarding your child and/or promises made with respect to what the school will or will not do.
- Always put in writing any important requests to the school, including requests for an evaluation (as well as requests for IEP meetings and records).
- Keep a copy of all letters that you send.
- Whenever possible, send your correspondence by certified mail, return receipt requested, to assure delivery of the letter, or hand carry the letter and request a receipt.
- Keep printed copies of important email messages to or from the school.

- Keep all papers and letters from the school that you feel are important such as IEPs, samples of your child's work, and notices regarding the dates of meetings. Keep these documents in your file.
- Develop an ongoing working relationship with those persons who are responsible for providing services to your child. Get to know the names and responsibilities of all those working with your child.
- Communicate positive information as well as concerns.

Evaluation and Reevaluation

Evaluation is defined as the procedures used to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

The school district must assess the child in all areas of suspected disability including:

- academic performance
- health
- vision
- hearing
- social and emotional status
- communication
- motor abilities
- general intelligence
- functional performance
- other areas as needed.

Important Reminder
Often these areas are called ***"domains"*** for purposes of the evaluation.

Public agencies are prohibited from using a measure or assessment for purposes different from the purpose for which the measure was designed.

Assessments are provided and administered in the child's native language or mode of communication to get accurate information on what the child knows and can do.

The school district must use a variety of assessments, tools, and strategies to conduct the evaluation.

When conducting an initial evaluation, a child must be tested in all areas of suspected disability.

Data gathered from evaluations are used to assist in the development of the IEP.

Assessments should be valid and reliable for their designed purposes.

Assessments must be administered by personnel who are trained to do so.

Assessments and other evaluation materials used should be administered –

- in a manner that is not discriminatory on a racial or cultural basis and
- in the child's native language or other mode of communication.

The parent's informed written consent must be obtained before the evaluation can be conducted.

Information from parents should be included as part of the evaluation.

Information should be collected through a variety of approaches (observations, interviews, tests, curriculum-based assessments, and so on) and from a variety of sources (parents, teachers, specialists, peers, and the child).

Worth a Look

"Each district shall have a plan for the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure [for the determination of a specific learning disability] described in 34 CFR 300.304." (23 IAC 226.130(c))

Parents should be given a copy of the conference report and recommendations.

Parents should be informed of their right to obtain an independent educational evaluation (IEE) at district expense if they disagree with the evaluation findings.

The evaluation should yield information on what the child knows and can do academically, developmentally, and functionally.

This applies when evaluating all children including those -

- for whom English is not the native language
- who communicate by signing
- who use alternative augmentative communication
- who use other means to communicate

Please note the following:

- IDEA prohibits basing eligibility determination or special education programming upon the results of only one test, measure, or assessment procedure. A variety of tools must be used.
- As a parent, you will provide written consent before any evaluation occurs.
- Think about what the child knows and can do. Examine how the child learns and demonstrates knowledge.
- It is not enough to conduct a thorough examination of what a child cannot do when making decisions about educational programming.

Important Reminder
The determination of eligibility shall be made, and the IEP shall be completed in 60 school days (or less) following the date of written consent from the parent.

Important Reminder
Reevaluations must occur at least once every three years, unless the parent and the school district agree that a reevaluation is unnecessary based on the existing information on the student. If the district believes that a reevaluation is unnecessary, a parent still has the right to request that the evaluation go forward.
(20 U.S.C. 1414(a)(2)) (34 CFR 300.303)

Independent Educational Evaluation (IEE)

Sometimes parents may have a reason to believe that the evaluation does not provide an accurate picture of their child's abilities/areas of needs. In those cases, parents can request in writing that a new evaluation be completed by an outside person or agency (someone not employed by the district) at the district's expense. The district is free to agree to the evaluation or to deny the request. If the district denies the request, it is required to initiate a due process hearing within five days of the written parent request in order to allow a due process hearing officer to decide whether the independent evaluation should occur. (See Chapter 11 for more information on due process hearings.) If the final decision is that the evaluation was appropriate, parents still have a right to an independent educational evaluation, but not at public expense.

Referral and Evaluation of English Learners

If your child is an English learner suspected of having a disability, your child should be evaluated in his or her dominant language, in a way that is nondiscriminatory and respectful to your child's culture. Your child's status as an English learner and your child's proficiency in English must not delay evaluation for special education services.

Your child's evaluation should include the following:

- Documents from your child's country of origin (when applicable and available) translated into English.
- Observations in different environments.
- Extensive interview with you and possibly other family members to establish your child's health history, milestones in his or her dominant language, and functioning when compared to siblings, other relatives, and peers from the same culture and with a similar linguistic background.

If you and other family members involved with this process do not speak fluent English, all communication should be conducted with a qualified interpreter provided by the school district. Furthermore, evaluators should –

- Use instruments appropriate for assessment of performance in your child's dominant language.
- Consider your child's progress in bilingual education and in classes with bilingual/ESL support.
- Determine other data needs.
- Avoid reporting scores if norms were not appropriate for English learners.
- Include representatives with expertise in bilingual education.

Chapter 4: Eligibility Categories

In this chapter you will –

- learn the different special education categories

IDEA lists different disability categories under which children may be eligible for services. For a child to be eligible for services, the disability must adversely affect the child's educational performance and necessitate specially designed instruction and/or related services in order for the student to make progress in the general education curriculum. Students may qualify for services under one or more categories. These categories do not tell the whole story of the student. Categories alone do not identify where the student will go to school or determine what kind of services he or she needs.

A child may not be identified as a "child with a disability" just because he or she speaks a language other than English and does not speak or understand English well. A child also may not be identified as having a disability just because he or she has not had enough instruction in math or reading.

Disability Category Definitions

Unless otherwise stated in the definitions below, the following 14 special education eligibility categories are found at 34 CFR 300.8(c).

Autism Spectrum Disorder

Autism spectrum disorder (ASD) means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a child's educational performance. Other characteristics often associated with ASD are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. ASD does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disability. ASD includes autistic disorder, childhood disintegrative disorder, pervasive developmental disorder not otherwise specified (PDD-NOS), and the diagnosis previously identified as Asperger syndrome.

Deaf-Blindness

Deaf-Blindness means simultaneous hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that students with these combined impairments cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Deafness

Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects a child's educational performance.

Developmental Delay

Developmental delay means a significant delay in physical development, intellectual development, communication development, social or emotional development, or adaptive development (may include children from 3 through 9 years of age.)

Emotional Disability

An emotional disability means a condition exhibiting one or more of the following characteristics over a long period of time and to a degree that adversely affects a child's educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- Inappropriate types of behavior or feelings under normal circumstances.
- A general pervasive mood of unhappiness or depression.
- A tendency to develop physical symptoms or fears associated with personal or school problems.
- Emotional disability includes schizophrenia.
- Emotional disability does not apply to children who are socially maladjusted unless it is determined that they also have an emotional disability.

Hearing Impairment

A hearing impairment is one that is either permanent or fluctuating and that adversely affects a child's educational performance but that is not included under the definition of deafness.

Intellectual Disability

Intellectual disability means significantly below average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.

Worth a Look

ISBE had previously used the term cognitive disability over mental retardation. On July 11, 2017, Congress passed Rosa's Law (Public Law 111-256) which amended multiple laws, including the IDEA, by striking 'mental retardation' and replacing the terminology with 'intellectual disability.'

Multiple Disabilities

Multiple disabilities is a term that means a combination of various impairments that cause such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities do not include Deaf-Blindness.

Orthopedic Impairment

An orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

Other Health Impairment

Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, which results in limited alertness with respect to the educational environment, that –

- is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome, and
- adversely affects a child's educational performance.

Specific Learning Disability

Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

Important Reminder

Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; intellectual disability; emotional disability; or environmental, cultural, or economic disadvantage.

Speech or Language Impairment

Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

Traumatic Brain Injury

Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information

processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

Visual Impairment

Visual impairment includes any type of sight problem which, even with glasses or contacts, adversely affects school performance. Children with visual impairments can be further described as partially sighted or blind, based on the degree of visual impairment and their educational needs.

While the above represent the definitions of the fourteen special education categories, school districts may develop criteria for each category. After determining that a student has a disability, the evaluation team **also** determines if the disability adversely affects educational performance, **and** if specialized instruction is required to address the child's deficit areas. Only when the team has identified the disability, the adverse effect, and the need for specialized instruction, will the child be found eligible for special education.

Chapter 5: Additional Procedures for Specific Learning Disabilities

In this chapter you will –

- learn the criteria required to determine whether a child has a specific learning disability
- learn how all Illinois districts may use response to scientific, research-based interventions or a multi-tiered system of supports as part of the special education evaluation process to determine if a student is eligible for services due to a specific learning disability

Overview

IDEA 2004 expanded the specific learning disability (SLD) determination to require states to adopt criteria that –

- do not require the use of a severe discrepancy between intellectual ability and achievement in determining whether a child has a specific learning disability
- must permit school districts to use an educational process based on the child's response to scientific, research-based instructional interventions
- may permit the use of other alternative evidence-based procedures for determining whether a child has a specific learning disability.

Schools in Illinois are required to implement the use of a process that determines how the child responds to evidence-based interventions as part of the evaluation procedure.

SLD may manifest itself in:

- listening comprehension
- oral expression
- word reading
- reading fluency
- reading comprehension
- written expression
- mathematics problem-solving or calculations

SLD can include dyslexia. Dyslexia is a reading or language-based learning disability that makes it difficult to read, write, and/or spell. Young children may have trouble with the following:

- recognizing letters
- matching letters to sounds
- blending sounds into speech
- pronouncing words (for example, saying "mawn lower" instead of "lawn mower")
- learning and correctly using new vocabulary words
- learning the alphabet, numbers, and days of the week or similar common work sequences
- rhyming

Worth a Look

ISBE's Department of Special Education Services published a specific resource with additional information about dyslexia, The Dyslexia Guide: A Handbook for Parents, Educators, and Students: https://www.isbe.net/Documents/Dyslexia-Handbook.pdf

SLD does not include learning problems that are primarily the result of –

- visual, hearing, or motor disabilities

- intellectual disability
- emotional disturbance
- environmental, cultural, or economic disadvantage

IEP teams cannot determine that a child has an SLD if the child's learning problems primarily result from –

- lack of appropriate instruction in reading
- lack of appropriate instruction in math
- limited English proficiency

Special Education Eligibility Considerations

Within a scientific, research-based intervention process such as MTSS or RTI, school teams are able to use student progress monitoring data collected at each tier to document a student's response to interventions as part of the special education evaluation process. Evaluation to determine special education eligibility may occur at any tier, although it typically occurs within Tier 3 when a student either –

- Does not respond to the most intensive interventions
  or
- Responds to the interventions but is not able to maintain his or her performance if the intensity level is decreased or the interventions are faded.

It is also important to note that a parent may request a special education evaluation at any point during the intervention process. The use of the MTSS/RTI process cannot delay the evaluation, if one is needed. The district must fully consider the parent's request and decide whether or not to conduct the evaluation. The district must then notify the parent in writing of its decision and the reasons for that decision.

Worth a Look
The procedures for addressing eligibility under the category of SLD can be found at 23 IAC 226.130.

State special education regulations require school districts to use an MTSS/RTI process as part of the special education evaluation process when a specific learning disability (SLD) is suspected. After using an MTSS/RTI process for this purpose, a district may also, but is not required to, use a severe discrepancy between intellectual ability and achievement as part of the evaluation process for determining whether a child has an SLD. However, they are not able to use severe discrepancy alone to determine eligibility.

ISBE recognizes that some districts are currently further along in the implementation of MTSS/RTI and may have already implemented this process. Additionally, the MTSS/RTI process may be used as part of the evaluation process for students considered for eligibility in other disability areas.

Worth a Look

Additional information and answers to Frequently Asked Questions on special education eligibility procedures and criteria within a Response to Intervention framework can be found on the ISBE website.

Guidance:
https://www.isbe.net/Documents/sped_rti_framework.pdf

Frequently Asked Questions:
https://www.isbe.net/Documents/faq_sped_entitlement_rti.pdf

Chapter 6: Individualized Education Programs (IEPs)

In this chapter you will –

- learn the parts of an IEP
- learn who is on an IEP team
- discover tips and things to remember when working on the IEP
- understand the additional requirements the team must consider when writing an IEP for a student who has an autism spectrum disorder
- learn that changes can be made to an IEP without a meeting
- know what "prior written notice" is and learn when schools are required to provide it
- learn what happens if a parent revokes consent to provide special education to a student

What is an IEP?

Once it is determined that a student meets the criteria to receive special education and related services, an Individualized Education Program (IEP) will be developed. An IEP is a written statement of the educational program designed to meet the student's needs and is developed by a team. The IEP includes a detailed description of what will be done to give the student the extra help needed. The IEP will change based on the student's needs as it is like a road map showing where the student is and where he or she is going.

Who is on the IEP Team?

The following individuals are required to attend all IEP meetings:

- **Parents** – Parents or guardians are required participants.
- **Student** – The student may attend and participate if the parent decides he or she should be present. A student who has reached age 14½ must be invited to the IEP meeting when transition is discussed.
- **General Education Teacher** – The IEP team must include a general education teacher who has knowledge of the curriculum and the provided interventions and may be responsible for implementing the IEP if the child is or may be participating in the general education environment.
- **Special Education Teacher** – There must be a special education teacher on the IEP team who is familiar with the provided interventions and responsible for implementing the IEP.
- **Local Educational Agency (LEA)** – This person must know about the general education curriculum, be able to ensure that the IEP is implemented, and have the authority to commit resources.
- **Evaluation Personnel** – When evaluation information will be discussed at the IEP meeting, there must be someone present who can explain evaluation and/or test results.
- **Others with knowledge or special expertise about the student** – The parents or the school may bring other people to the IEP meeting such as community service providers, advocates, lawyers, a friend for support, etc. The law says these people must have some knowledge of or special expertise regarding your child. The determination of whether the person has special knowledge must be made by the party who invited the individual to participate in the meeting.

Important Reminder

Required members may be excused from part or all of the meeting only if you and the school agree in writing. If you agree to excuse a member when the meeting involves discussing that member's area of knowledge, that member must give written input to you and the team for the meeting.

IEP Timelines to Remember

- Both the eligibility and IEP meeting must occur within 60 school days following the date of parent/guardian consent for completion of the needed assessments. The meetings may occur separately as long as both are completed within the 60-school day timeline. Parents must receive a ten-day prior notice of an IEP meeting.
- At least three days before either an eligibility or an IEP meeting, parents must be given copies of all the written materials that will be reviewed at either meeting by mail, in-person, or other available method. This includes evaluation results, collected data, all IEP documents, etc. Parents may request to review logs regarding the delivery and minutes of related services provided to their child at any time.
- The IEP must be reviewed at least once a year; however, an IEP meeting can be convened at any time to discuss changes or revisions.
- Parents must be informed of their child's progress on IEP goals ***at least as often as parents of nondisabled children.***

Important Reminder
"Date of referral" means the date of written parental consent for evaluations.

Worth a Look
105 ILCS 5/14-8.02f provides that "beginning July 1, 2020 no later than three school days prior to a meeting to determine a child's eligibility for special education and related services or to review a child's individualized education program, or as soon as possible if an individualized education program meeting is scheduled within three school days with the written consent of the child's parent or guardian, the local education agency must provide the child's parent or guardian copies of all written material that will be considered by the individualized education program team at the meeting so that the parent or guardian may participate in the meeting as a fully-informed team member."

What Does an IEP Include?

- Present levels of academic achievement and functional performance
- Annual goals
- Measurements of progress and how progress will be shared
- What special education and related services will be provided –
    - how often they will be provided (frequency)
    - how long they will be provided (duration)
    - where they will be provided (location)
    - who will provide the services
- How the child will access the general education curriculum

- The languages or modes of communication in which special education and related services will be provided, if other than or in addition to English
- The accommodations/modifications and/or supports that will be provided –
    - in the classroom
    - to and from school
    - in the school building
    - for school functions (field trips, sports, playground, etc.)
- Assessment information (which assessments will be administered, any accommodations to the assessments)
- A description of any assistive technology, including training the student or staff may need
- Special training or support that the student, the parent, and school staff need in order to ensure the student is provided a free appropriate public education (FAPE)
- A discussion of whether the student needs additional help and support when school is not in session, such as with Extended School Year (ESY) services
- Beginning when the child turns 14½, appropriate transition services, including postsecondary services and supports.
- The placement of the child where the IEP will be implemented. (For more information on the proper factors to consider in the placement decision, please see Chapter 7, "Least Restrictive Environment.")

Specifics about IEP Components

Present Levels of Academic Achievement and Functional Performance (PLAAFPs)

PLAAFPs describe how the student is doing in different areas and how the student uses what he or she learned throughout the day. This part of the IEP should describe how the student's disability affects his or her participation in the general education curriculum and how the student performs in academic and nonacademic settings.

Annual Goals

Annual goals are statements that identify what knowledge, skills, and/or behaviors the student can acquire within a school year. Data should form the basis for instruction, and the goals should be written to allow access to the general curriculum and other activities during or after school. Goals must be measurable, identify who will be responsible for working on them, and identify how progress will be reported to parents.

Benchmarks and Short-term Objectives

Benchmarks and short-term objectives are the steps toward meeting the annual goals. A short-term objective is something that can be attained within a reporting or grading period.

Progress Toward Goals

The IEP should include information about how the school will measure the student's progress and when reports to the parents will be issued. The measurement should be clear enough so that parents can understand whether their child is being successful or not.

Special Education and Related Services

These services and supports help the student advance toward annual goals, make progress in the general curriculum, participate in extracurricular and nonacademic activities, be educated, and participate with all children. The IEP should include any additional training or support needed by the parents, educators, and paraprofessionals.

Participation in the General Curriculum

The IEP must explain how the child's disability affects his/her participation in the general education setting and other school activities. If a student is removed from any part of the general curriculum, a statement explaining the reasons why the removal is necessary must be part of the IEP. Adaptations or modifications can be used to support student success in the classroom.

Statewide Assessment

All children with disabilities must be part of state and districtwide assessments with appropriate accommodations, including English language proficiency, where appropriate. The IEP team decides whether the student should be given state and/or district assessments, with or without accommodations, or if the student should take the alternate assessment.

If the IEP team decides that the child should take the Illinois Alternate Assessment, the IEP must include –

- An explanation of why the child cannot take the regular test.
- A completed copy of the DLM-AA Participation Guidelines.
- A statement explaining how the student will be assessed.

Worth a Look

A wide range of information on the Illinois Alternate Assessment is available on the ISBE website at: https://www.isbe.net/Pages/DLM-AA.aspx

Frequency, Location, and Duration of Services

This is the "what, when, where, and for how long" part of the IEP. Each of the services the student needs should be written into the IEP and indicate three things: 1) how long or how often each session will last (the number of minutes); 2) where the services will be provided (i.e., general education classroom or special education classroom or another setting such as the community); and 3) when the services will begin and end.

Transition

For students who will reach the age of 14½ during the school year, the IEP must document a statement of transition service needs that focuses on the student's course of study and goals to address those needs. Transition services are a coordinated set of activities that focuses on improving academic and skill achievement to prepare for life after school. The goals should include the needs for employment, education and/or training, and independent living, where appropriate. Transition services may include academic instruction, related services, postsecondary education, vocational training, supported employment, community experiences, daily living skills, and work evaluation. Transition plans should be based on the student's strengths, preferences, and interests. The student must be invited to the IEP meeting.

In preparing for the meeting, parents should –

- Think about what the child needs to learn to help them be successful after graduation.
- Help students explore work and career options while still in high school.
- Decide what skills the young person needs to live and work in the community after high school.
- Make connections with education and training programs, colleges, agencies, and support services.
- Assist in the selection of classes and services that might help the child be successful in his/her adult life.
- Learn what agencies provide services to adults with disabilities in the community and invite them to the IEP meeting.

(Please see Chapter 8 for more information on transition.)

Transfer of Rights at Age of Majority

The rights and responsibilities for special education services that are given to parents will belong (or transfer) to the student at age 18. The district must inform the parents and student of the student's right to delegate decision-making to another adult individual. At least one year before turning 18, the parents and the student will receive notices in writing from the school about the change. The district must document that the parents and the student received the notice and were told about the transfer of rights. The school must also provide the student with a Delegation of Rights form (see ISBE form 34-57k located at https://www.isbe.net/SPEDReqNotConForms/nc_deleg_34-57k.pdf. The school must use the ISBE form or one that is substantively the same.

The Delegation of Rights -

- may be terminated by the student at any time.
- will remain in effect for one year.
- must be signed by the student and the designee.

- can be renewed each year.

Extended School Year (ESY) Services

These are special education and related services that are provided to a student with an IEP beyond the normal school day/year, are stated in the student's IEP, and are provided at no cost to the parents of the student. The decision about what services will be provided should be individually based on the needs of the student. Loss of knowledge/skills or an extraordinarily long time in relearning skills (regression/recoupment) can be part of, but not the only reason for, determining ESY. No single factor can determine the need for ESY, and ESY services may not be limited to particular categories of disability. ESY services might not be the same as services provided during the regular school year. The IEP team determines what services are provided during the ESY term. ESY services can be provided in school, at home, or in the community.

Worth a Look

Additional information and Frequently Asked Questions about ESY can be found at https://www.isbe.net/Documents/Ext-School-Year-FAQ.pdf.

Other IEP Considerations

In addition to the required parts of the IEP described in the previous section, the following components can also be part of the IEP. The decision to add one or more of the following pieces will depend on the nature of the child's disability and how it impacts the child's performance in school.

Behavior

If a child's behavior disrupts his or her learning and/or the learning of other students, then the IEP team should consider the use of positive behavioral interventions and supports. (See also Chapter 9: Behavioral Intervention Plans.)

Before a Behavioral Intervention Plan (BIP) is developed to help a student manage classroom behaviors, a Functional Behavioral Assessment (FBA) is often completed. An FBA is a process for gathering data and information regarding a target behavior such as what causes it (what occurs immediately prior to the behavior occurring) and what could be done to modify the student's environment and promote positive behavior. If the FBA is completed to inform the BIP, the FBA must be reviewed at the IEP meeting and included as part of the IEP.

The IEP of a student who requires a BIP shall –

- summarize the findings of the FBA.
- summarize prior interventions implemented.
- describe any behavioral interventions to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors.

- identify the measurable behavioral changes expected and methods of evaluation.
- identify a schedule for a review of the interventions' effectiveness.
- identify provisions for communicating with the parents about their child's behavior and coordinating school-based and home-based interventions.

Braille

For a student who is blind or visually impaired, the school shall provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child. For a child who is functionally blind or visually impaired to the extent that Braille instruction is determined necessary, the IEP team must consider the student's reading and writing skills, the student's communication needs, the student's use of reading and writing media, and the student's future needs for instruction in Braille or the use of Braille.

Communication Needs

The communication needs of the student must be considered by the IEP team. An IEP shall be considered "linguistically and culturally appropriate" if it addresses the language and communication needs of a student as a foundation for learning, as well as any cultural factors that may affect the student's education. For students who are deaf or hard of hearing, the IEP team must consider the student's language and communication needs and opportunities for direct communications with peers and professional personnel. The needs must address the student's language and communication mode. The IEP team must consider the student's academic level and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

Assistive Technology Devices and Services

Assistive technology refers to devices used by individuals with disabilities to perform functions that might otherwise be difficult or impossible. Consideration should be given to the needs of the student for assistive technology devices and services. The IEP team must decide if the student needs assistive technology devices and services in order to receive a free appropriate public education (FAPE).

Worth a Look

The federal legal provisions that address assistive technology are -
34 CFR 300.5 & 34 CFR 300.6.

An assistive technology device means any piece of equipment that is used to improve the functional capabilities of a child with a disability. Assistive technology encompasses a broad range of devices from "low tech" (e.g., pencil grips, splints, paper stabilizers) to "high tech" (e.g.,

computers, tablets, communication devices, Braille readers). These devices include the entire range of supportive tools and equipment from adapted spoons to wheelchairs, from apps on a tablet to computer systems for environmental control.

The term does not include a medical device that is surgically implanted or the replacement of such device.

An assistive technology service means any service that directly assists a child with a disability receive and use an assistive technology device. This service includes evaluating a child's need, acquiring and customizing the necessary device, and training the child, staff, and parents/guardians in the use of the device.

IEP for An English Learner

If your child is an English learner, his or her IEP must include specific components:

- A conference notice and a copy of the Procedural Safeguards must be provided to you in your dominant language (unless you have signed a waiver and requested these documents in English).
- Information on your child's and your primary language on page one of the IEP document must be accurate and consistent with the Home Language Survey.
- If your dominant language is other than English, the district must provide an interpreter for all IEP meetings and list the interpreter's name with other participants' information.
- If your child's dominant language is other than English, it is presumed that a bilingual specialist will participate in the IEP meetings.
- Your child's communication needs and present level of performance in English and in the dominant language must be included in the IEP document.
- If your child is an English learner, the IEP must address appropriate linguistic and cultural accommodations that your child might need.
- Your child's IEP must include information on ACCESS or Alternate ACCESS exam and list accommodations that your child should receive during testing.

Bilingual supports that your child receives at school are not related services and should not be listed as such. However, the IEP document should provide information on your child's EL programming. For example, it could state, "Math: 225 minutes per week (mpw) in general education with EL support."

Additional Requirements for Students who have a Disability on the Autism Spectrum

The Illinois School Code requires IEP teams to consider additional factors for students who have a disability that falls within the autism spectrum disorder (ASD) category. If the student has ASD (includes autistic disorder, Asperger's disorder, pervasive developmental disorder, pervasive

developmental disorder not otherwise specified, childhood disintegrative disorder, and Rett Syndrome, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition [DSM-V, 2013]), the IEP team shall consider the following factors:

- the verbal and nonverbal communication needs of the child
- the need to develop social interaction skills and proficiencies
- the needs resulting from the child's unusual responses to sensory experiences
- the needs resulting from resistance to environmental change or change in daily routines
- the needs resulting from engagement in repetitive activities and stereotyped movements
- the need for any positive behavioral interventions, strategies, and supports to address any behavioral difficulties resulting from autism spectrum disorder
- other needs resulting from the child's disability that impact progress in the general curriculum, including social and emotional development

Worth a Look

The requirements with regard to children with autism spectrum disorder can be found in 105 ILCS 5/14-8.02(b) (Public Act 095-0257).

Parent Tips

IEP Questions—Things to Think About

- What has the student learned this year?
- What are the student's strengths and interests?
- What are the concerns for the student's education?
- What should the student learn next?
- What does the student want to learn next?
- What are the supports and services the student needs to make progress on his or her goals?

What Parents Can Do Before the Meeting

- Make sure you know who will be at the meeting.
- If the meeting time doesn't work for you, request a different time or date.
- Share any medical, psychological, or other assessment information.
- Have a list of priorities.
- Write down any questions you might have.

Tips for Parents

If someone you want to attend the IEP meeting is not on the list of attendees, you or the district may ask that person to participate.

Some districts offer special assistance (such as childcare) so that parents can participate in the IEP meeting. If you need support to attend your child's meeting, ask your principal, special education teacher, or administrator for help.

If you want to learn more about your rights and responsibilities, ask your school for information about organizations that offer support for parents of students with disabilities. Ask if your school offers training about special education issues.

Your school should give you the help you need to play an active role in your child's education, including an explanation of what options you have if you disagree with a decision made by the IEP team.

IEP Facilitation

IEP facilitation is a process that helps foster effective communication between parents and districts as they develop mutually acceptable IEPs. This process may be used as a preventative measure in which a trained facilitator promotes whole team participation, acknowledging and addressing differing opinions in a respectful and neutral manner. IEP facilitation can improve relationships between school districts and parents in order to effectively plan services to meet the needs of the student.

Important Reminder
IEP facilitation is a voluntary process. Both parties will need to agree that it would be valuable to have a neutral facilitator present at the IEP meeting to assist with the development of the IEP before a facilitator will be assigned to the case.

For more information about this free service, you may go to page 81 in this guidebook (Chapter 11, "Conflict Resolution") or visit the ISBE website. https://www.isbe.net/Pages/IEP-Facilitation-System.aspx

What You Need to Know About Excusal from IEP Attendance

Changes to IDEA in 2004 made it possible for members of the IEP team to be excused from an IEP meeting. The important thing to remember is that excusal can only occur if the parent and the district agree to excuse the team member from the meeting.

- Team members whose area of expertise will not be discussed do not have to attend if the parents agree in writing.
- Team members whose area of expertise will be discussed can be excused when the parent and the school agree, and if they submit their input in writing to the IEP team (including the parents) before the meeting.

Important Reminder
Excusal of a team member can only occur when the parent and the district agree.

Worth a Look
The rules regarding excusal of IEP team members from the IEP meeting can be found at 20 USC Sec. 1414(d)(1)(C) and 34 CFR 300.321(e).

Changes to the IEP Without a Meeting

After the annual IEP meeting for a school year, parents and the school district can agree to make changes to the student's IEP without holding a meeting. A written document may be developed to amend or modify the child's current IEP. Parents should make sure they understand and agree to any proposed changes and ensure that the change is documented.

If changes are made and the IEP is revised, the school must inform the parents of the changes and make sure they understand and agree to the changes. The school must make sure that the IEP team knows about the changes and must give an updated copy to the parent, according to the IDEA (34 CRF 300.324(a)(4)(ii)).

Prior Written Notice

There are certain times when the school must put in writing its decisions about the child's education and state the reasons for those decisions. This written communication is called prior written notice. Parents have the right to receive prior written notice whenever the school wants to do something or refuses to do something such as -

- Evaluate the child.
- Change the child's disability category.
- Change the child's educational placement.
- Change the way in which the child is provided a free, appropriate public education (FAPE).
- Terminate special education and related services in response to a parent's revocation of consent for special education placement.

Important Reminder
Special education services cannot be chosen based on parent preference. If a student is deemed eligible to receive a variety of services through the evaluation process, all of the services will be provided. Parents cannot decline one service but maintain other services.

Sometimes a school representative will tell a parent about a decision over the telephone, in a meeting, through an email, or in a conversation. However, even if the school informs the parent

in one of these ways, the school still must provide the parents with prior written notice before it can proceed.

Revocation of Consent

If the parent agrees to allow the school district to make the student eligible for special education and related services, the parent has the right at any time to revoke consent for special education services. However, it is very important for the parent to understand that if consent for special education is revoked, **the school district must terminate ALL special education services.** As a result, the student will no longer receive any services set forth in the student's IEP.

In order to revoke your consent for special education, Illinois rules permit the parent to do so either in writing or orally, although federal law only allows you to revoke in writing. To ensure that the revocation is received by the district, it is highly recommended that the parent provide the revocation in writing or follow up an oral revocation with a short letter confirming that the parent has revoked consent for special education. A sample letter showing how to provide revocation in writing is provided at the end of this guide in Appendix A. The parent's revocation of consent, whether orally or in writing, should be directed to either the district's superintendent, the district's director of special education, or the person supervising the student's IEP team (e.g., the case manager).

Once the parent has provided revocation of consent to the district, the district must provide the parent with prior written notice to tell the parent exactly when the services for the student will end. Though the law does not explain the exact time when the district must provide the parent with its notice to end services, it is recommended that the parent follow up with the school district if the notice has not been provided to him or her within ten days of revoking consent for services.

The Big Picture: Revocation of Consent

Once the district has provided the parent with written notice in response to revocation, the district must terminate all special education services to the child. Almost all the rights and protections the parent possessed as a parent of a student with a disability will also end.

If the parent later decides that the decision to revoke was a mistake and the district has already terminated special education services for the student, the district may need to evaluate the student all over again before the student's special education services can be restarted. There is no guarantee that the student will receive the same services that were in place before the parent revoked consent. (See Chapters 3 and 4 for more information on the steps required for evaluation.)

Parent Participation in Meetings

School districts are required to ensure parent participation in the discussions regarding their child's evaluation. School districts are also required to ensure parent participation in the meetings to determine eligibility and plan the child's IEP. This means that the local school district must contact parents in a timely manner to set a meeting time that is mutually convenient.

There are different types of meetings that are held for different reasons—evaluations, eligibility determination meetings, annual reviews to develop the IEP for the coming year, transition, change in placement, and others. You can read other sections of this guide to get more details about the specific type of meeting in which you are interested.

The following are some ideas parents can use to increase their involvement in school meetings:

Before the Meeting

- Tell the school if you have difficulty speaking or understanding English or if you are deaf and could use an interpreter or translator to understand what is said at the meeting.
- Prepare a folder to take to the conference that contains the following items: (a) your child's current IEP and progress report, (b) information you want to share about your child, (c) questions, (d) paper on which to take notes, and (e) any other information you want to discuss.
- Review your child's school records, reports, IEPs, and any other information you have that will be helpful during the meeting. Ask your child about his or her concerns and suggestions too.
- Request and review copies of any evaluations or draft goals that may be discussed at the meeting.
- Write down questions, concerns, and any suggestions you have regarding special education, related services, or placement.
- Prepare a statement about your child, including positive things that he or she can do. Sometimes your child is able to do certain tasks at home that have not yet been demonstrated at school.
- Plan to have your child attend the meeting to speak about what he or she likes about school and what he or she would like to learn. If 18 years of age or older, your child has the right to decide if he or she will attend, unless you have obtained legal guardianship.
- Invite other people to the meeting who might help you feel at ease or who have important information to share about your child. It often helps to have someone with you to take notes at the meeting, so that you can focus on the meeting itself. Let the school know whom you have invited.

During the Meeting

- Introduce yourself and your child. Give your child a chance to talk about what is important to him or her. Make certain that you talk about your child's strengths and needs. You may want to read a prepared statement, mentioned above.
- Ask the other IEP team members to introduce themselves by name and job title. You have the right to ask that any person present who was not listed on the school district's meeting notice be dismissed from the meeting.
- Maintain a positive attitude.
- Try to stay focused.
- Take notes on discussions, recommendations, follow-up items, and scheduled dates/appointments.
- Ask school personnel to explain terms, language, or statements that are unclear.
- Set a regular time to contact the teacher to discuss your child's progress.
- Ask to schedule an additional meeting if your questions and concerns cannot be answered in one meeting.

After the Meeting

- Follow through on any commitments you made during the meeting.
- Add documents from the meeting to your files.
- Contact the teacher periodically to see how the program is going.
- If you are not in agreement with what occurred at the IEP meeting, be certain to write a statement of disagreement to be attached to the IEP.

Chapter 7: Least Restrictive Environment (LRE)

In this chapter you will –

- discover what an educational placement is and what some of the options look like
- find out what research says about inclusive education
- learn the definition of the general education environment

Where Should Students be Educated?

The decision about where the student should receive services is called the educational placement. The IEP team, which includes the parents, decides the educational placement and services for the student. This is called "placement." Decisions are made at least once a year at the IEP meeting and are based on the student's individual needs. The IDEA presumes that the first placement option considered for each child with a disability is the general education classroom in the school that the child would attend if he or she did not have a disability. The team must also consider what extra supports the student needs that will allow the child to be successful in his or her educational placement.

Worth a Look

34 CFR 114 (a)(2)(i) says, "To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled."

Examples of services that could be provided to support students are assistive technology, positive behavioral strategies, a paraprofessional, study breaks, or preferential seating. There are many kinds of services and supports that could be included in the IEP.

If the IEP team decides that a general education class on a full-time basis is not the most appropriate setting for the student, then they can consider other options like resource rooms, special classes, special schools, or home/hospital instruction. Free appropriate public education (FAPE) includes three general areas: general education, non-academic activities, and extracurricular activities. To exclude your child from any of these without following procedural safeguards would be a denial of FAPE.

- The IEP must include an explanation when the student is educated apart from other students or is separated from nondisabled students for any school-sponsored activity.
- The school must provide the student equal access to nonacademic and extracurricular services. Students with disabilities must have an equal opportunity to participate in all activities sponsored by the school (transportation, clubs, music, athletics, etc.), per the supports and accommodations specified in the IEP.
- The student should be placed in the school he or she would attend if not disabled or in an age-appropriate setting as close as possible to the student's home unless the child's needs, as determined by the IEP team, warrant placement elsewhere.

What Do Some Placement Options Look Like?

Education placement decisions are made based on student's needs and **may** include the locations identified in the following summary of common placement options:

General Education Classroom

The student receives specially designed instruction with supplementary aids and services in the general education classroom. This could include, but not be limited to, modifications to the regular curriculum, co-teaching (general education teacher and special education teacher team teaching in the same classroom), special education training for the general education teacher, accommodations, computer assisted devices, note takers, physical arrangements of the classroom, peer supports, related services provided in the general education setting, grading modifications, and/or classroom or individual aides.

Important Reminder
A student with a disability should not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum according to 34 CFR 116(e).

Special Education Classroom

The student receives specially designed instruction in a special education classroom. Depending on their individual needs, a student may spend some, most, or all of their day in the special education setting. The student is included, to the maximum extent appropriate and with the necessary support, in general education classes.

Separate Day School (Special School)

The student receives specially designed instruction in a special school. The student is included in those parts of general education curriculum that are appropriate.

Residential Program (Special School)

The student receives specially designed instruction in a special school and lives on the grounds of the residential program.

Home/Hospital Program

The student, with extraordinary needs that cannot be met by public schools, receives specially designed instruction at home or in the hospital.

Additional Placement Guidance

Schools may not make placement decisions based solely on factors such as the following:

- category of disability
- severity of disability

- configuration of delivery system
- availability of educational or related services
- availability of space
- administrative convenience

Funding concerns cannot be used as a reason for not providing appropriate programs or services. If funding is a problem, your local school district must explore other ways of serving your student.

IEP goals should be written before a decision is made on placement. Goals should be written to support the student's needs. They should not be written to reflect the service available in a specific placement.

Supplementary aids and services can include changes in –

- instructional strategies
- social or behavioral support
- environment
- assessment (testing)
- staff support

Instructional strategies can include –

- teaching to a student's learning style
- differentiating instruction (teaching to meet the needs of all children in the classroom)
- providing hands-on activities
- using technology to support teaching and learning
- providing one-to-one instruction

Environmental supports can include –

- assigning special seating
- providing space for movement or breaks
- helping student maintain an uncluttered space
- providing study carrels

Behavioral supports can include –

- conducting a functional behavioral analysis
- implementing a positive behavioral intervention plan
- facilitating friendships
- providing rest breaks
- providing counseling or social skills training

- modifying the environment to reduce stimuli that are known to trigger the student's behavioral problems, such as excess noise or crowded hallways

Staff supports can include –

- training
- collaboration time between general education and special education teachers
- co-taught classrooms
- use of paraprofessional staff
- assistance for the teacher with curriculum and test modifications

Assessment (testing) accommodations can include -

- reading the test to the student (except for comprehension portion)
- additional time
- fewer questions
- allowing the student to give answers orally/testing individually so they can talk through the question and answer
- highlighting key directions

What Are the Benefits of An Inclusive Education?

When children with disabilities are part of the life and activities of a school, the following benefits are realized:

- Typical peers serve as models for children with disabilities.
- Natural friendships develop within the child's home community.
- Children with disabilities learn new academic and social skills within natural environments, facilitating generalization of skills.
- All students learn to value diversity.
- General education classrooms are better able to meet the needs of all students as a result of additional instructional resources, staff development for general and special educators, a more flexible curriculum, and adapted instructional delivery systems.

There are other benefits to inclusion:

- Students without disabilities develop an appreciation and acceptance of individual differences, including their own.
- Students are better prepared for adult life in an inclusive society.
- Students without disabilities have opportunities to master activities by practicing and teaching others.
- Students also have the opportunity to participate in alternative learning experiences, such as peer tutoring, cooperative learning groups, specific strategies instruction, individual remediation, small group instruction, specific language/listening developmental activities, and differentiated instruction.

- There is increased collaboration among school staff and more opportunities for parent participation.
- A wider variety of interventions and modifications are attempted with students.
- Teaching methods, techniques, and strategies are enhanced.
- Expectations are higher for children with disabilities, and so is their achievement.

What Is the General Education Environment?

The United States Department of Education explained that the term encompasses regular classrooms and other settings in schools such as lunchrooms and playgrounds in which children without disabilities participate.

Worth a Look

The federal requirements for the Least Restrictive Environment may be found at 34 CFR 300.114.

Placement is not an either/or decision, where children are either placed in a general education classroom or they're not. The intent is for services to follow or go with the child, not for the child to follow the services.

Chapter 8: Secondary Transition

In this chapter you will -

- learn what is included in a transition plan
- get information about questions to ask the student to help in planning for his or her future
- find out about the transfer of rights at age 18
- learn about the Delegation of Rights form and when to complete it
- find out what happens if the student receives a regular diploma
- learn about student participation in a graduation ceremony while maintaining the right to continue special education services
- acquire information on student participation in the home-based support services program authorized by the Developmental Disability and Mental Disability Services Act

Leaving high school is the beginning of adult life for all students. For students with disabilities, choices and decisions about the future may be more complex and may require a great deal of planning. State regulations require transition planning and the implementation of a transition plan to start by the time a student reaches 14½ years of age, or younger, if appropriate. This transition plan becomes an official part of the student's Individualized Education Program (IEP).

Students and their families are expected to take an active role in preparing the students to take responsibility for their own lives once school is finished. It is critical that families and their students understand that a student's entrance into adulthood and exit from high school means that the right or entitlement to special education services and a free and appropriate public education ends. Where once school provided a centralized source of education, guidance, transportation, and even recreation, after students leave school, they will need to organize their own lives, manage their needs, and navigate an array of adult service providers and federal, state, and local programs. This can be a scary task, and students and their families need to be prepared. Families provide a critical support system for their children especially during the transition to adulthood. Active participation and partnership with the IEP team can assist families in bridging the gap between school and adult service systems and pave the way to a successful transition to adulthood for their students.

What is Transition Planning and What Does It Do for Students with Disabilities?

Transition planning is a great opportunity for families and students to take a leadership role in setting goals and directions for the future. Transition planning –

- begins at age 14½ in Illinois and continues until the student graduates or reaches age 22, unless his or her 22nd birthday occurs during the school year, in which case he or she is eligible for services through the end of the school year.
- prepares students for life after high school.
- helps students plan for and choose high school courses.
- helps students decide what skills they need to develop to live and work in their community after high school.
- gives students the opportunity to explore work and career options while still in high school.
- helps students and families make connections with education and training programs, colleges, agencies, and support services for after high school to continue working toward goals.
- helps students and the entire IEP team learn about student interests, what works and doesn't work in their lifestyles, their skills and talents, and who can help in achieving specific student goals.

What Are Transition Services?

Transition services are a coordinated set or group of activities for a student that fits together like a puzzle. The full picture of the puzzle is the student's life after high school. The transition plan should be designed to help each student access a variety of transition services, activities, and supports that will help the student move from school to adult life activities including postsecondary education, vocational training, employment, adult education, adult services, and independent living.

Transition services are intended to prepare students to move from the world of school to the world of adulthood. In planning what types of transition services and activities a student needs, the IEP team considers areas such as postsecondary education or training, employment, and adult living. The transition services themselves are a set of activities that are based on the student's strengths, preferences, interests, and needs.

The pieces of the transition services puzzle may include the following components, depending on the student's needs:

Instruction

Instructional support extends to what the student might need in specific areas to complete courses for graduation, succeed in the general curriculum (e.g., tutoring), be placed in advanced classes, gain the skills he or she needs (e.g., social skills training, preparation for college entrance exams, self-determination skill training, etc.), and could also include teacher developed accommodations, curriculum adaptations, peer tutoring, or adult basic education.

Community Experiences

These are provided in community settings by schools or other agencies including, but not limited to, job site training, job shadowing, work experiences, banking, shopping, transportation, counseling, and recreation.

Related Services

The student may need related services to benefit from special education, to be equipped to enter the adult world (e.g., transportation, social services, medical services, rehabilitation technology), and to be linked to related services he or she might need after high school.

Development of Employment and Other Postsecondary Adult Living Objectives

These include services that lead to a job or career (e.g., career planning, guidance counseling, person-centered planning, job placement, job tryouts), and activities like registering to vote, filing taxes, renting a place to live, accessing medical services, and accessing adult services such as Supplemental Security Income (SSI).

Daily Living Skills

Daily living skills are skills adults need as a foundation for everyday life including self-care, independent living, money management, maintaining a home, health care, etc.

Functional Vocational Evaluation

This evaluation is used to find out what talents, aptitudes, and job skills a student has (e.g., situational work assessment, work samples, work adjustment programs, aptitude tests, series of job tryouts, if appropriate).

Transition Planning Questions

How can families, parents and guardians help their students begin planning for the future?

Parents, families and guardians can assist the transition planning team by helping to find answers to the follow questions. What are the student's …

- long-range employment and life goals?
- interests and talents?
- learning styles?
- positive personality traits?
- achievements?
- social skills?
- work experiences (paid, volunteer, at home, at school, in the community) and where might he or she like to work?
- specific challenges and strategies for dealing with them?
- needs for accommodations and support?
- options after high school (college, career or technical school, military service, employment, living arrangements, healthcare, recreation, etc.)?

Why is it important for students to participate in their IEP planning and meeting?

Participating in planning for life after high school builds student confidence and responsibility and helps parents transition to new roles as guides and mentors for their student as they step back and let their student take on a more active, decision-making role.

Must the school district have parental consent to invite postsecondary service agencies to the IEP meeting?

The IDEA requires the school district to invite a representative of any agency outside the school district who might be an important support or linkage for the student to be successful in his or her postsecondary goals. However, before inviting any agency representative, the school district must obtain the consent of the parent or the student if he or she has reached the age of majority (18) to extend the invitation.

Tips for Parents
Families should take time to discuss postsecondary agencies and find out what they are and why their participation in the IEP meeting could be critically important to the student's future success.

What Are the Basic Components of the Transition Plan?

Age-appropriate Transition Assessment

The Division on Career Development and Transition (DCDT) of the Council for Exceptional Children defines transition assessment as the "…ongoing process of collecting data on the individual's needs, preferences, and interests as they relate to the demands of current and future working, educational, living, and personal and social environments. Assessment data serve as the common threads in the transition process and form the basis for defining goals and services to be included in the … IEP." [Sitlington, Neubert, and Leconte. (1997) in *Career Development for Exceptional Individuals*, 20, 69-79].

The National Technical Assistance Center on Transition (NTACT) has prepared some guidance under the direction of the U. S. Department of Education's Office of Special Education Programs (OSEP). In regard to the selection of assessment tools they recommend that district staff –

- become familiar with the different types of transition assessments and their characteristics.
- select methods that assist students by helping them answer the following questions:
    - Who am I?
    - What are my unique talents and interests?
    - What do I want in life, now and in the future?
    - What are some of life's demands that I can meet now?
    - What are the main barriers to getting what I want from school and my community?
    - What are my options in the school and community to prepare myself for what I want, now and in the future?
- select approaches that are appropriate for students in terms of intellectual ability, cultural sensitivity, and language comfort (including parent and student interviews/questionnaires).
- <u>always</u> interpret and explain assessment results in formats that students and families can understand easily.

Must a District Obtain Parental Consent to Complete a Transition Assessment?

Parental consent is not required for age-appropriate transition assessments or questionnaires. 34 CFR 300.302 states, "The screening of a student by a teacher or specialist to determine

appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services."

Measurable Postsecondary Goals

These goals identify what the student will achieve after leaving high school. Postsecondary goals are –

- based on student strengths, preferences, and interests.
- shaped, refined, and updated by the use of age-appropriate transition assessments.
- written using results-oriented terms such as "enrolled in," "will work," "will attend," "will live," and descriptors such as "full-time" or "part-time."

Measurable postsecondary goals are written for the following areas:

- **Education and/or Training**
  - Education: community college, university, technical/trade/vocational school
  - Training: vocational or career field training, independent living skill training, apprenticeship, on-the-job training, Job Corps, etc.
- **Employment**
  - Paid employment (competitive, supported, sheltered)
  - Non-paid employment (volunteer, training position)
  - Military
- **Independent Living**
  - Independent living skills, health/safety, financial/income, transportation/mobility, social relationships, recreation/leisure, self-advocacy/ future planning

Specific Transition Services

A course of study is a list of specific courses the student is projected to take and should align with the student's postsecondary goals. There are two important questions to consider for course of study:

- Does a postsecondary goal require a certain minimum requirement of courses, such as is required for college, trade school, district graduation requirements, etc.?
- Does a postsecondary goal require or benefit from the successful completion of specific high school classes, e.g., a future chef planning to take and complete all cooking related classes, a future childcare provider planning to take and complete relevant classes in Family and Consumer Science, etc.?

Transition services are the coordinated set of activities that focus on improving the academic and functional achievement of the student to facilitate movement from school to postsecondary. The components of the coordinated set of activities include instruction, related services,

community experiences, development of employment and other postsecondary adult living objectives, and if appropriate, daily living skills and functional vocational evaluation.

What is the Summary of Performance (SOP) and When is it Developed?

When a student's eligibility for a free and appropriate public education (FAPE) ends either because the student is graduating with a regular diploma or reaching the maximum age of eligibility (22), the school district must provide the student with a summary of his or her academic achievement (e.g., academic successes, etc.) and functional performance (e.g., works skills, accommodations, social skills, self-determination skills, etc.) and include recommendations on how to assist the student in meeting his or her postsecondary goals.

- The SOP is developed during the final year of eligibility for FAPE and should include input from the student.
- The SOP can also include input from the student and/ or family expressing their point of view about successes and support needs related to postsecondary goals.

Whose Responsibility Is It to Give the SOP to Outside Agencies Such as Employers?

The SOP is for the student and/or family's use. Similar in use to a resume, the SOP is a portable, user-friendly document that provides a summary of the student's academic achievement and functional performance, as well as recommendations regarding accommodations, linkages and/or activities that will help the student successfully transition or move toward postsecondary goals. Therefore, the school district would keep a copy and has no responsibility to share this document with outside agencies.

What Is the Transfer of Parental Rights All About?

When a young adult reaches the age of 18 in Illinois, he or she has truly become an adult in the eyes of the law and has the right to make his or her own decisions. According to the IDEA, at least one year before a student reaches the age of 18, the school district must inform the parent(s) and student of the rights under federal and state regulations that will transfer from the parent to the student upon turning 18. This means that unless other arrangements have been made by the family (e.g., guardianship), the student has the right to make the final decisions about his or her education.

Delegation of Rights – Another Option

The school code (105 ILCS 5/14-6.10) allows a student to retain independent legal status while delegating his or her right to make educational decisions. According to this requirement, a student who has reached the age of 18 can choose to sign a Delegation of Rights to choose a parent or another adult to represent him or her and assist in making decisions about his or her education. This delegation applies only to educational decisions and can be ended by the student at any time. The school district must provide a copy of the Delegation of Rights to the parent and student during the IEP meeting during the year that the student turns 17.

Worth a Look

The School Code provision that discusses delegation of rights is found at 105 ILCS 5/14-6.10. You can also find a sample delegation of rights form on the ISBE website at https://www.isbe.net/SPEDReqNotConForms/nc_deleg_34-57k.pdf.

Resources

http://www.dd.illinois.gov/LocalAgency.cfm

Home-based Support Services Program – Follow this link to find your local Developmental Disability Local Coordination Agency or call 1-888-DD-PLANS or 1-866-376-8446 (TTY).

https://www.isbe.net/Pages/SPP-APR-Indicator-13.aspx

ISBE's Special Education Department's secondary transition webpage provides access to a great variety of resources, tools, and information related to postsecondary transition including the Transition Outreach Training for Adult Living (TOTAL) modules.

The Big Picture: Transition Planning

Effective transition planning is the result of teamwork over the course of a student's time in the educational system.

- DO NOT wait until graduation to think about what your student wants to do.
- DO provide support and mentoring to help your student make a plan.
- DO ask your family, friends, neighbors, school teachers, and counselors to help you along the way.
- DO use networking as a way to find out what options might be available for life after high school and how your student can access them.

Chapter 9: Behavioral Interventions

In this chapter you will –

- learn what a functional behavioral assessment (FBA) is and how it is used
- find out what a behavioral intervention plan (BIP) is and what it should include
- learn what behavioral interventions are permissible during instances of imminent danger to a student or others

If a student's behavior keeps interrupting his or her learning or the learning of other students, the school district and parents should work together to understand the reason for the behavior and plan ways to help the student learn more appropriate ways of behaving. One way of doing this is for the IEP team to develop a Behavioral Intervention Plan (BIP). A BIP is a tool that can help to –

- understand the meaning, or function, of behavior.
- understand what may be causing the behavior to happen.
- understand ways to change the environment to support the student's needs.
- plan how to teach the student appropriate behavior.

Functional Behavioral Assessment (FBA)

The first step in developing a good behavioral plan is to conduct a Functional Behavioral Assessment (FBA). The FBA is a process to improve understanding of problem or unwanted behavior in order to identify what skills need to be taught and how to develop an effective behavioral plan. The process includes observation, interviews, and data collection to identify when, where, and why the behavior is occurring.

The FBA is used to answer the question, "What function does this behavior provide for this student?" The answer to that question is typically either to get something such as attention, rewards, or sensory stimulation or to avoid or escape something like a difficult task, anxiety, or boredom. Identifying the function guides the development of a plan which can help the school teach missing skills and make changes so that the need for the behavior no longer exists.

A good FBA should include a hypothesis about the function of the behavior based on the following information:

- An objective description of the behavior
- The places or situations where the behavior happens
- The places or situations where the behavior does not happen
- Events that happen just before the behavior
- Events that happen just after the behavior
- Additional information, including the student's health, medication, and strengths

Behavioral Intervention Plans (BIP)

The IEP team uses the information from the FBA to develop a plan to –

- teach replacement behaviors which have the same function as the problem behavior.
- make changes to the situations that contribute to the behavior.
- teach other missing skills which increase the likelihood of the appropriate behavior happening.

Worth a Look
The rule that addresses the requirements for a BIP when it is included in an IEP for students who require behavioral interventions can be found at 23 IAC 226.230(b).

It is important to remember that the purpose of a BIP is not to outline punishments, but to define what **adults** will do differently to support the needs of the student.

A BIP should include the following information:

- A summary of the FBA, identifying the function(s) of the behavior(s)
- A summary of prior interventions implemented
- The strengths of the student
- What replacement behavior will be taught, including:
    - how the new behavior will be taught
    - who will be responsible for teaching the replacement behavior
    - how long it will take to teach
    - how staff will reinforce the appropriate behavior
- Additional supports that will be provided, including any schedule changes, additional services, tutoring for missing skills, etc.
- What measurable behavioral changes are expected
- What data will be used to decide if the plan is succeeding
- A schedule for a review of effectiveness
- How the school will communicate with the student's family

Physical Restraint and Time Out

Sometimes an extreme behavioral situation can occur in schools during which a student may pose a threat to self or to others, and school staff may need to engage physical management holds and/or initiate time out protocols, aligned with staff training, to defuse a potentially harmful and dangerous situation of imminent danger to the student or others. These extreme measures are to be used only in the most threatening situations to prevent harm to a student or another person.

The use of these measures in some public and nonpublic school settings to address matters of disobedience and poor conduct has prompted ISBE to revise the Illinois Administrative Rules. The State has moved to ban the use of physical restraint and time out as **a form of punishment** at any time, in any school setting. These measures were never intended to be used for disciplinary purposes or in place of appropriate academic or behavioral support.

The use of a time out, in which a student is not fully secluded unless the student poses a threat to staff, as a behavior management technique for the purpose of calming or de-escalation is

permitted in extremely limited situations. A time out involves the monitored involuntary separation of a student from classmates with a trained adult for part of the school day, only for a brief time, in a non-locked setting. The application of physical restraints is likewise permitted if the student poses a physical risk to himself, herself, or others; there is no possibility of a medical consequence to its use; and the staff applying the restraint has been trained in its safe application. Please see 23 IAC 1.285 for more specific information.

Chapter 10: Student Discipline

In this chapter you will -

- learn about how school safety affects student discipline
- understand the procedures involved when a school district considers suspending or expelling a student with a disability
- learn the process for conducting an expedited due process hearing

School Safety

Schools are responsible for keeping students and staff safe. If any student behaves in a way that is dangerous for the student or others, the school's first priority must be to address that danger and keep everyone safe.

Worth a Look

Senate Bill 100 (P. A. 099-0456) is a state law passed in 2016 to encourage schools to reduce suspensions/expulsions. This law applies equally to students with and without disabilities. The provisions of SB 100 are included in the Illinois School Code at 105 ILCS 5/10-20.14 and 105 ILCS 5/10-22.6.

Special education laws cannot hinder school safety. A student with a disability can receive the same punishments as other students, with the exception that a student with a disability has some additional protections if he or she is suspended for more than 10 days in a school year. A student with a disability cannot be disciplined more severely than other students for breaking the same rule. For example, if a student without a disability can be suspended for up to three days for breaking a specific rule, a student with a disability cannot be suspended for more than three days for breaking the same rule.

Finally, schools have a right and a responsibility to report crimes to the police. The schools do not need to get a parent's permission before reporting a crime.

Worth a Look

ISBE has published a position statement on the use of "informal removals," a practice in which students are sent home by the school during the school day and/or told by the school to remain at home, without the school documenting such action as a suspension. ISBE takes the position that such exclusions are tantamount to a suspension and are subject to IDEA's disciplinary procedural requirements. You can read the full position statement at https://www.isbe.net/Documents/ISBE-Position-Statement-Informal-Removals-of-Students.pdf.

Manifestation Determination Review (MDR)

Every student, whether or not the student has an IEP, may be suspended for violations of student conduct. When a student with a disability faces a suspension that could result in removal from the educational setting for more than 10 school days in a school year, he or she is eligible for education services during the additional days of suspension. Additionally, when a student with a disability faces a removal that exceeds 10 school days during the school year, the district is required to conduct a Manifestation Determination Review (MDR) with members of the IEP team and the parent.

An MDR is conducted to decide if the student's disability was the primary cause of the incident in question. The two possible outcomes of an MDR are the following:

- The student's disability IS the primary cause for the incident. In this case, the district may NOT discipline the student (i.e., impose a suspension or expulsion on the student in accordance with procedures required for all students in the district).
- The student's disability IS NOT the primary cause for the incident. In this case, the student may be recommended for suspension, or in the case of expellable conduct, be recommended for an expulsion hearing before the appropriate school district authorities.

Important Reminder

If the team determines that the conduct was caused by the student's disability, the team must also review the student's Behavioral Intervention Plan (BIP) to determine if it addresses the conduct appropriately. If the student does not have a BIP, the team will need to develop one. See Chapter 9 for more information on BIPs.

When an MDR team looks at the issue of whether the student's disability was the principal cause of the conduct, the team must look at a range of information including –

- The student's IEP and placement
- All relevant information in the student's file
- Further observations of the student
- Any further relevant information supplied by the parents.

The information will be used by the team members to answer two required questions:

1. Was the conduct caused by, or did it have a direct and substantial relationship to, the student's disability?
2. Was the conduct the direct result of the school district's failure to implement the IEP?

If the answer to **either** question is "yes," then the team must find that the student's disability caused the conduct and may not recommend the student for further discipline, such as a suspension beyond 10 days in a school year or an expulsion.

Removal from the Current Placement for Certain Conduct

In certain situations, the school district may be entitled to remove the student from the current setting, regardless of whether the student's conduct was caused by the disability. In such situations, the student may be removed for up to 45 school days to an Interim Alternative Educational Setting (IAES). The IAES may be any educational setting other than the current one that is capable of implementing the student's IEP.

There are three primary situations in which a school district may remove the student:

1. When the student's conduct involves a weapon (such as a gun or a knife).

2. When the conduct involves the sale, use, or known possession of an illegal drug or a controlled substance at school, on school premises, or at school function sponsored by the school district or a state education entity (such as ISBE or the IHSA).
3. When the student inflicts serious bodily injury on another person at school, on school premises, or at a school function sponsored by the school district or a state education entity.

In such cases, the school district may remove the student immediately to an IAES, regardless of whether an MDR has occurred.

In addition, the school district may also remove a student to an IAES for up to 45 school days for conduct that is substantially likely to result in injury to the child or to others (even if no physical injury occurs). However, before the removal can occur, the school district must obtain the order of a special education due process hearing officer. (See the next section for more information.)

Protections for Certain Students Who Are Not Eligible for Special Education

In some very limited cases, the procedures described in the previous sections may apply to students who are not receiving special education services at the time of the disciplinary incident. It is important to note, however, that this situation typically involves a very specific set of facts.

Worth a Look

The provisions concerning the rights of students who are not yet eligible for special education services can be found at 20 USC Sec. 1415(k), as well as 34 CFR 300.534.

A district will be required to do an MDR for a student who does not receive special education services if the district has knowledge that the student may be eligible for special education services. This means that the district would have some reason to believe that the student might have been eligible for special education prior to the incident.

Important Reminder

In order for a district to be on notice that a student who is not receiving special education may require an MDR, the district must have received this “notice” before the incident occurred.

For example, let’s say a student had been already referred for an evaluation prior to the disciplinary incident, but the parent and district evaluation team had not yet decided whether the student was eligible for special education. In this case, the district would probably be required to do an MDR before suspending the student beyond 10 days in a school year or moving forward with an expulsion hearing.

In addition to the example in the previous paragraph, a school district may be required to do the MDR if a parent had provided the district with a written concern that the student might require special education. Also, if a district supervisor over special education services had received a written concern from a teacher or other district staff about specific patterns of behavior, an MDR might be required even though the student was not yet eligible for special education.

Expedited Due Process Hearings

If a dispute arises between a parent and the school district over a disciplinary matter affecting a student with a disability, it may be possible for an Impartial Due Process Hearing Officer to decide the matter. Though a full discussion of due process hearings is covered in the next chapter, it is worthwhile to discuss expedited hearings right now.

Tips for Parents

Expedited hearings are requested only to challenge the decisions of the school district concerning: (a) the district's conclusion that the student can be suspended or expelled after an MDR, or (b) to challenge the district's choice of an IAES.

If you, as a parent, want to challenge the facts surrounding your child's suspension or expulsion, you have the right to request a review of the suspension or expulsion before your local school board.

Expedited hearings can **only** be requested on three grounds:

1. A parent can request an expedited hearing if he or she disagrees with the district's conclusions in the MDR (i.e., whether the conduct in question is the result of the child's disabling condition).
2. The parent can request an expedited hearing if he or she disagrees with the district's decision to move the child to an IAES as a result of conduct involving a drug or weapon, or where the conduct resulted in serious bodily injury to another student or a member of the school staff.
3. The district can request an expedited hearing if it believes that the child's conduct was dangerous and that his or her continued presence in the current setting is substantially likely to result in injury to other students, school staff, or the child.

When filing for an expedited hearing, one should follow the guidelines described in Chapter 11 for filing a standard hearing request. However, you should also state in your request that you are requesting an expedited hearing.

Worth a Look
For a more complete discussion of hearing procedures in general, please read Chapter 11: "Conflict Resolution."

A sample letter to request a due process hearing can be found in Appendix A at the end of the guide.

Rather than describe all the details of an expedited hearing here, you should simply be aware of the significant differences between an expedited hearing and a standard due process hearing. Unless a specific difference is noted here, you can review the information on standard hearings for more details on how the expedited hearing will occur.

The differences between an expedited hearing and a standard due process hearing are as follows:

- Unlike the standard hearing which allows the parties up to 30 days to work out their differences in a "Resolution Process" (see page 93), the parties are given only fifteen days to complete the resolution session in an expedited hearing. The parties must have their first resolution meeting within seven calendar days of the initiation of the hearing.
- Parties may use mediation (see page 83) instead of the Resolution Process to discuss a potential settlement of the dispute, but the mediation cannot delay the hearing timelines.
- In an expedited hearing, the hearing must begin within 20 ***school*** days and the hearing may not exceed two days in length.
- The hearing officer is given 10 school days from the end of the hearing to render the decision.
- During the period of time while the hearing is going on, the student may still be required to attend the placement designated by the district as a result of the disciplinary incident. In other words, the usual rules for "stay-put" (see page 91) do not apply and the ***new*** placement is considered the "stay-put" as opposed to the last agreed-upon placement.

Please keep these important differences in mind if you decide to file for an expedited hearing. As you can see, the timelines are generally shorter than is usually the case in a standard hearing.

Chapter 11: Conflict Resolution

In this chapter you will –

- discover a list of key terms
- identify steps to take when disagreements occur
- learn about mediation
- find out about the formal dispute resolution procedures involved with state complaints and due process hearings
- find out what can be done if you disagree with a decision

Introduction to Conflict Resolution

Parents and school districts want their children to be successful. In the area of special education, success usually happens because parents and school districts have become ***partners*** in providing an education for the child. As you may know by now, almost everything that happens in special education (evaluations, IEPs, and other things) occurs because parents and the school districts agree to them and work together as partners to make them happen. Still, even the best of partners can have disagreements about things.

This chapter is going to describe what should be considered and done if a disagreement happens. Some of the information in this chapter will even help in those times when you think a disagreement may be right around the corner. We will describe some informal things you can do to resolve a disagreement and some formal things that you may need to think about if you can't get your differences resolved informally. We will supply you with some important terms you need to know, followed by a description of what you can do to handle a disagreement if it happens. Finally, we will provide you a detailed description of the steps involved in each of the formal dispute resolution options.

In the following pages, we will often describe the situations in which a parent files for a hearing or a complaint against a school district. This is because over 75% of the complaints and hearing requests are initiated by parents. However, the information contained in the following sections is designed to provide ***everyone*** with useful tips for managing conflict.

Key Terms

In order for this chapter to make sense, it's important for you to understand some key terms before going on in this chapter. These terms will be used several times in the material that follows. Feel free to come back to this section if you can't recall the meaning of a term.

IEP Facilitation

The IEP facilitation process is intended to promote effective communication before, during, and after an IEP meeting and to prevent or resolve conflicts. Therefore, a conflict does not need to exist to make a request. However, if a conflict is likely or occurring, a request might still be appropriate.

Mediation

Mediation is a formal process of conducting a meeting led by a mediator (see page 83) to resolve a disagreement between a family and a district about the services and supports needed by a student with disabilities. Mediation can occur whether or not a formal complaint or due process hearing request is on file.

Mediation Agreement

A mediation agreement is a formal written document drafted by a mediator that describes the agreement reached by the parties to a mediation. A mediation agreement must be signed by both sides and can be enforced in a court of law if one party does not do what is required in the agreement.

State Complaint

A state complaint is a formal process where a person brings a written complaint to ISBE, claiming that the school has done something that is in violation of state or federal special education regulations. A complaint can result in a letter of finding that requires the district to correct something that is not appropriate for the student.

Settlement Agreement

A settlement agreement is a written document, signed by the family and the district, which describes what the parties have agreed to do, and must do, in order to resolve an existing disagreement. A settlement agreement may occur outside mediation or the resolution process (see below).

Due Process Hearing

A due process hearing is a formal hearing that occurs if a parent (or occasionally a district) files a complaint requesting a due process hearing. The hearing may involve attorneys and advocates for each side and will result in a legally binding written decision that can be appealed to a court of law.

Important Reminder

Requesting a due process hearing is typically the way the child can be maintained in the current placement if a disagreement occurs over the district's proposed placement. A state complaint will not freeze the placement. See page 91 for more information.

Resolution Process

This is a mandatory process that occurs following the filing of a due process hearing request. The process requires the parties to meet to discuss the dispute and explore ways of resolving the dispute without a hearing. The process normally does not involve an impartial person (like a mediator) and cannot involve attorneys unless the parent chooses to bring an attorney to the meeting.

Resolution Agreement

This is a formal written document that describes any agreements the parties have reached during the resolution process. The agreement must be signed by both the family and the district. The

agreement can be cancelled within three business days if a party decides the agreement is unacceptable. The agreement can be enforced in a court of law if a party is not following the terms of the agreement.

When a Disagreement Occurs: First Steps

If you believe that there is an actual or potential dispute occurring between you and the school district, there are several things that can be done (in most cases) before a due process hearing or state complaint has to occur. Before deciding that a dispute requires the assistance of an outside party, it is important to ask yourself a few questions:

Do the Parties Understand What Each One Is Trying to Do?

If the parent does not completely understand what the district is providing, or proposing to provide, to the student, it is very important that the parent ask questions. Asking questions will not only help to define the problem, but it may also assist the district in understanding why you may not agree with what the district is doing or proposing. Let's say, for example, that you are a parent, and you believe your child requires more services than the district has offered. Does the district know why you believe more services are necessary? Being able to understand your position is, very often, the key to resolving a problem before it turns into a big dispute. If you are a parent, be prepared to explain exactly why you believe your child needs something different than what the district has offered. It is usually difficult for the district to see your side of the story if you cannot provide an explanation for your point of view.

On the flip side of the coin, if you work for the district, does the parent understand fully why the IEP team is recommending specific services or placement? As a district member of the IEP team, it is equally important to ask questions of the parent if you sense that the parent may not fully understand the reasons for your recommendations.

Are There Other Acceptable Options?

Is there any chance of "meeting half-way?" Sometimes the key to resolving a disagreement is finding a so-called "third option" that both sides would find acceptable. Let's say the district has offered your child 30 minutes per week of speech services, but you would prefer 60 minutes of speech. Would 45 minutes a week be a possible option that is acceptable to both you and the district? Is 45 minutes an appropriate amount to provide to your child? Would 60 minutes cause your child to miss more class time or services in another area of need? If 45 minutes is both appropriate for your child and acceptable to you and the district, why not "meet halfway" and use this option instead of going to hearing? It's going to be very important to decide whether there might be other acceptable options in order to know how to handle a disagreement if it happens.

If We Can't Work It Out Among Ourselves, Would IEP Facilitation Help?

If discussions have not produced an agreeable solution to your concerns, the use of an IEP facilitator can be a very effective way of helping all members of the IEP team talk about their differences and reach an agreement about the document's contents.

IEP facilitation is a process that can help parents and districts understand one another as they develop an IEP that is agreeable to both. A trained facilitator encourages everyone to participate in the discussion of the services a student may need. The facilitator will acknowledge and address everyone's opinions in a respectful and neutral manner.

Important Reminder

Either party may request a facilitated IEP meeting 10 to 14 days ahead of time by submitting a completed request form which is located on the ISBE website at https://apps.isbe.net/sems/iepfacilitationrequestpublic.aspx. You can also call the ISBE Facilitation Coordinator at (217) 782-5589.

As a voluntary process, both the parent and district must agree to allow a facilitator to be present at the IEP meeting. Once a facilitated IEP meeting has been agreed upon by both parties, ISBE will appoint a state-sponsored facilitator who will contact the parent and school representative to prepare for the meeting, including setting the date if necessary. This individual is a neutral third party trained in IEP facilitation techniques and is not an employee of the school district. Keep in mind, the facilitator is ***not*** a member of the IEP team or an advocate for any person on the team. The facilitator makes sure all sides are heard so a decision can be made but does not make the decision for the group.

IEP facilitation participants must include all required IEP team members to complete the IEP process, including the parent and when appropriate, the child. At the discretion of the parent or the district, participants may include attorneys, advocates, interpreters, and other relevant parties who have knowledge of the student.

IEP facilitation sessions are scheduled for no more than three hours in one day. This time should allow for a productive exchange of ideas in the development of a mutually agreeable IEP document. If not, the parties may choose to continue for a bit longer to finish the meeting, or they may choose to reschedule for another date with or without the facilitator. This is always a voluntary process.

If a facilitated IEP meeting is not progressing, the facilitator or parties may end the facilitation. The facilitator's job is then complete, and this person will not take part in any subsequent due process hearing or civil proceeding that might occur after facilitation has been concluded.

The school district retains the responsibility for following the special education requirements under the IDEA. As with any other IEP meeting, the school district is responsible for providing notification of the IEP meeting, meeting timelines, ensuring attendance of required participants, as well as developing and implementing the IEP for an eligible student. The district is also responsible for providing a copy of the IEP document to the parent, as well as sending notice to the parent regarding the provision of services. As with all IEP meetings, confidentiality is a required component of facilitated IEP meetings.

ISBE will not keep a copy of the IEP document. The only record retained of the facilitated IEP meeting is the result of the session, the date, time, and location of the facilitated IEP session.

What Other Options Are There to Handle a Disagreement?

If your discussions can't hammer out an agreeable solution to the problem, you might still have an option short of filing a complaint or a due process hearing request. If due process has not been filed, a request for mediation by a parent challenging a district proposal to change the child's educational placement shall invoke the "stay-put" provision. The "stay-put" placement shall be the last agreed upon placement between the parties. In the event a party declines to use mediation, the parent shall have 10 days from the date of the refusal to request a due process hearing to continue the "stay-put" placement. As will be discussed soon, mediation is an option that can be used to resolve disagreements whether or not a complaint or hearing request has been filed. The use of a mediator can be a very effective way of helping parties to work out their differences.

Important Reminder

Mediation is a completely voluntary process. Both the parent and the district need to agree to participate in mediation before a mediation can take place.

The use of the first steps described above is simply an ***option***. They should not be understood as absolute requirements that you must use each and every time a dispute occurs. Still, they are options that should be viewed seriously as a way for you to avoid the time and expense of a due process hearing or state complaint. However, there may be situations where going through the first steps will simply not work (examples would include cases where timing is important or where the tension is so high that reaching an informal agreement would be nearly impossible). It is always important to think about the situation and the kind of problems when deciding to use one or more of the first steps described here.

Worth a Look

The rules for conducting mediations in Illinois can be found at 23 IAC 226.560 which are aligned with 34 CFR 300.506.

All About Mediation

As we described just above, mediation can take place whether or not you have a pending complaint or hearing request. Mediation is a voluntary process designed to help parties reach agreements to resolve potential disputes. As a voluntary process, both the parent and the district have to agree to engage in a mediation. Either party may initiate a request for mediation by calling the ISBE Mediation Coordinator at (217)782-5589 or by submitting via email a completed mediation request form which is located on the ISBE website at https://www.isbe.net/Documents/34-15-mediation-request.pdf.

Important Reminder
Because each mediation is individualized to suit the needs of the parties, you may find that your mediation will differ in some ways from the process described in this guide.

Once mediation has been agreed to by both parties, ISBE will appoint a mediator, who will then arrange the time and place for the mediation meeting. The mediator is a person specially trained to understand special education matters but who is not an employee (or has an interest in) working for either side. The mediator's only focus will be to assist the parties in the discussion of the unresolved issues to help them find a way to formulate an agreement that will work to the benefit of the child. The mediator is not a decision maker and has no authority to enforce or override any action by either party.

Prior to the mediation, the mediator will contact both parties to discuss important matters, such as the nature of the dispute and relevant documentation. Once the meeting begins, the mediator will generally ask each side to discuss the issues and what their opinions are about how the issues should be resolved. The mediator will then work with the parties to identify where the parties have areas of agreement and whether each party can find agreeable options to resolve the dispute. The mediator may ask to speak with you individually (in a private place without the presence of the other party) so that you can feel free to discuss your options with the mediator. At other times, the mediator will want to discuss matters with both parties present. In general, the mediation meeting will take two to three hours, but may take more time depending on the number of issues that need to be discussed.

If an agreement can be reached between the parties on all (or even some) of the issues, the mediator will then help the parties to write up a mediation agreement. The mediation agreement will outline exactly what each party must do and (if necessary) set specific timelines for the completion of the things in the agreement. Once the language of the agreement has been set down in writing, you and a representative of the district will be expected to sign the agreement. ***If either side refuses to sign the agreement, the agreement will have no legal effect.*** As we

described above, once a mediation agreement is signed, you will have a legally binding document that can (if needed) be enforced in a court of law if the agreement is not put into effect.

If mediation fails to resolve the dispute between the parties, the parent shall have 10 days after the mediation concludes to file a request for a due process hearing in order to continue to invoke the "stay-put" provision (if due process has not already been filed.)

Important Points to Remember About Mediation

1. **It's a voluntary process.**

Mediation is a completely voluntary process, so mediation will only happen if both you and your school district agree to participate. But more importantly, ***any agreement you reach is also voluntary***. Even if the mediation meeting happens, you do not have to sign the final agreement if it is not something to which you agree.

2. **Mediation is confidential.**

One of the most important ground rules in mediation is the requirement that everything said in the mediation is confidential. In other words, you should feel free to say anything that will assist in reaching an agreement because what you say cannot be used in another context. This is very important if you're also facing a due process hearing because it means that anything you say at a mediation cannot be used as evidence against you at hearing. But confidentiality is a two-way street. You will not be able to use statements by the other party in the hearing either, and neither party may call the mediator as a witness in a due process hearing.

3. **The agreement is a binding document.**

As we stated earlier, a mediation agreement is legally binding similar to a contract. Because it is legally-binding, this means that you would have the ability to go to a court of law to enforce the terms of the agreement if something is not being done or not being done correctly.

Formal Dispute Resolution

You have a major disagreement about your child's educational program. You have tried to work out your differences through conversations and informal negotiation. You've even tried to work out an agreement with the help of a mediator. At the end of it all, your major disagreement still exists. What do you do?

In most cases, once you have exhausted all the things described above, it is generally time to consider using a formal process for having your dispute resolved. There are two formal processes currently available in Illinois: state complaints and due process hearings.

The biggest difference between the actions described in the earlier sections and the actions we are about to describe is this: a person other than the parent and the district will now decide how

to resolve the issue. In informal procedures, the parent and the district try to work out the matter between themselves. But in formal dispute resolutions, you are giving your dispute over to another person to decide it for you. In the case of state complaints, it is a complaint investigator who works for ISBE. In the case of due process hearings, it is an independent person known as an "impartial hearing officer."

The next section will discuss state complaints, while the following section will discuss due process hearings. Finally, we will try and tie all of this up by providing you with a table that compares state complaints with due process hearings, so that you can choose the best option for your situation if you need to use a formal process.

All About State Complaints

The state complaint process is a procedure that is established under both the federal and state special education laws and rules. In a state complaint, a person who has knowledge of the educational issues concerning the child may file a written complaint with ISBE. The complaint sets out who the child is (or in some cases who the children are), the facts that have led to the dispute, and suggestions for how the situation can be fixed. A sample complaint letter is provided in Appendix A to give you an idea of what a state complaint letter might look like.

Worth a Look

The procedures for state complaints can be found at 23 IAC 226.570. For information on filing a state complaint, please visit the ISBE website at https://www.isbe.net/Pages/Special-Education-Complaint-Investigation-Process.aspx.

Once ISBE receives the complaint, the complaint will be assigned to an investigator. The investigator is an employee of ISBE with expertise in special education issues. The investigator108 may do some or all of the following things in reaching a final determination:

1. Contact the person or organization to clarify the issues described in the complaint.
2. Request documentation from you to support your claims.
3. Contact the district to find out the district's position concerning the claims.
4. Request documentation from the district to support its position or positions.
5. Set up interviews with the complainant and others who have direct knowledge of the issues in the complaint.
6. If necessary, perform an on-site investigation at the school.

Much of the investigation can be done by telephone and mail, although the investigator may visit the district and meet with the complainant in person in order to reach a thorough decision if the investigator believes it is necessary.

It is important to note that although the complainant has a right to present the case to the investigator, there is not a right to question district personnel or to "argue" the case in front of the investigator. Unlike a due process hearing (described below), parties will not be allowed (or required) to participate in a formal hearing to present the case, supporting evidence, or witnesses. All procedures in the complaint will be handled by the investigator alone.

In addition to these steps, the investigator may work with you and the district to find a mutually acceptable agreement to resolve the issue or issues in the complaint. This process, called "early resolution," is a voluntary process designed to help find an acceptable solution to the problem without requiring the formal issuance of a decision by ISBE. However, if the parties and the investigator cannot find an acceptable agreement to resolve the issue, the investigator will go forward with a full investigation and make a final decision in the case.

The investigator has 60 calendar days from the date ISBE receives the complaint to reach a conclusion. In rare circumstances, however, the investigation can be extended beyond 60 days by the investigator. The conclusion reached by the investigator is called a "letter of finding." As the name suggests, the investigator will issue a decision in the form of a letter. This letter will outline the issues investigated, the facts found by the investigator, a determination of whether those facts comply with the law and regulations, and finally an order describing what the district needs to do in order to meet the requirements of the law and regulations. A copy of this letter will be issued to the complaining party and to the district.

One unique aspect about state complaints is the fact that a person may not only file a complaint about a single child, but a person can also file a complaint claiming a systemic problem (in other words, that a district's practices are in violation of state or federal special education regulation for a whole group of children). But there are also important differences between a state complaint and a due process hearing, which is another way to obtain a ruling over a special education dispute. Though due process hearings will be discussed in more detail in the next section, it is useful to look at some of the differences and similarities between the two at this point.

Table 11.1: Comparison of actions between state complaints and due process hearings

Action	State Complaints	Due Process Hearings
Filed with whom?	ISBE	Local School District
Filer must be parent or guardian?	No	Yes* *See page 93 for exception.
Concerning more than one student?	Yes	No (rare exception for siblings served in same placement)
Time limit to file after an alleged violation has occurred	One year	Two years
Mediation available?	Yes	Yes
Timeline for completion	60 calendar days	75 calendar days (regular hearing request with full resolution session timeline)
Timeline extensions?	Yes	Yes
Stay-put applies? (which means placement is maintained pending the final decision)	No	Yes
Use of evidence	Yes	Yes
Decision maker	Complaint Investigator	Due Process Hearing Officer
Right of Appeal	No	Yes
Attorneys' fees	No	Yes

Another important difference between complaints and due process is also shown in the table above. If you file a complaint, you are permitted to include any issue that has arisen within one calendar year of the date you file your complaint. However, if you choose to file for a due process hearing, you are permitted to raise any issues that have occurred up to two calendar years prior to the filing of your due process request. This difference is set out in the IDEA. This factor may also help you to decide whether a complaint or a due process hearing is the best route to take in resolving the issues with your district.

With this information in mind, we need to turn to the procedures associated with due process hearings.

Formal Disputes: Due Process Hearings

Due process hearings are the most formal way to have a dispute between a parent and a school district decided. In general terms, due process hearings have a number of similar features to court proceedings. Just like a court of law, due process hearings can involve formal arguments (often made by lawyers), witness testimony, and the use of documentary evidence to make the case for one side or the other. And, just like court, a decision maker (called an "Impartial Hearing Officer" in the case of due process hearings) renders a written decision that is legally binding for both parties.

Worth a Look

The principal rules on due process hearings in Illinois can be found at 105 ILCS 5/14-8.02a and 23 IAC 226.600 through 226.675. Citations to more specific rules on the various parts of the due process system can be found in the following sections of this Chapter.

There are two types of due process hearings in Illinois: general and expedited hearings. The following information describes the procedures associated with general due process hearings. Expedited hearings, which focus on issues dealing with student misconduct and discipline, are discussed in the previous chapter dealing with student discipline. (See Expedited Due Process Hearings on page 75.)

In Illinois, about 85% of all due process cases are filed by parents. This is because parents have a much larger range of issues for which they can file a hearing request. Because of this fact, the following sections are mainly written from a parent's perspective. But school districts can certainly gain important insights on due process by reviewing these sections as well.

When Should I File for Due Process?

Parents are provided much broader reasons for filing a hearing request than school districts. For this reason, most of the information provided in this section deals with the more common situation of a parent filing a hearing request against a school district.

It would take pages to describe all the possible situations where a parent might need to file for a due process hearing. In fact, this document itself is a guide to help you decide whether you are facing a situation that might require you to file a hearing request. However, in most cases, it would be a good idea for you (as a parent) to ask yourself several important questions before you begin to make a hearing request:

Have the District and I Explored Other Options to Resolve Our Differences?

For many people, due process hearings should be viewed as a "last resort." Due process hearings can be very expensive in terms of time and money and should be used only when you believe you have no other option to obtain the help you believe your child needs.

Tips for Parents

Just because the term "last resort" is used does not mean that there will not be situations that may require you to file a due process hearing request very quickly. You will need to consider the particular situation you are facing to decide whether you should file a hearing request immediately or wait until other steps have been taken.

Can I Present a Case That Makes Sense to a Hearing Officer?

The hearing officer (the person who will decide the case) may have training in special education but will have no idea about the history of your case prior to receiving your hearing request. You will need to figure out if you can present a clear story that is understandable to the hearing officer. If the hearing officer cannot understand what your issues are or why you believe you are right, it will make it much harder for the hearing officer to rule in your favor.

Do the Records Support the Position I am Taking?

Before filing a hearing request, it is always a good idea to review the IEPs and other school records you have in order to decide if they back up your story. Documents like IEPs, evaluations, and other records in your child's student file are extremely important to the hearing officer. If they suggest a different story than the one you have, the hearing officer may have difficulty agreeing with your version of the facts.

Are There Witnesses Who Will Back Up My Understanding of the Facts?

Another important source of information to a hearing officer is what witnesses might say on your behalf. Witness testimony is a big part of due process hearings. If the witnesses, particularly those who will testify to support your case, do not have information to back up your story, it will be difficult to convince a hearing officer to support your position.

It is important for you to think about all these questions before deciding to undertake a due process hearing request. A hearing request can be an expensive, stressful, and time-consuming process, so thinking through these questions will help in your decision to go forward with a hearing request.

Can a District File for Due Process Too?

A local school district can file for due process against a parent in two situations:

- when a parent refuses to provide consent for an evaluation, and
- when the district refuses to grant a parent's request to obtain an independent evaluation of a child paid for by the district.

If a district initiates a due process hearing against a parent, it will write ISBE a letter requesting the appointment of a hearing officer. The letter will describe the reasons for the district's hearing request. In addition, the district will provide the parents with a copy of the letter it sends to ISBE.

Worth a Look
The rules describing when a district can file for due process are outlined at 34 CFR 300.300(a)(3) (when a parent refuses to consent to an evaluation) and 23 IAC 226.180 (when a parent requests an independent evaluation).

Do I Need to Hire a Lawyer or Advocate?

There is nothing that prevents a parent or school district from presenting a case at a due process hearing, but parties frequently choose to use either an attorney or a non-attorney advocate to represent them in the hearing. There is a great deal of formality to a due process hearing, and in many ways, a due process hearing has a lot of the look and feel of a courtroom proceeding. For this reason, parties will often seek the expertise of someone familiar with special education law to represent them in this process.

If you are a parent using an attorney, it is important for you to keep in mind that some or all of your attorney's fees might be recovered from the district if you prevail in the hearing (and if the result is not appealed by the district to a court of law). However, the law has increasingly made it clear that "prevailing" means obtaining a favorable decision from the hearing officer on a major issue in the case.

Without a favorable decision from a hearing officer, it is almost certain that the fees you pay to an attorney cannot be recovered from the district. If you are interested in working with an attorney but cannot find one on your own, please contact the Due Process Coordinator at ISBE for a listing of attorneys who may be able to assist you.

Worth a Look
In very limited situations, a school district can seek attorneys' fees against a parent. The right of a district to seek attorneys' fees is limited to situations where the district can show that the parent filed for due process to harass the district or for so-called "frivolous" reasons (i.e., that the parent knew in advance that he or she had no real basis for filing for due process). In the vast majority of cases, a parent's legitimate belief that he or she has a good faith due process dispute with a school district will not be considered frivolous. For more information, check out 34 CFR 300.517(a)(1).

How Do Parents Request a Due Process Hearing?

If you decide to proceed with a due process hearing, your request for the hearing needs to be filed with the superintendent of your local school district. And even if your child is receiving services from a special education cooperative, you still must file your request with the local district superintendent.

You have a couple of options when writing out your hearing request: you may either use a form obtainable from ISBE's website or you can write a letter. The ISBE form can be found on the ISBE website at: https://www.isbe.net/Documents/dp_parental_19-86a.pdf.

The online form permits you to simply type the information on the form. Once completed, simply print out the form on your computer printer, sign it, and send it to your district superintendent. Alternatively, you may print out the blank form and fill in the requested information by hand. In either case, please provide complete information to all questions on the form. If you need additional space, do not hesitate to attach additional pages to the form.

If you choose to write up your request in the form of a letter, you should attempt to provide all the information that is requested on the ISBE form. At minimum, your hearing request needs to contain the following information:

- Your name and contact information (phone, mail address, and if you wish, a fax number and email address)
- the name of your child and the name of the school your child attends
- a statement of the issues you want the hearing officer to consider
- a statement of the facts that are relevant to the issues in the case
- the remedies or orders (to the extent you know what they are) that you want the hearing officer to enter to resolve the case.

Worth a Look
The rules describing what information needs to be included in a due process hearing request can be found at 34 CFR 300.508(b).

It is essential for you to include all this information in your hearing request. Under IDEA, failure to include all the required information could subject your request to dismissal by the hearing officer. Once completed, you will need to sign your letter and send it to the district superintendent.

When the district receives your request, the district has five calendar days to forward your request to ISBE. Within three calendar days of receiving the request from the district, ISBE will appoint a hearing officer and mail both you and the district a written notice of who the hearing officer is.

Stay-Put: How a Hearing Request Affects the Child's Placement

When a party files a due process hearing request, the request triggers what is known as "stay-put" under both federal and state law. "Stay-put" is a provision designed to make sure that no changes are made to your child's placement until issues that might affect the placement have

been decided by a due process hearing officer. “Stay-put” requires a district to maintain the last placement the parties agreed to prior to filing for due process.

Worth a Look
The “stay-put” provision in IDEA can be found at 34 CFR 300.518(a).

Because of the “stay-put” provision, it may be important that you make your decision to file for due process as soon as possible after an IEP meeting during which a placement was recommended that you strongly oppose. A district can proceed with a placement within 10 calendar days of an IEP meeting if you do not make a formal objection to the placement. Therefore, if you wait until after the placement has been implemented to file for due process, it may be difficult to go back to the previous placement as the “stay-put” placement.

A Note about Hearing Officers and Substitutions

When ISBE receives a hearing request from a local district, a hearing officer is selected based on a fixed rotation that is maintained in a computer database at ISBE. Each hearing officer currently serving in Illinois is either an attorney or an educational professional. However, it must be noted that no one can serve as a hearing officer in Illinois if they are an employee of a local school district, a special education cooperative, a regional office of education, or ISBE. Each hearing officer has received comprehensive ongoing training in special education law and special education practices.

It is important for you to remember that the hearing officer functions in many of the same ways that a judge does in a court of law. In the same way that a court operates, you cannot discuss your case with the hearing officer without the presence of a representative of the district (likewise, a district representative cannot discuss the case without your presence). The only exception to this rule is when you are contacting the hearing officer for the purpose of scheduling a meeting with the hearing officer and the district or scheduling the hearing itself.

Worth a Look
The rules guiding the substitution of hearing officers can be found at
105 ILCS 5/14-8.02a(f-5).

When parties receive notice of the hearing officer appointment, you will receive a short description of the hearing officer’s professional background and work history. This information should be able to assist you in deciding whether you want to exercise your right to request a ***substitution*** of your hearing officer. Under Illinois law, both you and the district have a right to request one hearing officer substitution in the case. Please note that if you decide to substitute your hearing officer, you must do so in writing within ***five calendar days*** of receiving your written

notice of the hearing officer. Your substitution request may be directed to the Due Process Coordinator at ISBE.

Next Steps: Responses and Insufficiency

A number of things may happen very quickly after you file your hearing request with the local school district. Under both IDEA and the Illinois School Code, the district may do one or both of the following things:

1) Provide a written response to the hearing request

Within 10 calendar days of receiving your request, the district may provide you and the hearing officer with a written response to the hearing request. A written response, however, is not required if the district has already provided you with "prior written notice" of its actions that led you to file your hearing request. In many cases, the IEP and Notice of Conference Recommendations you receive at the end of an IEP meeting are considered to be "prior written notice."

2) File a Notice of Insufficiency

Also, within 15 calendar days of receiving your request, the district may file "Notice of Insufficiency" with you and the hearing officer. A Notice of Insufficiency is basically a request by the district to have your request dismissed because it lacks the required information for a hearing request. If you made sure to include all the information described earlier in writing up your hearing request, a hearing officer is not likely to dismiss your hearing request.

Worth a Look

The rules guiding the response to a hearing request and challenging the hearing request for insufficiency can be found at 34 CFR 300.508.

The Resolution Process

IDEA requires parties to attempt to discuss potential settlement of due process disputes. This procedure is called the resolution process and is now a mandatory part of all hearing requests. This procedure allows parties up to 30 calendar days following the initiation of a due process hearing to explore solutions for resolving the dispute without a full-blown hearing.

Worth a Look

The rules guiding the resolution process can be found in both federal and state law. The federal rules can be found at 34 CFR 300.510, while the state provisions can be found at 105 ILCS 5/14-8.02a(g-20).

Within 15 days of the district's receipt of your hearing request, one of three things ***must*** occur:

1. **Conduct an initial resolution meeting**

By the 15th day, you and the district ***must*** have an initial meeting to discuss your hearing request. This initial meeting (and other meetings that may occur over the next 15 days) is designed for you and the district to discuss your request, the facts surrounding the request, and ways that you and the district might work out an agreeable solution to the problem or problems. The initial meeting must include you, a district representative with authority to sign an agreement with you, and any members of your child's IEP team who have knowledge of the facts concerning your hearing request. You may also bring an advocate or an attorney with you, but if you bring an attorney, the district will be allowed to bring theirs.

2. **Agree to use mediation instead of the resolution process**

By the 15th day, you and the district can also agree to conduct a mediation with an ISBE-appointed mediator in place of the resolution process. Both you and the district must agree ***in writing*** to use the mediation option. If you do agree to the mediation, your written agreement should be given to the hearing officer and the Mediation Coordinator at ISBE as soon as possible.

3. **Agree to waive the whole process**

Both parties can agree to bypass the whole process, so long as both agree to do so ***in writing*** by the 15th day following the district's receipt of your hearing request. If the parties agree not to do either the resolution process or a mediation, they will need to provide the hearing officer with a copy of the agreement as soon as possible. If the parties agree to waive the resolution process, the hearing procedures will begin immediately.

Important Reminders

Unless both the parent and the district agree in writing not to conduct the resolution process, both parties must participate in the initial meeting. A party's failure or refusal to participate in the initial meeting could either significantly delay the due process hearing, or possibly result in the dismissal of the hearing request by the hearing officer. In limited circumstances, the refusal to participate in the resolution process can also result in an order granting some of all of the requested remedies in the hearing request. Please see 105 ILCS 5/14-8.02a(g-20) for more information.

If you and the district decide to use mediation instead of the resolution process, it may delay the timeline for completing the due process hearing. Under federal law, the timelines for completing the hearing will not trigger until the mediation has been completed, even if the mediation extends beyond the 30-day timeline for completing the resolution process.

If the parties conduct the resolution process, please keep the following points in mind:

- **You have until the 30th calendar day following your filing of your hearing request to complete the process.** Up until the 30th day, the parties can meet again to discuss further possibilities of resolving the dispute. You also can discuss issues by phone or by mail.

- **Discussions during the resolution process are NOT confidential.** Unlike mediation, the discussions the parties have during the resolution process are not confidential and could be used as evidence during a due process hearing. It is very important that you keep this in mind when deciding to go forward with the resolution process.
- **You can continue to explore settlement of your dispute after the close of the resolution process.** Even if you do not reach an agreement before the end of the 30-day timeline for the resolution process, you can continue to discuss possible solutions to the dispute with the district up until the actual due process hearing has begun. However, if you reach an agreement after the 30th day, the rules applying to written agreements in the resolution process (see below) will not apply unless your hearing officer has ordered an extension of the timeline for the resolution process.

Resolution Agreements

So, what happens if you reach an agreement with the district on the issues that led to your hearing request? Any agreement you reach with the district during the resolution process must be put in writing. Also, the agreement must be signed by you and the district representative for the agreement to be valid.

Worth a Look

The rules on agreements reached through the resolution process can be found at 34 CFR 300.510(d) and (e).

One aspect about a resolution agreement that you need to remember is that you have up to three business days (i.e., Monday through Friday except for state and federal holidays) to void the agreement. This means that you can choose, essentially, to erase or invalidate the agreement so long as you advise the district of this decision in writing. If you choose to do so, the agreement will have no effect.

Important Reminder

Either party can revoke the terms of a resolution agreement so long as it is done in writing within three business days of the agreement.

Please remember these important points about resolution agreements:

- **Try to ensure the agreement is detailed about everything needed to resolve the dispute.** When writing up the agreement it is important to make sure that the agreement describes in detail what you and the district need to do and when it needs to be completed. For example, if a new IEP needs to be written to provide more speech services to your child,

the agreement should describe how much service the district will provide in the IEP and when the IEP meeting needs to occur.

- **The agreement is legally enforceable.** Assuming that neither you nor the district has exercised your right to void the agreement within three business days, the agreement is a legally binding agreement on both you and the district. This means that if needed, you can go to court (either state or federal) and ask a judge to enforce the agreement if something is not being done, or something is being done incorrectly.

Setting the Stage: The Pre-Hearing Conference

If you cannot reach an agreement in the resolution process, the hearing procedures will go forward at the 30th day or at whatever earlier date the parties agree to terminate the resolution process. If this happens, the hearing procedures will begin. Under Illinois law, the hearing officer must render a decision in the case within 45 calendar days of the start of the hearing procedures unless extensions of time have been ordered by the hearing officer. The hearing officer can only grant extensions of time at the request of one party or the joint request of both parties.

Worth a Look

The rules guiding the procedures for the pre-hearing conference can be found at 105 ILCS 5/14-8.02a(g-40).

The next major step in the process concerns a meeting called the pre-hearing conference. This is a meeting run by the hearing officer in order to outline how the hearing will be conducted, what the issues will be, who will likely be called as witnesses, and what documents each side is likely to use as evidence at hearing. The hearing officer will schedule the pre-hearing conference with you and the district in advance and will provide you with a written notice of the time and location of the meeting. It is also common for such meetings to be conducted by phone.

Important Reminder

Extensions of time to complete the hearing may be granted by the hearing officer if one party requests a delay in the hearing. However, if both sides submit a joint request for an extension of time, the hearing officer must grant it.

See 105 ILCS 5/14-8.02a(h) and 23 IAC 226.640(b).

After you file your hearing request with the district, you will receive a packet of information from ISBE that includes information on the pre-hearing conference and how to prepare for it. Once the hearing officer has set the date for the pre-hearing conference, you should review the materials you receive from ISBE carefully in order to prepare for the conference. The hearing officer will inform you about any deadlines associated with the pre-hearing conference and when you will need to submit information to the hearing officer and the district.

When preparing for the pre-hearing conference, it is helpful for you to keep a few things in mind:

- **Be prepared!** Make sure you have met the deadlines of the hearing officer and that you have done a thorough job providing the hearing officer with the information requested. Before the pre-hearing conference, it is always a good idea to sit down and review your pre-hearing conference materials so you are prepared to address any questions the hearing officer may have.
- **Are the issues I raised in my hearing request clear?** It is not uncommon for the hearing officer to ask for clarification about the issues in the case. In order to be ready to answer such questions, it is a good idea to re-read your hearing request and ask yourself whether a person who doesn't know about your situation would understand what you said in your hearing request.
- **Do all the witnesses I plan to bring to the hearing have something relevant to say?** Often, questions will be raised about why one or more of your witnesses are being called by you. Be prepared to describe to the hearing officer what the witnesses will likely discuss at the hearing and whether the witness's testimony is relevant to your issues.
- **Are all the documents I am thinking about submitting at the hearing relevant to my case?** In the same manner as witnesses, questions may also be raised about whether some of the documents you may use at hearing are relevant to the issues in your hearing request. You may need to explain the relevance of one or more documents during the conference.

The Big Event: The Due Process Hearing

At your pre-hearing conference, the hearing officer will set a final date for the hearing to take place. At the earliest, the hearing will take place 14 days after your pre-hearing conference, but the hearing officer can set a later date if the timelines permit. It is not uncommon for the hearing officer to set more than one day for the hearing, especially if there is a large number of issues the hearing officer must decide.

Hearings usually take place at the administrative offices of your local district, but occasionally they can occur at other locations if the hearing officer decides there is a good reason for holding the hearing in another place. Follow the hearing officer's guidance on where to be seated in the room.

Under normal circumstances a due process hearing is a "closed" event. In other words, it is not a meeting that can be attended by persons other than persons directly involved in the hearing. However, parents have the right to request an "open" hearing. By making the hearing "open" other persons (including members of the public) may attend (but not participate in) the hearing.

From the moment the hearing begins, you will notice a great deal of formality similar to being in a court of law. The formality is essential to ensure the hearing runs smoothly and efficiently. In cases where parents request the hearing, the typical order of a hearing is as follows:

- Parent Opening Statement
- District Opening Statement
- Parent Witnesses (with district cross-examination)
- District Witnesses (with parent cross-examination)
- Parent Closing Statement
- District Closing Statement

This order can sometimes vary if the hearing officer finds that it is appropriate to do so. For example, if a witness for the district has only very limited time availability, the hearing officer can order the witness to go out of order to ensure that the witness has a chance to testify.

From the beginning, you will note that a court reporter will be present for the entire hearing. The court reporter is responsible for taking down what everyone says "on the record" throughout the entire proceeding. The court reporter will also be responsible for generating a complete written transcript of the hearing that may be available to the parties after the close of the hearing.

During the proceeding, each side will call witnesses to give evidence about the case. Each witness will be administered an oath by the hearing officer and is obligated to tell the truth while under oath. Following the initial questioning by the side who called the witness (called "direct examination"), the other side is given a chance to ask follow-up questions based on what the witness said during the initial questioning (called cross examination).

The hearing officer will close the proceeding at the end of the presentations by both sides. At that time, the hearing officer will also provide you and the district with information about when the hearing officer will issue a decision. The Illinois School Code requires the decision to be issued no more than 10 days, excluding Saturday, Sunday, and any state holiday, following the close of the hearing.

The Decision and Clarification: The Final Step?

Within 10 days after the close of the hearing, the hearing officer must issue the decision in the case. The decision will be in writing, and a copy is sent both to you and to the district. The decision itself can be a lengthy document. It will outline the issues in the case, the evidence considered by the hearing officer, a summary of the relevant law to the case, and finally the decisions the hearing officer has made when looking at the facts in light of the law.

Worth a Look

In regular hearings, the hearing officer is given 10 calendar days to issue the decision. In expedited due process hearings (see Chapter 10), the hearing officer is given 10 school days to issue the decision. See Section 14-8.02b of the Illinois School Code.
(105 ILCS 5/14-8.02b)

The decision will outline what if anything that you and the district will need to do in order to correct the situation. If the hearing officer finds that your child has not received an education that complies with the law and the regulations, the decision will lay out the steps the district must follow to correct the situation. Unless you or the district appeal the decision to court (see below), the hearing officer's decision is binding on you and the district and can be enforced in a court of law if necessary.

If you believe that something is unclear in the decision, you do have a right to request (again, in writing) a clarification of the decision. This is designed for you to obtain further explanation from the hearing officer about the meaning of the decision. The clarification does not, however, allow you to ask the hearing officer to "reconsider" or change the decision in any way. If you believe that the decision is incorrect, it will be necessary for you to seek a review of your case in a court of law.

Court Review of the Decision

If you are dissatisfied with the decision, the only way to change the outcome is to appeal the decision to a court of law. Most typically, such appeals are made in the United States District Court, but an Illinois Circuit Court can hear such appeals too.

Worth a Look
The rules dealing with the appeal of hearing decision to a court of law are found at 105 ILCS 5/14-8.02(a)(i) as well as 34 CFR 300.516.

It is not within the scope of this manual to describe in detail how to pursue your appeal in a law court, but a couple of things should be kept in mind if you want to think about an appeal:

- **The court action to appeal the decision MUST be started within 120 calendar days of the date of the decision.** The courts keep very strict timelines on this. Even an appeal that is filed one day late can be (and often is) dismissed by the court.
- **The court appeal is even more formal than the due process hearing.** Because of the sometimes-complex procedures by which a court of law operates, it is probably even more essential for you to obtain legal representation if you choose to appeal. Although you can still represent yourself in court proceedings, judges can sometimes be very strict in enforcing court rules, even for unrepresented parties.
- **The court appeal often adds a lot of time to the process.** The court is not under the stricter timelines that a due process hearing officer is, so an appeal often takes much

more time that the hearing itself. If a further appeal to an appellate court occurs, it is not unreasonable to expect a year or more to pass before final resolution of the issues has occurred.

In other words, it is absolutely essential for you to think over carefully (perhaps even more than the decision you made to file a due process hearing request) whether appealing your case to a court of law is the right option.

Conclusion: Conflict Resolution in a Nutshell

As we have discussed in this chapter, the ways of resolving disputes range from very informal processes (for example, one-on-one discussions with district administration) to highly formal (for example, appeal of a due process hearing decision to court). But whether informal or formal, all of the processes described in this chapter are designed hopefully to resolve issues and disagreements that may arise between parents and districts in the complex task of providing the child with a free appropriate public education. Most disputes can be resolved (and usually are) through the simple act of talking through the issues and concerns with district personnel. However, if this doesn't happen, you certainly can (and perhaps should) use one or more of the tools we have outlined here.

Chapter 12: Private School

In this chapter you will learn about -

- the definition of “private school”
- the rights and responsibilities of students and parents in private schools
- placement in nonpublic facilities by school districts

Overview of Private School Placements

When thinking about private schools and special education, it is important to understand the different kinds of private school placements. In special education, there are two common scenarios addressing the needs of a student with disabilities in a private school:

1. Children who are placed in private schools (such as a religious school) by their parents.
2. Children who are placed in private schools by public school districts.

Placement by a Parent on a Voluntary Basis

The first and most common situation involves students whose parents voluntarily enroll them in private programs, such as a religious school. Very often, such schools do not focus on students with disabilities and may only have limited support for students with disabilities. Still, parents of students with disabilities may have some options available to them to obtain additional support from the public school district.

Worth a Look

The requirements for public school districts to serve students in private schools are outlined at 34 CFR 300.130 through 300.144.

The Serving District

If a parent wishes to enroll a child in the public school, the parent should look to the school district where the parent lives to determine which school is responsible for educating the child. In the case of a private school student though, the parent must instead look to the district in which the private school is located to determine the district that will be responsible for providing special education services to children with disabilities in the private school.

Limited Services

One important point must be kept in mind in the case of a student placed in a private school by the parents: the services the student will receive in the private school will often be less than the services the student would receive if the student was attending a public school with an IEP. This is due to the fact that under federal law, districts are only required to spend a portion of their federal special education funds on students with disabilities in private school. Called "proportionate share," this sum is usually much smaller than the overall funding a district can spend on students with disabilities within the public schools. Also, when proportionate share funds run out during the school year, a district can choose to end services for the rest of the school year.

IEP versus ISP

Unlike students in public schools, students with disabilities in private schools are not entitled to an IEP. Instead, districts will often provide an Individual Service Plan (ISP) to students with

disabilities who will be receiving services from the school district during the school year. An ISP is a much less detailed document that often will only describe the types of service being provided, the frequency of the services, and the location where those services will be provided. If appropriate, the district might also add a goal or short-term objective, but this is not required in all cases.

Important Reminder
If a student with a disability attends a private school and will be receiving services from the public school, the student's services should be outlined by the district in an Individual Service Plan (ISP) rather than an IEP. An ISP is a far more limited document than an IEP and will likely contain fewer parts than would be found in an IEP.

Child Find and Evaluations

Unlike the issue of services, districts are obligated to conduct Child Find in the same manner for families of private school students as it would do with families of public-school students. The district cannot refuse to undertake Child Find simply because the student attends a private school. For more information on Child Find, please review Chapter 1 (Child Find).

In addition, if a district determines that a student in a private school requires an evaluation to determine the student's eligibility for special education, the district cannot refuse to perform the evaluation or any required re-evaluations later. The district will also be expected to conduct the eligibility conference to review the evaluation and to determine if the student should be made eligible for special education. For more information on evaluations and eligibility, please review to Chapter 3 (Referral and Evaluation) and Chapter 4 (Eligibility Categories).

Learning About the Services Offered by the District

To find out what kinds of service a school district will be providing to private school students, a parent should contact the administrative offices of the district where the private school is located. District administration will be able to provide parents with an outline of the services, as well as information on how to contact the district about the Child Find and the evaluation process.

In addition, the district may periodically invite parents to attend a meeting called "Timely and Meaningful Consultation," sometimes simply called TMC. Such a meeting is required to take place in every district in which a private school is located throughout Illinois. The meeting is typically held annually (although districts can conduct them more frequently or if circumstances might require an additional meeting). TMC meetings must, under federal rules, involve representatives of the private schools as well as "parent representatives" of private school students. These meetings will typically outline the amount of "proportionate share" funding the district has for the school year as well as the types of service the district plans on providing that year.

Complaints and Due Process

Parents of private school students have limited grounds to file complaints with ISBE or to request a due process hearing. If a parent of a private school student wishes to file a complaint, federal rules state that the parent is limited to filing a complaint regarding the way the district conducted the TMC process described in the previous subsection and the district's failure to meet other federal requirements described above. Federal rules also limit the grounds on which parents can file for due process. Under these rules, parents may only file for due process to challenge a district's decision either to find (or not find) a student eligible for special education services of any kind (see "Important Reminder" for more information). For further information on filing a state complaint or a request for a due process hearing, please review Chapter 11 (Conflict Resolution).

Important Reminder

Parents of private school students have limited rights to request a due process hearing or to file a state complaint. Make sure the issue can be heard or investigated before filing a complaint or due process hearing request.

In the area of due process, parents may only file a hearing request to determine the general issue of whether the student is or is not eligible for special education. Disputes over the type of disability (e.g., whether the student should be SLD as opposed to ED) are not generally a basis for filing a hearing request when dealing with private school students.

Placement by a Public School District

As you may have read in Chapter 7 (Least Restrictive Environment), an IEP team may decide that a child should be placed in a special education nonpublic private facility. This means that the IEP team has determined that the public school the child was attending can no longer offer services that match the student's needs, either educationally or emotionally, and the child would benefit from being educated in a separate school setting.

In these situations, the private schools in question are schools with a specific expertise in working with students with disabilities. Some programs focus on only one disability, such as an emotional disability, while others will focus on multiple disabilities, including autism spectrum disorder, intellectual disability, and other health impairments.

The student's home district must ensure that the student's IEP can be implemented completely in the nonpublic program. The private school is, in a sense, an extension of the public school because the student's program in the private school is guided by what the IEP requires. The student's home district remains responsible for writing the student's IEP and ensuring the student reaches his or her IEP goals. The home district and nonpublic program together are responsible for making sure the student's special education needs are being met.

From the point of view of the parent, there isn't any real difference between the rights the parent has with regard to the IEP. The IEP must be reviewed at least annually, and the parent has the full right to participate in all IEP meetings. In fact, there are few, if any, differences between the rights a parent has when dealing with a district placement in a private school and the rights the parent has when the placement is in a public program.

For the student, however, a special education nonpublic facility can offer unique supports and services that are often not found in the public school such as intensive behavioral supports, therapeutic settings, and smaller class sizes. These facilities provide opportunities for social and emotional growth and a parallel curriculum so students can be reintegrated back into their home school districts.

Nonpublic Facility Discipline Procedures

As explained in Chapter 10 (School Discipline), there are times when extreme behavioral situations occur in schools, public or nonpublic, during which a student may pose a threat to self or to others, and school staff must react swiftly and appropriately. In special education nonpublic facilities, discipline and behavior management techniques may differ from public school systems. Discipline guidelines in all schools, including special education nonpublic facilities, are required to follow specific laws related to the use of physical restraint and time out.

Each special education nonpublic facility must develop its own behavior policy that must be approved by ISBE before students can attend the school. Parents and/or guardians must be given a copy of the special education nonpublic private facility's behavior policy prior to their student's enrollment.

Physical Restraint

Physical restraint is holding a student or restricting a student's movements. The application of physical restraint is permitted if the student poses a physical risk to himself, herself, or others; there is no possibility of a medical consequence to its use; and the staff applying the restraint has been trained in its safe application.

Tips for Parents

When physical restraint or time out is used, parents or guardians must be notified in writing within 24 hours.

If a student experiences three instances of time out or physical restraint, a review of the effectiveness of these interventions will occur that will include the student's

parents/guardians, the school district, and any staff from the special education nonpublic facility who serve the student.

Students should never be controlled by physical restraint as a disciplinary measure, a form of punishment, a response to the use of profanity, or for making a verbal threat, unless the student demonstrates the means or intent to carry out the threat. Physical restraint should be used as a last resort in the behavior management of a student and is not meant to inflict or cause pain to the student.

Tips for Parents
Any adult who is supervising a student in timeout or using physical restraint must be trained in de-escalation, restorative practices, and behavior management.

During a supine physical restraint incident, one staff member with required credentials must watch the student during the entire time of the supine restraint for signs of pain while the other credentialed staff member applies the physical restraint. The physical restraint must end as soon as the threat of serious harm ends, or for no longer than 30 minutes. If, after 30 minutes, there is still a risk of life-threatening behavior or if an additional event happens in the same day, a school administrator (in meeting with a psychologist, social worker, nurse, or behavior specialist) may allow the extension of the physical restraint or an additional supine restraint. Only a school administrator can give permission for an additional restraint. Please see 23 IAC 1.285 for more specific information.

Important Reminder
The application of physical restraints is only permitted if the student poses a physical risk to himself, herself, or others; there is no possibility of a medical consequence to its use; and the staff applying the restraint has been trained in its safe application.

The use of anything other than physical restraint (other than hands-on holds) is prohibited in Illinois. Medical, chemical, and mechanical restraints for the purposes of maintaining discipline or controlling behavior are strictly prohibited.

A student should be released immediately from physical restraint upon determination by the staff member administering the restraint that the student is no longer in imminent danger of causing physical harm to himself, herself, or others.

Time Out

Time out is a behavior management technique that involves the monitored separation of a student from classmates with a trained adult for part of the school day, usually for a brief time, in a non-locked setting. The area where the time out occurs is subject to specific building

requirements, and it must be free of any objects that a student could use to harm self or others. A trained adult must always remain in the room with the student during the time out. If, however, the trained staff person perceives that he or she is in imminent danger from the student, the staff person may leave the room but must remain within two feet of the time out room during the time out. If the enclosure has a door, it must remain unlocked during the time out, and the door must never be blocked in any way.

Important Reminders

A time out should never involve the placement of a student in seclusion. The student should not be left alone during a period of time out. An isolated time out is permitted, however, only when there is a threat to the safety of the staff person with the student.

All Illinois schools are required to complete a form designated by ISBE any time they use a physical restraint or time out. Illinois schools have a 48-hour window to complete these forms and submit them to ISBE. The form can be located at https://www.isbe.net/Documents/11-01-Physical-Restraint-Time-Out-Form.pdf

A student must not be kept in time out for longer than therapeutically necessary. To prevent this, students must be evaluated at least every 15 minutes during a time out by a trained adult to determine whether the student has stopped the specific behaviors the time out was used for.

Chapter 13: School Records

In this chapter you will -

- learn how to examine and correct information in the student's file
- learn about parent consent for Medicaid and private insurance purposes

Reviewing and Copying Records

Parents have the right to see and read their child's educational records. Upon receiving a request, the school district must make your child's records available to you within 10 business days. A five-day extension of this deadline is possible under certain terms outlined in 105 ILCS 10/5.

The school district may charge a reasonable fee for copies of the record; however, if you cannot afford the fee, you still have the right to review and receive a copy of the records (23 IAC 375.50(b)). Parents are to be provided a copy of evaluation reports and documentation of determination of eligibility upon completion of the administration of assessments at no cost (34 CFR 300.306(a)(2)). Parents must be allowed access to any education records relating to their child that are collected or maintained by the school (34 CFR 300.613).

Worth a Look

The following provisions provide relevant information on the issue of student records: The Illinois School Student Records Act: 105 ILCS 10/1 et seq. (23 IAC 375 – Student Records) and the following: 34 CFR 300.306, 34 CFR 300.322, 34 CFR 300.613.

Challenging Your Child's Records

Parents can request that the district add, remove, or change information in the student file (23 IAC 375.90). Parents should submit a written request to the school district that explains their concerns. The request should be sent to the superintendent.

When dealing with a request to add, change, or remove a student record, a parent needs to do the following:

- Make sure you understand what the records say.
- Talk to the school principal or district superintendent about the problem.
- Write a letter about what you want and ask for a written answer.

If the problem is not resolved to the parent's satisfaction, the parent may request a "Records Hearing," which is different from a due process hearing, through your local school district to resolve the issues. Regardless of the outcome of the hearing, parents may put a note or letter in their child's school record to explain their point of view.

Age of Majority

The rights of parents concerning education records are given to the student at age 18 unless parents have obtained guardianship or the student provided written consent for parental access. This means that if there is no guardianship established, an 18-year-old student must sign a waiver permitting the parent to review the school records.

Medicaid and Insurance: Parent Consent/Student Records

A school district may use Medicaid payments to assist in paying for the services a special education student receives. Prior to accessing a child's or parent's public benefits or insurance for the first time, and after providing notification to the child's parents, the school district must obtain written, parental consent that -

- Specifies the personally identifiable information that may be disclosed.
- Indicates the purpose of the disclosure.
- Identifies the agency to which the disclosure may be made.
- Specifies that the parent understands and agrees that the school district may access the parent's or child's public benefits or insurance to pay for services (34 CFR 300.154(d)(2)(iv)).

Prior to accessing a child's or parent's public benefits or insurance for the first time, and annually thereafter, the school district must also provide written notification to the child's parents, which includes –

- A statement of the parental consent provisions listed above.
- A statement of the “no cost” provisions in 34 CFR 300.154(d)(2)(i-iii).
- A statement that the parents have the right to withdraw their consent for disclosure of their child's personally identifiable information to the Illinois Department of Healthcare and Family Services (HFS) at any time.
- A statement that the withdrawal of consent or refusal to provide consent to disclose personally identifiable information to HFS does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents (34 CFR 300.154(d)(2)(v)).

The information the school district provides to the HFS is subject to the Illinois School Student Records Act (105 ILCS 10/1 et seq.) and the Family Educational Rights and Privacy Act (FERPA) (20 USC 1232g). This information includes the child’s name, the types of services provided, and the dates of services.

The district must have written consent from parents in order to use their private insurance. Services required by an IEP must be provided at no cost to the child’s parents, whether they have public or private insurance. Parents shall be notified that the use of their private insurance proceeds to pay for services is voluntary. In the case of a child who is dually insured (through private insurance and Medicaid), a family shall not be required to draw upon private insurance when use is a prerequisite to billing Medicaid if that use of insurance will result in financial costs to the family (23 IAC 226.770).

Chapter 14: Early Childhood Services

In this chapter you will –

- learn about early childhood services and the transition from early intervention
- learn the difference between an IFSP and an IEP

Early Childhood Special Education Services

The school district is required to provide a free appropriate public education for all children with disabilities who are ages 3 through 21. Parents of preschool children who need, or are thought to need, special education and related services have the same rights as other school-age children. Special education and related services must begin on the child's 3rd birthday for children served in an early intervention program or for those children referred for an evaluation 60 school days before their third birthday and found eligible. If the child's 3rd birthday occurs during the summer, the IEP team will determine when the school district's services to the child will begin, but they must begin no later than the first day of the school year.

There is no automatic eligibility for Early Childhood special education services. Parents, school personnel, and others should work together to determine if the child is eligible to receive special education services.

Transition from Early Intervention

All children in Early Intervention (EI) services are entitled to a smooth and effective transition by their 3rd birthday. The transition process begins when the child is 2 years, 6 months of age. Transition begins this early because it gives parents and early intervention, school, and other early childhood professionals time to meet, share information, and plan.

When the child is 2 years, 6 months of age, the EI service coordinator will ask the parent to sign consent so a referral packet can be sent to the local education agency (LEA). The service coordinator should be notified if the parents want the child's information sent to other preschool programs in the community. The child's referral packet will be sent after the parents sign for consent. Without the consent, the service coordinator will not be able to send the packet, and the child's transition process will be delayed. If the parents have concerns or questions about sharing information, they may want to discuss those concerns with a parent liaison or service coordinator.

Important Reminder
If it is determined that a child is eligible for early childhood special education service, the IEP or IFSP for the child must be in place on or before the child's 3rd birthday. Consideration for early childhood services should typically begin by the time the child reaches age 2½.

Parents may want to start the transition process before the child is 2 years, 6 months if they have any of the following concerns:

- They feel they need for more time to plan.
- Their child will turn three during the summer.
- Their child has complex medical needs.

If parents would like to start transition earlier, they should speak with their service coordinator as soon as possible.

When the child is 2 years, 9 months of age, the service coordinator will hold a Transition Planning Conference that will include parents, the service coordinator, and a school district representative. Parents may want to invite other professionals, family members, or representatives from community programs. The Transition Planning Conference is an opportunity for the parents to learn about the school district and for the school district representative to learn about the child. It is not a meeting for making decisions about eligibility or services or for determining where the child might go to school.

Important Reminder
If it is determined that a child is eligible for early childhood special education service, the IEP or IFSP for the child must be in place on or before the child's 3rd birthday. Consideration for early childhood services should typically begin by the time the child reaches age 2½.

The school district or special education cooperative representative will contact the parents about participating in a Domain Review after the Transition Planning Conference. The purpose of a Domain Review is to figure out if additional information is needed before the IEP team can determine if the child is eligible for early childhood special education services. The domain form is used to keep track of the Domain Review. This form can be filled out at a meeting the parents attend with other IEP team members. It may also be filled out by the child's IEP team, and one team member may then review the form with the parent. The domain form is also called the Identification of Needed Assessments form.

Even though the parents and the child may have received services through Early Intervention, there is no automatic eligibility for early childhood special education services. Parents will be involved in helping the school district or special education cooperative gather needed information to help determine if the child is eligible through the evaluation process. It is very helpful for parents to share information about the child with other IEP team members. Parents know what their child has learned, what the child likes and dislikes, and how the child likes to play.

Worth a Look
Please refer to Chapter 3 on "Referral and Evaluation" for a fuller discussion about evaluation procedures.

When parents sign consent, their child's evaluation process will continue. The evaluation is individualized for the child. Evaluations can be conducted by one person or a team of

professionals at the child's home, preschool, or school district. The evaluation procedures for special education used for preschool-aged students are the same that would be used for elementary or high school students as part of the effort to determine if the child has a disability that would impact the child's ability to learn and develop academically.

When the evaluation has been completed, the IEP team will meet to discuss the results of the evaluation which may show the child has a disability which would adversely affect educational performance. If the child is found to have such a disability, the IEP team will decide if the child needs special education and related services. If these services are needed, the IEP team will either prepare an IEP for the child at that meeting or schedule another time for everyone on the IEP team, including the parents, to meet to develop the IEP.

Worth a Look

For more information about early childhood special education, ISBE and the Department of Human Services offer a booklet titled, When I'm 3, Where Will I Be? A copy of this booklet can be found at https://www.dhs.state.il.us/OneNetLibrary/27897/documents/ CHP/EI Workbook/Transitions.pdf

The IEP (or IFSP) must be developed, and services must be in effect beginning on the child's 3rd birthday. The type, amount and location of special education services provided must be based on the child's needs. The law requires that preschoolers receive their services together with children without disabilities, to the maximum extent appropriate.

The child's special education and related services can be delivered in a variety of different settings. Some of those settings could be community preschool or childcare programs, park district preschools or programs, Head Start, state-funded pre-kindergarten or Preschool for All programs, or an early childhood special education program provided by the school district.

Individualized Family Service Plans (IFSPs) and IEPs

The Individualized Family Service Plan (IFSP) may be used for a preschool child who is transitioning from early intervention and is found eligible to receive special education services. If an IFSP is used, it must meet all the content requirements of an IEP and must be developed during a meeting in which the required participants are in attendance. If using the IFSP, the local school district must provide a detailed explanation of the differences between an IFSP and an IEP and obtain informed, written consent from the parent for the use of the IFSP.

Chapter 15: Section 504 of the Rehabilitation Act of 1973

In this chapter you will -

- learn what is covered by Section 504 of the Rehabilitation Act of 1973
- understand how to file a complaint
- learn the truth behind common myths about Section 504

Overview

In certain situations, a school district may be required to offer support to students with disabilities under a provision known as Section 504 which refers to Section 504 of the Rehabilitation Act of 1973, a federal law that requires any person or agency receiving federal money to have policies in place that prohibit discrimination against persons with disabilities. Section 504 concerns more than just education, but the important thing to remember is that Section 504 applies to local school districts.

Section 504 can cover things that are also covered by IDEA, as well as a few situations that are not covered by IDEA. Section 504 deals with a much more general concept of disability than is covered under IDEA. So, if a student has a disabling condition that is not clearly covered under IDEA, Section 504 may still cover it. An example is a student who is temporarily disabled by an injury such as a broken leg. Although the "disability" is not permanent, a school district is still required under Section 504 to provide "accommodations" that will allow the student to have access to the school and its programs while the student remains under the temporary disability of the broken leg. Section 504 may also cover general access issues such as wheelchair access and other types of physical barriers. These issues also may be covered under the Americans with Disabilities Act (ADA), but it is beyond the scope of this guide to discuss the ADA in detail.

Worth a Look

The text of Section 504 of the Rehabilitation Act of 1973 can be found at 29 USC Sec. 794.

If a student is covered by Section 504, a school district must provide the student with a "504 Plan" that describes what the district will do support the student's disability and ensure that the student's disability will not be a barrier to the student's access to school programs (which can include things such as school assemblies, extracurricular activities, etc.). It is important to note that a 504 Plan is a much more general document than an IEP and will only contain a basic description of what kinds of support the district will provide to address the disability. If a school district does not provide such support, a parent may file a complaint with the U.S. Department of Education to have the complaint addressed.

How to File a 504 Complaint

If a parent has a disagreement with the district's 504 Plan, he or she may ask if the district offers parents the opportunity to participate in a "504 hearing." A 504 hearing is a much less formal process than a due process hearing and may be the only opportunity to discuss the complaint with a school administrator. A school district is not required to make a "504 hearing" process available to parents.

Worth a Look
For information on how to file an OCR complaint and to find an OCR complaint form go to https://www2.ed.gov/about/offices/list/ocr/complaintprocess.html

Regardless, a parent who has a complaint about a 504 issue may still file a complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education. If you wish to file a 504 complaint in Illinois, you may direct a written complaint to the following address:

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100
(800) 421-3481
(202) 453-6012 (Fax)
OCR@ed.gov

Your complaint should be as detailed as necessary to describe the issues you are experiencing and the facts about the situation. OCR will conduct the necessary investigation and if there is a violation of Section 504, OCR will order the school district to take the necessary action to correct the situation.

The 5 Common Myths About Section 504

Myth #1: 504 Equals IDEA

The Myth	If a student is eligible under Section 504, it is the same as being eligible for special education.
The Truth	If a student is Section 504 eligible (but not eligible for services as a special education student under IDEA), the student and the family have fewer protections than in the case of a special education student. For example, a 504 student is not entitled to an IEP, and the parents cannot request a due process hearing in the case of a disagreement with the district.

Myth #2: Temporary is Not a Disability

The Myth	Students with temporary conditions (such as a broken leg or an illness) are not eligible for 504 supports.
The Truth	Section 504 covers both temporary and more long-term conditions. Thus, if a student has a temporary disabling condition due to, for example, an injury or surgery, the district can provide the student with a 504 Plan to cover the period in which the student's activity is limited by the temporary condition.

Myth #3: 504 Means IEP

The Myth	If a student qualifies under Section 504, the district is required to develop an IEP.
The Truth	Without being eligible under IDEA, a 504 student is not eligible for an IEP. Instead, the student is entitled to receive a "504 Plan." A 504 Plan is usually a much less detailed document than an IEP. Often, the 504 Plan will consist of a short description of accommodations to address the student's disability. 504 Plans often do not contain things that are usually seen in IEPs such as goals, objectives,

statements of present performance levels, etc. However, this is not to say that a 504 Plan cannot contain some of the features of an IEP, where appropriate.

Myth #4: 504 and ADHD

The Myth	A student has been diagnosed with Attention Deficit Hyperactivity Disorder (ADHD). The student should be supported by the district through a 504 Plan.
The Truth	There is nothing in the law or regulations that requires a student with ADHD to be served as a 504 student. Students with ADHD may be eligible for special education services (IDEA services) under the categories of SLD, ED, OHI or other categories depending on how the ADHD presents in the school.

Myth #5: 504 and Refusal of Consent for IDEA Services

The Myth	A parent has refused to consent to place the student in a special education program or has revoked consent for ongoing special education services. The district may not provide Section 504 accommodations as a result.
The Truth	Just because the parent does not consent to the placement of a student in special education does not mean that the student does not have disability for purposes of Section 504. Section 504 can certainly cover conditions that are also covered under IDEA. In the event a parent refuses to consent to place a student in special education or revokes consent for continuing special education services, the district and the parent may certainly consider developing a 504 Plan to provide some support to the student even though the student cannot be placed in special education.

Chapter 16: The Advisory Council on the Education of Children with Disabilities

In this chapter you will –

- learn the role of the Advisory Council
- find out how to participate in an Advisory Council meeting

The Advisory Council on the Education of Children with Disabilities is statutorily created by Section 14-3.01 of the School Code of Illinois. The purpose of the Council is to–

- Advise the State Board of Education regarding rules and regulations relating to the education of children with disabilities and promulgated by the Board, modifications or additions to county or regional comprehensive plans, qualifications of due process hearing officers, and procedures for the conduct of due process hearings.
- Advise the General Assembly, the Governor, and the State Board of Education on the unmet needs of children with disabilities.
- Assist the State Board of Education in developing and reporting data and evaluations which may assist the U.S. Commissioner of Education.
- Comment publicly on rules and regulations proposed by the state regarding the education of children with disabilities and the procedures for distribution of funds.

The role of the Advisory Council is to be a proactive body, advising the Governor, General Assembly, and the State Board of Education on current issues relating to the education of children and youth with disabilities. It is also the responsibility of this Council to encourage new strategies and technologies, while advocating high standards of excellence throughout Illinois.

Worth a Look

Meeting schedules, minutes, public participation guidelines and other information about the Advisory Council and its activities can be found at https://www.isbe.net/Pages/Advisory-Council-Education-Children-Disabilities.aspx.

If you are interested in attending an Advisory Council meeting or providing either written or oral testimony, you may contact the Special Education Department at (217) 782-5589 or by writing to this address:

Advisory Council on the Education of Children with Disabilities
c/o Illinois State Board of Education
100 North First Street
Springfield, IL 62777-0001

Appendix A: Sample Letters for Parents

The following pages contain sample letters that can be used when facing a number of situations described through this guide. These letters are simply suggestions for the reader and should be modified as needed to fit the reader's individual facts and situation. If you have questions concerning the use of these letters, please contact the ISBE Special Education Department at (217)782-5589 and ask to speak with a consultant who can provide further information.

Always keep a copy of your letter for your own files.

1. Writing to Discuss a Problem

When might I want to write to my child's school?

Sometimes your child may have a particular problem at school. You may have talked to your child's teacher about this concern. The two of you may have written notes back and forth or talked on the phone. If it seems like nothing is happening to resolve your concern, then you may want to write a formal letter. Perhaps the communication hasn't been as clear as you think. Maybe you feel that the seriousness of your concern isn't fully understood. By writing a letter, the school will learn that you consider the matter to be an important one that needs to be addressed. You can write about any concern – an IEP issue, a general education issue, school yard bullying, or the need to help your child with social skills or behavior improvement. There are no rules as to the type of problem you can write about. Any school problem is worth writing about if it is having a negative impact on your child.

It is important to keep copies of all letters in your personal binder. It is also helpful to hand deliver or to send certain letters via certified mail, return receipt requested, so that you are certain the school received your letter. This is especially important when the school must follow certain guidelines and follow specific timelines.

Note: The "cc:" at the bottom of the letter means you are sending a copy of your letter to the people listed after the cc. If you write to the Director of Special Education about a problem at your child's school, you should copy the principal. If you write to the principal about a problem, you should copy your child's teacher or other staff involved with your child. This follows the "chain of command." It also lets people involved know your concerns and that you are taking steps to resolve these concerns.

Letter to Discuss a Problem Your Child Is Having at School

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Today's Date

Name of Principal
Name of School
Street Address
City, Illinois Zip Code

Dear (Principal's Name):

In this paragraph say who you are and give your child's full name and his or her current class placement. Say something positive about your child's situation here before you state your reason for writing.

BRIEFLY explain why you are writing. Give relevant history and facts that support your concerns. (For example, your 3rd grader is struggling in school and you want to ask for help. You might say that your child's school work has been getting worse throughout the year. That fact is relevant. Talking about something from your child's infancy probably isn't.)

In this paragraph state what you would like to have happen or what you would like to see changed. You may BRIEFLY say what you would not like, or what has been tried and not worked. However, spend most of this paragraph saying what you want for your child.

Explain what type of response you would prefer. For instance, do you need to meet with someone, do you want a return letter, or would you prefer a phone call?

Finally, state that you look forward to hearing from the person soon or give a date ("Please respond by the 15th").

Thank you for your attention to this matter.

Sincerely,

Your Name

cc: Your child's teacher
Other staff

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2. Requesting an Initial Evaluation for Special Education Services

When would I request an evaluation for special education services?

If your child has been consistently struggling in school, his or her problems may be due to a disability. If the school thinks your child may have a disability, they will contact you to request your written permission to evaluate your child. Under the IDEA, you also have the right to ask the school to evaluate your child. The purpose of the evaluation is to see if he or she has a disability and needs special education services. This evaluation is free of charge.

If your child has been identified by your doctor or other professionals as having a disability, you will want to include this information in your letter to the school. You should also provide copies of any reports you have received that explain your child's condition. If you decide to write the school and ask that your child be evaluated, here's an example of what you may want to say.

Note: If your child has been identified as having a disability by professionals outside the school system, add the following sentence to the end of the first paragraph in the letter that follows.

(Child's name) has been identified as having (name of disability) by (name of professional). Enclosed is a copy of the report(s) I have received that explains (child's name) condition.

Letter to Request an Initial Evaluation for Special Education Services

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Today's Date

Name of Principal or Special Education Administrator
Name of School
Street Address
City, Illinois Zip Code

Dear (Principal's or Administrator's Name):

I am writing to request that my son/daughter, (child's name), be evaluated for special education services. I am worried that (child's name) is not doing well in school and believe he/she may need special services in order to learn. (Child's name) is in the ( ) grade at (name of school). (teacher's name) is his/her teacher.

Specifically, I am worried because (child's name) has some problems at school. (Give a few direct examples of your child's problems at school).

We have tried to help (child's name). (If you or the school have done anything extra to help your child, briefly state it here).

I understand that I have to give written permission in order for (child's name) to be evaluated. Before the evaluation begins, I have some questions about the process that I need to have answered. (List any questions you may have).

I would be happy to talk with you about (child's name). You can send me information or call me during the day at (daytime telephone number). Thank you for your prompt attention to my request.

Sincerely,

Your Name

cc Your child's principal (if the letter is not addressed to the principal)
Your child's teacher(s)

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3. Requesting an Independent Educational Evaluation at Public Expense

The IDEA gives you the right to have your child evaluated independently. This means you have the right to have your child evaluated by someone other than staff who work for the school system. The purpose of the evaluation is to see if your child has a disability and, if so, what his or her special needs are. In some cases, you may pay for an Independent Educational Evaluation (IEE). In other cases, the school system may pay for it. If the school system pays for the IEE or sees that the IEE is done at no cost to you, this is known as an IEE at public expense.

Why would I want to request an Independent Educational Evaluation (IEE) at public expense?

Sometimes a family may feel that the results of the school's evaluation do not accurately describe their child. Some parents may want additional academic tests or medical exams, or they may be interested in having evaluations done in skill areas the school staff did not test. Parents can choose to have their child tested outside the school system, for these or other reasons.

However, if you want the school to pay for an Independent Educational Evaluation, you will need to make your request BEFORE any independent testing is done. Some reasons you may want to request an independent evaluation include:

- You believe the original evaluation was incorrect.
- The original evaluation was not done in your child's native language.
- You believe that the original evaluation was incomplete and additional tests are needed.
- The evaluation was not done with the needed accommodations (for example, in Braille or administered by someone who knows sign language).

The school system may agree to your request and pay for the IEE. On the other hand, the school system may deny your request and ask for a due process hearing to show that its own evaluation was appropriate. You will have the chance at this hearing to state your reasons why the school system should be required to pay for the IEE. An impartial third person (called a hearing officer) listens to and reviews the evidence. This individual then decides if the school system must pay for an independent evaluation. If the hearing officer decides in favor of the school system, you may still obtain an independent evaluation, but you must pay for it. The results of the IEE must be considered by the school in any decision made regarding your child's free appropriate public education.

Letter to Request an Independent Educational Evaluation

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Date

Name of Person to Whom You Are Writing (e.g., Superintendent, Director of Special Education, Principal, etc.), Title
Name of School or District
Street Address
City, Illinois Zip Code

Dear (Name):

My son/daughter, (child's name) is in the ( ) grade at (name of school) in (teacher's name) class. He/She was evaluated for special education services in (month/year). I am writing to request an Independent Educational Evaluation at public expense for the following reasons.

(BRIEFLY list your reasons. Be very specific. For example, you may choose from the following starting statements.)
"I disagree with the evaluation results because . . ."
"The evaluation should have included . . ."
"An evaluation should have been done in the area of . . ."

I would like an Independent Educational Evaluation to be done as quickly as possible so that we can fully address (child's name) needs. Please respond as soon as possible and send me copies of the school's guidelines for this. My daytime telephone number is (give your phone number).

Thank you.

Sincerely,

Your Name

cc: Your child's principal (if the letter is not addressed to the principal)
Your child's teacher

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4. Requesting Your Child's Records

The IDEA gives you the right to look at all of your child's education records. This includes records about his or her identification, evaluation, educational placement, and special education program. You also have the right to ask the school to explain and interpret the records for you. You may ask the school to give you a copy of your child's records. They may charge you a reasonable fee for making a copy.

What might be some reasons to request copies of my child's school records?

School records contain valuable information about your child's strengths and areas of need. These records can provide a formal way of communicating between the professionals at your child's school, you, and other professionals who may work with your child. Here are some reasons you might have for requesting a copy of your child's records:

- Reviewing records lets you be sure that the records are correct and contain all necessary information.
- When your family is moving to a new school district, records may need to be sent.
- When you are taking your child for an independent evaluation, copies of past records may be useful.
- The records may help the staff at other programs your child attends (like camp, tutors, or in-hospital schools) design their activities.
- Postsecondary programs may need to see copies of your child's records.
- It's a good idea to have a copy for your home files, especially if your child is finishing school.

Letter to Request a Child's Records

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Date

Name of Person to Whom You Are Writing (e.g., Superintendent, Building Principal, etc.), Title
Name of School or District
Street Address
City, Illinois Zip Code

Dear (Name):

I am writing to schedule a time to come and review all of my child's records. My son/daughter, (child's name), is in the ( ) grade at (name of school) in (teacher's name) class. I will also need copies of some or all of these records.

Please let me know where and when I can come in to see the records. I need these records by (date). You can reach me during the day at (give your phone number).

I look forward to hearing from you soon. Thank you for your assistance.

Sincerely,

Your Name

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4. Requesting a Meeting to Review the Individualized Education Program

If your child is receiving special education services, he or she must have a written plan known as an Individualized Education Program (IEP). The IEP lists, among other things, annual goals and objectives for your child and it also lists the special education and related services that he or she will receive. You are a member of the team that writes your child's IEP. As an IEP team member, you can ask that your child's IEP be reviewed and revised, if needed.

Why might I ask for a review of my child's IEP?

Some reasons for requesting an IEP review include:

- Your child has met one, or several, of the goals written in the IEP.
- Your child does not seem to be making enough progress toward one, or several, of the goals written in the IEP.
- You feel your child needs more services or other services in order to make progress.
- You feel that your child no longer needs a service he or she is currently receiving.
- Your child has experienced a major change, such as an illness, injury, or surgery.
- You feel that the supports and services written in the IEP aren't being provided.

Letter to Request a Meeting to Review the IEP

Your Name
Your Address
City, Illinois Zip Code

Date

Name of Your Child's Special Education Teacher
Name of School
Street Address
City, Illinois Zip Code

Dear (Teacher's Name):

I am writing to request an IEP review meeting. I would like to discuss making some possible changes in (child's name)'s IEP. I am concerned about (state your reasons, but don't go into detail about the specific changes you want to make—save those for the meeting).

I would also like to have (names of specialists or other staff) attend. I think his/her/their ideas about the changes we may need to make will be valuable.

I can arrange to meet with you and the other members of the IEP team on (days) between (give a range of time, such as between 2:00 and 4:00). Please let me know what time would be best for you.

I look forward to hearing from you soon. My daytime telephone number is (give your phone number). Thank you for your help.

Sincerely,

Your Name

cc: Specialists or other staff

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6. Requesting a Change of Placement

Placement means where your child's IEP is carried out. Depending on your child's needs, his or her placement may be in the general education classroom, in a special education classroom, in a special school, in your home, in a hospital or institution, or in another setting. Placement is based on the IEP; therefore, when you request a change in placement, you are actually requesting an IEP review to discuss your child's needs and where those needs are met.

Why might I ask for a change in my child's placement?

You might want to request a change in your child's placement if you feel that your child's needs are not being met appropriately. For example, you may become concerned about your child's placement after reviewing your child's progress reports; reviewing the results of any state, district-wide, or alternate assessments your child has been given; talking with your child's teacher or other service providers; or talking with your child.

Placement concerns might also include:

- changes in your child's needs
- current class size is too large or too small
- current class is too academic or not academic enough
- the placement does not meet your child's social or emotional needs
- the building is too difficult for your child to get around
- any other reason that is interfering in your child's success.

Letter to Request a Change in Placement

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Date

Name of Principal or Special Education Administrator
Name of School
Street Address
City, State, Zip Code

Dear (Principal's or Administrator's Name):

I am writing to request a meeting to discuss a change in placement for my son/daughter, (child's name). He/she is currently in the ( ) grade in (teacher's name) class. I feel he/she needs to be in (name of alternative setting, if you know; otherwise describe the type of placement you feel is more appropriate for your child, such as your neighborhood school, a center-based program, general education class, or special class).

I am most concerned about (keep this paragraph brief and mention your child's unmet needs, not problems with individual people).

I would also like to have (name of teachers and/or any specialists you would like from the current and/or requested placement) attend this meeting.

I can arrange to meet with the rest of the IEP team on (days) between (give a range of time, such as between 8:00 a.m. and 10:00 a.m.). Please let me know what time would be best.

I look forward to hearing from you soon. My daytime telephone number is (give your phone number). Thank you for your time.

Sincerely,

Your Name

cc: Your child's principal (if letter is addressed to an administrator)
Your child's teachers
Specialists or other staff

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7. Requesting Prior Written Notice

What is prior written notice, and why would I want it?

There are certain times when the school must put in writing its decisions about your child's education and the reasons for those decisions. This written communication is called prior written notice. You have the right to receive prior written notice, whenever the school wants to (or refuses to) -

- evaluate your child.
- change your child's disability identification.
- change your child's educational placement.
- change the way in which your child is provided a free and appropriate public education.

The school system is supposed to automatically provide you with prior written notice in any of these events. In practice, though, sometimes the school may tell you it's decision over the telephone, in a meeting, or in a one-on-one conversation. If you want the notification in writing, you may ask the school system to provide it. It is best that you put your request in writing.

For example, you may have asked for an IEE at public expense. The school system may tell you on the phone that it has denied your request. You may ask for prior written notice of this denial. The school must then put its decision in writing and explain the reasons for the decision. This information can be helpful if you pursue the IEE through a due process hearing. You will then have in writing the school system's reasons for denying the IEE.

Letter to Request Prior Written Notice

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Today's Date

Name of Person to Whom You Are Writing (e.g., Director of Special Education, Case Manager, etc.), Title
District or School Name
Street Address
City, Illinois Zip Code

Dear (Name):

At our meeting (or) during our phone conversation on (date), we discussed my child's (evaluation, eligibility, placement, IEP, services, etc.). I requested ( ) and was denied (or) I was told the school intends to ( ), but I have never received any information about this decision in writing. In accordance with the IDEA regulations, I am requesting prior written notice regarding (be very specific about the issue/decision you want the school to respond to. Bullet or number the items.)

- A description of what the school is proposing or refusing to do
- An explanation of why the school proposes or refuses this action
- A description of each evaluation procedure, assessment, records, or report the school used as a basis for the proposed or refused action
- Information on how to obtain a copy of the procedural safeguards available and a full explanation of the safeguards
- Sources for parents to contact to obtain assistance in understanding of this part
- A description of other options that the IEP team considered and the reasons why those options were rejected
- A description of any other relevant factors that went into this decision

According to the IDEA, at 34 CRF 300.503, prior written notice must include the following:

I look forward to receiving a detailed response to my request as soon as possible. Thank you for your assistance.

Sincerely,

Your name

cc: The principal, supervisor, or special education administrator

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8. Requesting Mediation

When would I make a request for mediation?

Mediation may be used if you have a serious disagreement with the school. In mediation, you and school personnel sit down with an impartial third person (called a mediator). All parties then try to reach an agreement. Mediation is voluntary though, and both parties must agree to meet with a mediator. There are benefits to mediation, both for you and for the school. Mediation agreements are binding and enforceable agreements.

Letter to Request a Mediation

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Date

Mediation Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777

Dear Mediation Coordinator:

My son/daughter, (child's name), currently attends (name of school) and is in the ( ) grade in (teacher's name) class. I am writing to inform you that the school and I are in disagreement concerning (BRIEFLY state what the disagreement is about). We have been unsuccessful in resolving this dispute, and I am requesting mediation so that we may resolve our differences.

I would like the mediation to be done as soon as possible. Please let me know when this can be arranged and contact the Illinois State Board of Education to arrange this service. My daytime telephone number is (give your phone number). Thank you for your assistance in this matter.

Sincerely yours,

Your Name

cc: Your child's principal
Your child's teacher

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9. Informing the School that You Intend to Enroll Your Child in a Private School at Public Expense

What do I do if I think my child's placement should be in a private school?

In a very few cases, the most appropriate placement for a child is in a private school. When this placement decision is made by the public-school IEP team or placement group, the public school pays the cost of the private school. Sometimes a parent may feel that a recommended public-school placement is not appropriate for his or her child. The parent may reject that placement and decide to enroll his or her child in a private school. If you find yourself facing this decision, and you want the public school to reimburse you for the cost of the private school, there are several things you need to know.

- A court or a hearing officer may require the school district to reimburse you if the court or hearing officer decides that –
    - the public school did not make a free and appropriate public education available prior to your child's enrollment in the private school, and
    - the private placement is appropriate.
- Your request for reimbursement may be reduced or denied before enrolling your child in the private school if –
    - at the most recent IEP meeting, you did not inform the school that you reject the proposed placement and intend to enroll your child in a private school at public expense, and
    - at least 10 business days prior to removing your child from the public school, you did not give the school written notice.

Here is an example of a letter you might send if you decide to enroll your child in a private school and want the public school to pay for it.

Once you have sent this letter to the school, you will also need to make a request for a due process hearing so that a hearing officer can decide whether or not the public school must reimburse you for the costs of the private school.

Letter to Inform School of Private School Enrollment at Public Expense

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Date

Name of Principal or Administrator
Name of School
Street Address
City, Illinois Zip Code

Dear (Principal's or Administrator's Name):

My son/daughter, (child's name), is a special education student in the ( ) grade in (name of teacher)'s class at (name of school). Recently, I attended a meeting to determine (child's name)'s school placement. I am writing to inform you that I reject the proposed placement for (child's name) and intend to enroll him/her in a private school at public expense. At the most recent IEP meeting, held on (date), I informed the other team members of my decision.

The reasons for my decision are as follows: (keep this section brief, list specifics about why you believe the public-school placement is not appropriate for your child).

(Child's name) will be attending (name of private school) effective (date).

Should you wish to discuss this matter further, I can be reached at (give your phone number). Thank you for your time.

Sincerely,

Your Name

cc: Your child's principal (if letter is addressed to an administrator)
Your child's teacher(s)

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10. Requesting a Due Process Hearing

Due process is one approach that parents and schools can use to resolve disagreements. During a due process hearing, you and the school present evidence before an impartial third person called a hearing officer. The hearing officer then decides how to resolve the problem.

You have the right to request a due process hearing on any matter related to -

- your child's identification as a "child with a disability"
- his or her evaluation
- his or her educational placement
- the special education and related services that the school provides to your child.

Some reasons why a parent might file for due process include:

- The school refuses to evaluate your child.
- You disagree with the eligibility decision.
- You disagree with the services, goals, or objectives in the IEP.
- The school refuses to provide a related service, modification, or supplementary aid you think your child needs.
- You disagree with the placement decision.

For more information on the due process proceedings, please see Chapter 11, "Conflict Resolution."

Send your letter requesting a due process hearing to the superintendent of schools in your home district. Under IDEA, when you ask for a due process hearing, your request must include:

- the name of your child
- the address of your child's residence
- the name of your child's school
- a description of the problem, including facts relating to the problem
- how you would resolve the problem, to the extent that a solution is known and available to you as parents.

Each state is required to have a model form to help parents request a due process hearing. You are not required to use the model form, but this ISBE form can be found at https://www.isbe.net/Documents/dp_parental_19-86a.pdf. This form can be used instead of the sample letter. If the information in your request does not fit within the spaces provided on the form, please attach additional pages.

Letter to Request a Due Process Hearing

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Date

Name of School District Superintendent, Title
Name of District
Street Address
City, Illinois Zip Code

Dear (Name):

I am writing to request a due process hearing on behalf of my child, (child's name), whose address is (give your child's address, even if it is the same as your own). (Child's name) attends (name of school).

I have met with school personnel in an effort to resolve our differences concerning my son's/daughter's (IEP, placement, testing, or . . .) and have been unable to do so. The nature of our disagreement is as follows.

- Explain the problem with BRIEF statements of fact
- Consider listing the facts with bullets or numbers
- An acceptable resolution of the problem would include…

(To the extent that you know how you want the disagreement to be resolved, state the facts here, again bulleting or numbering the items if possible.)

Please advise me as soon as possible as to the date and time of this hearing so that I can make the necessary arrangements. My daytime telephone number is (give your phone number).

I also request that this hearing be (open to all involved personnel/closed) to anyone other than those directly involved). (Child's name) will/will not attend the hearing. Thank you for your assistance.

Sincerely,

Your Name

cc: Your child's principal
Your advocate/attorney

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11. Filing a Complaint with the Illinois State Board of Education

What's a complaint, and why would I file one?

You can file a complaint with ISBE about any of the matters for which you might otherwise file a request for a due process hearing, as well as for any other reason you feel that the school system has violated the IDEA. However, be aware that, if you write a complaint on an issue that is also part of a current due process hearing, ISBE will not investigate this issue. The due process hearing takes precedence over the complaint process. ISBE will only investigate those issues in your complaint that are not part of your due process hearing. Some examples of issues you might write a complaint letter about include:

- The school is not providing services required by your child's IEP.
- You were not allowed to participate in your child's IEP.
- Your child is denied the opportunity to attend or participate in school-sponsored events, such as field trips or after school activities.
- Your child has a shorter school day because the special education students arrive later or are dismissed from school earlier than the general education students are.
- The school fails to give you appropriate prior written notice.

How do I file a complaint with ISBE?

Illinois' policies for filing a complaint are included in the regulations at 23 IAC 226.570.
The complaint letter should include:

- a statement detailing the alleged violation(s) (for example, your school district has violated a requirement of Part B of the IDEA or its regulations), and the facts on which the statement is based.
- the student's name, parent/guardian name, mailing address, daytime telephone number, and the name of the student's resident school district.

The letter on the next page is an example of how you might write this complaint. Note that it is important for you to describe what you believe the school district did wrong with regard to your child's special education.

Letter to File a Complaint

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Date

Complaint Coordinator
Illinois State Board of Education
100 North First Street Springfield, Illinois 62777

Dear Complaint Coordinator:

I am writing to file a complaint on behalf of my son/daughter, (child's name), regarding his/her education in the (name of school district). The nature of my complaint is as follows:

- Explain the problem with BRIEF statements of fact
- Consider listing the facts that support your complaint with bullets or numbers

For the above reasons, I believe the school district is in violation of certain requirements in the Individuals with Disabilities Education Act (IDEA) and the Illinois School Code, specifically:

- List the issues you want addressed by ISBE
- If you have more than one issue, please list them by bullet or number

Enclosed are copies of relevant documents and correspondence I have sent to and received from the school district concerning this matter. These documents are (list the documents you have enclosed, giving the date sent, by whom, to whom, and the issue discussed).

If you need further information or clarification on my complaint, I can be reached at (give your phone number). Thank you.

Sincerely,

Your Name

cc: School district special education director
Your child's principal
Your advocate/attorney

Enclosures:

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12. Writing a Follow-up Letter

What do I do if I don't get a response to the letter I sent to the school district?

When you have written a letter making a request, you should get a response from the school system, either by telephone or in writing, within a reasonable period of time. In some cases, "reasonable" is defined. For example, local policy may say the school must answer you within 15 working days. In other cases, the timelines are not exact. So, you should be reasonable in your expectations. But if you feel too much time has passed (10 working days or so) without receiving a response to your letter, then call and ask if your letter has been received. If you are sure the school has received your letter (some parents send their letters by certified or registered mail), then ask when you can expect an answer. More than likely, when you call you will talk to a secretary or administrative assistant. Leave a message for the person you wrote to and ask for that person to call you back.

If your request still goes unanswered, then you may want to write again. It's useful to enclose a copy of your original request with this letter. Be sure not to send your only copy. Remember, you always need to have a copy for your records.

Follow-up Letter

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Date

Name of Person to Whom You Originally Wrote, Title
School or District Name
Street Address
City, State, Zip Code

Dear (Name):

I wrote to you on (date) and also called to make sure you had received my letter. I left a message for you to call me back on (date), but since I have not heard from you, I thought it best to write again.

I am writing to request . . . (restate what you are asking of the school district). Enclosed is a copy of my first letter to you.

I would like to hear from you by (give a date, 3-5 working days). Thank you for your prompt attention to this matter.

Sincerely,

Your Name

Enclosure

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13. Writing a Positive Feedback Letter

Once you've begun to write letters, be sure to write when things are going well, too! If a teacher, therapist, or other staff member has made good things happen for your child, let them and their supervisors know. Everyone likes and needs compliments and encouragement from time to time. Positive feedback is what keeps good schools running well. Just as you want to know "how it's going," so does the school staff.

Good communication, teamwork, and effective schools take a lot of hard work. There's an old saying that advises, "Things can go wrong all by themselves, but you have to work hard to make things go right." According to the National Dissemination Center for Children with Disabilities (NICHCY), now the Center for Parent Information and Resources (CPIR), this statement applies doubly to maintaining a successful parent-professional working relationship. Be sure your child's teacher(s), principal, and superintendent also hear from you when things are going right.

Positive Feedback Letter

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Date

Name of Person to Whom You Are Writing, Title
School or District Name
Street Address
City, Illinois Zip Code

Dear (Name):
I am writing to let you know how very pleased I am with the education my son/daughter, (child's name) is receiving at (name of school).

(Child's name) has had great success with (briefly say what is going right). In particular, (name the professionals working with your child and how they have made a difference). I look forward to (child's name) continuing progress. Thank you for all your efforts and those of your staff.

Sincerely,

Your Name

cc: If you write to the school district's Superintendent or Director of Special Education, make sure to copy the people who directly deserve recognition for your child's success – the principal, teachers, and other staff.

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14. Revocation of Consent for Special Education

This letter can be used if you, as the parent, wish to revoke your consent to allow the school district to continue providing special education services to your child. Before delivering such a letter to the school district, it is very important that you understand what will occur once such a letter is delivered. Once delivered, the district may then terminate all special education and related services to your child after the district has provided you with prior written notice of its plans to terminate the services.

It is strongly recommended, if you haven't done so previously, that you turn to Chapter 6 of this guide for a further discussion of revocation of consent and what it may mean for the student in question.

Revocation of Consent Letter

Your Name
Your Address
City, Illinois Zip Code
Your Telephone Number

Date

Name of Superintendent or Director of Special Education
Name of School District
Street Address
City, Illinois Zip Code

Dear (Name):

This letter is to inform you that I hereby revoke my consent for my child, (child's name), to continue in special education. I understand that my decision will result in the termination of all special education services to my child, as well as a possible change in the placement of my child. I further understand that services will not end until you have provided me with prior written notice about the termination of special education services.

Sincerely,

Your Name

cc: Your child's principal
Your child's teacher

Appendix B: Quick Reference Charts

The following section contains quick reference charts based on information described throughout the guide. The charts give a basic overview of a particular topic. You will also find references to the chapters in the book where you can read more information on the topic you're reviewing.

If you have questions concerning the information contained in these charts, please contact ISBE at (217)782-5589 and ask to speak with a consultant who can provide further information.

Referral & Evaluation

General Rules on Referral

Citations	**23 IAC 226.110**, Evaluation Procedures **105 ILCS 5/14-8.02**, Identification, evaluation, and placement of children
What Does It Mean?	A parent/guardian of a child, the school district, a state agency, or a community service agency may initiate a request for an initial evaluation. Subsequently, a 'referral' for an evaluation may be deemed necessary.
What Needs to Happen?	Within 14 school days after receiving the written request, the district will decide whether to evaluate the child or not. If the district determines an evaluation is warranted, then the district must either provide the parents with the paperwork to provide formal written consent or a written statement of its decision not to do the evaluation. If the district determines that the evaluation is not necessary, it must notify the parent in writing of the decision not to evaluate and the reasons for the decision. The district must advise the parents of their right to request a due process hearing to challenge its decision.
What Parents Need to Know or Do.	Parents need to submit a request for evaluation to have their child considered to be eligible for special education services. It is best to put your request in writing. Not all referrals result in an evaluation being conducted. To be eligible to receive special education services, the child must have a disability that impacts educational performance.

Evaluation & Reevaluation

Citations	**23 IAC 226.110,** Evaluation Procedures **105 ILCS 5/14-8.02,** Identification, evaluation, and placement of children **34 CFR 300.300,** Parental consent **34 CFR 300.301,** Initial evaluations **34 CFR. 300.304,** Evaluation procedures **34 CFR. 300.305,** Additional requirements for evaluations and reevaluations **34 CFR 300.306,** Determination of eligibility **23 IAC 226.840,** Qualifications of Evaluators

What Does It Mean?

Evaluation means procedures used to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. The school district must assess the child in all areas of suspected disability including:

- academic performance
- health
- vision
- hearing
- social and emotional status
- communication
- motor abilities
- general intelligence
- functional performance
- other areas as needed

NOTE: Often these areas are called "domains" for purposes of the evaluation.

Public agencies are prohibited from using a measure or assessment for purposes different from the purpose for which the measure was designed. Assessments are provided and administered in the child's native language or mode of communication (unless it is not feasible to do so) to get accurate information on what the child knows and can do.

What Needs to Happen?

The school district must use a variety of assessments, tools, and strategies to conduct the evaluation.

When conducting an initial evaluation, a child must be tested in all areas of suspected disability.

Data gathered from evaluations are used to assist in the development of the IEP.

Assessments should be valid and reliable for their designed purposes.

Assessments must be administered by personnel who are trained to do so.

Assessments and other evaluation materials used should be administered:

- so as not to be discriminatory on a racial or cultural basis
- in the child's native language or other mode of communication.

What Parents Need to Know or Do.

Parent-written informed consent must be obtained before the evaluation can be conducted.

Information from parents should be included as part of the evaluation.

Information should be collected through a variety of approaches (observations, interviews, tests, curriculum-based assessment, etc.) and from a variety of sources (parents, teachers, specialists, peers, and the child).

Parents should be given a copy of the conference report and recommendations.

Parents should be informed of their right to obtain an independent educational evaluation (IEE) at district expense if they disagree with the evaluation findings.

The evaluation should yield information on what the child knows and can do academically, developmentally, and functionally.

This applies when evaluating all children including those –

- for whom English is not the native language
- who communicate by signing
- who use alternative augmentative communication
- who use other means to communicate.

Independent Educational Evaluation (IEE)

Citations

23 IAC 226.180, Independent Educational Evaluation

105 ILCS 5/14-8.02, Identification, evaluation, and placement of children

34 CFR 300.502, Independent educational evaluation

What Does It Mean?

Parents have the right to request an independent educational evaluation of their child at district expense when they disagree with the evaluation conducted.

What Needs to Happen?

When an independent evaluation is obtained at public expense, the party chosen to perform the evaluation should be an individual whose name is included on the list of independent educational evaluators developed by ISBE or another individual possessing the credentials required.

What Parents Need to Know or Do.

If you disagree with the results of the school's evaluation, you may request **in writing** that an independent evaluation occurs

at district expense. If the school district's evaluation is shown to be inappropriate, the school district shall reimburse the parent for the cost of the independent evaluation.

You may select an independent evaluator from the ISBE list or someone not on the list who has the required qualifications to do the evaluation. You should talk to the evaluators and chose which one will best meet your child's needs and address your concerns.

You also have a right to obtain an independent evaluation at your own expense, which you may then provide to your school. The school is obligated to consider the evaluation but is not obligated to follow its recommendations.

Eligibility Categories

Special Education Eligibility Categories

Citations

34 CFR 300.111, Child find
34 CFR 300.8, Child with a disability
23 IAC 226.75, Definitions

What Does It Mean?

A group of qualified professionals and the parents look at the child's evaluation results. Together, they decide if the child is a "child with a disability," as defined by IDEA.

If the child is found to be a "child with a disability," as defined by IDEA, he or she is eligible for special education and related services.
Within 30 calendar days after a child is determined eligible, the IEP team must meet to write an IEP for the child.

What Needs to Happen?

In order for the child to receive special education and related services, the child must be identified as eligible under one of these categories:

- Autism
- Deaf-Blindness
- Deafness
- Developmental Delay
- Emotional Disability
- Hearing Impairment
- Intellectual Disability
- Multiple Disabilities
- Orthopedic Impairment
- Other Health Impairment

- Specific Learning Disability
- Speech or Language Impairment
- Traumatic Brain Injury
- Visual Impairment

What Parents Need to Know or Do.

There are hundreds of terms and words we use to describe our children. The law puts them into categories. Do not let the category names discourage you.
An evaluation must be conducted to determine if your child is eligible to receive special education and/or related services.
You need to give written consent before your child can be evaluated.
The school cannot test or help your child until you have returned the signed papers.
You may ask for a hearing to challenge the eligibility decision.
Evaluations are done by school staff, or where necessary, consultants or specialists retained by the school district, but you can bring your own information from doctors, tutors, or others who work with your child.

Additional Procedures for Specific Learning Disabilities

Specific Learning Disability (SLD)

Citations

23 IAC 226.130, Additional Procedures for Students Suspected of or Having a Specific Learning Disability

105 ILCS 5/14-8.02, Identification, evaluation, and placement of children

34 CFR 300.8, Child with a disability

34 CFR 300.307, Specific learning disabilities

34 CFR 300.308, Additional group members

34 CFR. 300.309, Determining the existence of a specific learning disability

34 CFR 300.310, Observation

34 CFR 300.311, Specific documentation for the eligibility determination

What Does It Mean?

There are additional requirements for identifying children with SLD.

What Needs to Happen?

Districts must use a scientific, research-based process for identifying children with SLD.

	In addition to using a scientific research-based process for evaluation, districts may use a severe discrepancy* model (between intellectual ability and achievement) for determining whether a child has a specific learning disability.
What Parents Need to Know or Do.	Districts cannot deny a parent's request for an evaluation because the child is being monitored by a scientific, research-based process. Districts must use scientific, research-based interventions as part of the process for determining eligibility for services under the category of specific learning disabilities (SLD). They may choose to use a severe discrepancy* model as well. Without written parental consent, an evaluation may not be completed.

*Severe discrepancy typically means a large or significant difference in ability and achievement. Children who are of average or above average intelligence are expected to perform at that level of ability. When they don't, they may be referred for a full evaluation to see what is causing the discrepancy.

Under this model of evaluation, children may struggle and even fail for several years before the discrepancy between ability and achievement is large enough to be judged significant.

Building the Legacy: IDEA 2004 Training Curriculum. Module 11, Identification of Children with Specific Learning Disabilities

Individualized Education Programs (IEPs)

Present Levels of Performance

Citations	**34 CFR 300.320,** Definition of individualized education program. **23 IAC 226.230,** Content of the IEP
What Does It Mean?	Describes how the student is doing in different areas and how he or she uses what they've learned throughout the year.
What Needs to Happen?	The IEP needs to say two things in this section: • How the child's disability affects his or her participation in the general education curriculum • How the child performs in academic and nonacademic settings.

What Parents Need to Know or Do. Share the child's interests and activities and how the child's disability may affect those things.

Annual Goals

Citations **34 CFR 300.320,** Definition of individualized education program.
23 IAC 226.230, Content of the IEP

What Does It Mean? A goal is something that can be obtained within a school year.

A goal must be measurable.

Instructional recommendations should be supported by performance data that established the need

What Needs to Happen? Each goal will list:

- the steps needed to achieve the goal by the end of the year
- the way it will be measured
- who will be responsible for working on the goal
- how progress will be reported to parents

What Parents Need to Know or Do. Special education services should be based on data, not opinion.

Data should form the basis for instruction and the goals should be written to allow access to the general curriculum and other activities during or after school.

Progress Toward Goals

Citations **34 CFR 300.320,** Definition of individualized education program

What Does It Mean? The child's progress must be measured.

What Needs to Happen? The IEP will include how the school will measure the progress and when the reports of progress will be issued.

What Parents Need to Know or Do. You should know when you will receive information about your child's progress.

Make sure the measurement is clear enough so that you know whether your child is being successful or not.

Special Education and Related Services

Citations	**34 CFR 300.320,** Definition of individualized education program
What Does It Mean?	The IEP must include special education and related services and other supports and services for the student to - • advance toward annual goals • progress in the general curriculum • participate in extracurricular and nonacademic activities • be educated and participate with all children
What Needs to Happen?	The IEP team will decide which special education services and which related services, modifications, accommodations and other services the student needs to be part of the general curriculum and other activities. As much as possible, the services should be research-based. The IEP team will decide what supports the parents, educators, and paraprofessionals need to address the student's educational needs.
What Parents Need to Know or Do.	The IEP team decides what services and supports your child receives. Your child has a right to be educated and participate with all children in the least restrictive environment.

Frequency, Location, and Duration of Service

Citations	**34 CFR 300.320,** Definition of individualized education program **23 IAC 226.230,** Content of the IEP
What Does It Mean?	Each of the services the student needs should be written in the IEP. This is the "what, when, where, and for how long" part of the IEP
What Needs to Happen?	The IEP should say - • how long or how often each session will last (the number of minutes) • where the services will be provided • when the services will begin and end
What Parents Need to Know or Do.	The number of minutes in each session

If the services will be provided in the general education classroom or another setting (a resource room, a therapy room)

The starting and ending dates of the student's services

Extended School Year Services

Citations

34 CFR 300.106, Extended school year services
23 IAC 226.230, Content of the IEP

What Does It Mean?

Extended School Year (ESY) services means special education and related services provided to a student with a disability that are -

- beyond the normal school day/year
- stated in the student's IEP
- no cost to the parents of the student

What Needs to Happen?

The IEP team determines ESY services.

Schools must ensure that ESY services are available as necessary to provide a free, appropriate, public education (FAPE).

The decision about what services will be provided should be individually based on the needs of the student.
Loss of knowledge/ skills or an extraordinarily long time in relearning skills (regression/ recoupment) can be part of but not the only reason for determining ESY.

What Parents Need to Know or Do.

ESY services may not be limited to particular categories of disability.

Schools must determine the type, amount, and duration of services on an individual basis.

No single factor can determine ESY.

Discuss the student's loss of skills during breaks.

Look at the amount of time it takes for the student to regain skills after breaks.

Keep information that shows your child's progress, or lack of it, after returning to school from breaks.

ESY services:

- might not be the same as regular school year services
- may be just related services such as speech therapy or physical therapy
- can be provided in school, home, or community.

Participation in General Curriculum

Citations	**34 CFR 300.320,** Definition of individualized education program
What Does It Mean?	The IEP must explain how the child's disability affects his/her participation in the general education setting and other school activities. If the district proposes to remove the child from any part of the general education curriculum, the district must explain why in the IEP.
What Needs to Happen?	The IEP team will decide when the student will be in a general education classroom and when they won't. The IEP team will decide what modifications are needed for the student to succeed in general education classes.
What Parents Need to Know or Do.	Understand why and how much your child will be participating in general education classes. Think of accommodations and modifications that might allow your child to be successful (both academically and socially) in the general education classroom. Think about the opportunities for your child in extracurricular and nonacademic activities such as lunch, recess, gym, art, music, and after-school clubs and activities.

Transition

Citations	**20 U.S.C. 1401(34),** Transition services **34 CFR 300.43,** Transition services **34 CFR 300.320,** Definition of individualized education program **23 IAC 226.230,** Content of the IEP
What Does It Mean?	Transition services are a coordinated set of activities that focuses on improving academic and skill achievement to prepare for life after school. Goals should include the need for - • training • education • employment • independent living, where appropriate Transition services may include academic instruction, related services, postsecondary education, vocational training,

supported employment, community experiences, daily living skills, and work evaluation.

What Needs to Happen?

For students who will reach the age of 14½ during the school year, the IEP must document a statement of transition service needs that focuses on the student's course of study and goals to address those needs.

Transition goals must be part of the IEP and reviewed every year until the student is out of school.

Plans must include student's strengths, preferences, and interests. Goals must be measurable.

A statement of who will provide the services the student needs to meet his or her transition goals.

Student must be invited to the IEP meeting.

The district must consider the student's interests and preferences if the student does not attend.

What Parents Need to Know or Do.

Think about what your child needs to learn to help him or her be successful after graduation.

Help students explore work and career options while still in high school.

Decide what skills the young person needs to live and work in the community after high school.

Make connections with education and training programs, colleges, agencies, and support services.

Help select classes and services that will help the child be successful in his or her adult life.

Learn what agencies provide services to adults with disabilities in your community and invite them to your child's IEP meeting.

Other IEP Considerations

Limited English Proficiency

Citations

34 CFR 300.27, Definition of "Limited English proficient"
23 IAC 226.230, Content of the IEP

What Does It Mean?

The language needs of a student who has difficulty understanding and speaking English must be considered by the IEP team.

What Needs to Happen?

The IEP must include a statement as to the languages or modes of communication in which special education and related services will be provided if other than or in addition to English.

What Parents Need to Know or Do.

Tell the school if your child has difficulty understanding and speaking English.

Communication Needs

Citations

20 U.S.C. 1414(d), Individualized education programs
34 CFR 300.324, Development, review, and revision of IEP
23 IAC 226.75, Definitions
23 IAC 226.230, Content of the IEP

What Does It Mean?

An IEP shall be considered "linguistically and culturally appropriate" if it addresses the language and communication needs of a student as a foundation for learning, as well as any cultural factors that may affect the student's education.

What Needs to Happen?

The communication needs of the student must be considered by the IEP team.

For students who are deaf or hard of hearing, the IEP team must consider the student's language and communication needs and opportunities for direct communications with peers and professional personnel. The needs must address the student's language and communication mode.

The IEP team must consider the student's academic level and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

What Parents Need to Know or Do.

Let the IEP team know how your child communicates best with others, including family and friends.

Assistive Technology

Citations

20 U.S.C. 1414 (d)(3)(B), Consideration of special factors
34 CFR 300.105, Assistive technology
34 CFR 300.324, Development, review, and revision of IEP
23 IAC 226.230, Content of the IEP

What Does It Mean?

Assistive Technology is technology used by individuals with disabilities in order to perform functions that might otherwise be difficult or impossible.

The term "assistive technology" encompasses a broad range of devices from "low tech" (e.g., pencil grips, splints, paper stabilizers) to "high tech" (e.g., computers, voice synthesizers, Braille readers).

These devices include the entire range of supportive tools and equipment from adapted spoons to wheelchairs and computer systems for environmental control.

What Needs to Happen?

Consideration should be given to the needs of the student for assistive technology devices and services.

The IEP team must decide if the student needs assistive technology devices and services in order to receive a free appropriate public education (FAPE).

What Parents Need to Know or Do.

Tell the IEP team about the things that might help the student in school, at home, or in the community.

Share concerns that you have for your child's ability to do things and ask if there is any type of assistive technology that might provide support.

Braille

Citations

20 U.S.C. 1414 (d)(3)(B), Consideration of special factors
34 CFR 300.324, Development, review, and revision of IEP

What Does It Mean?

For a student who is blind or visually impaired, the school shall provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and ap- propriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child.

What Needs to Happen?

For a child who is functionally blind or visually impaired to the extent that Braille instruction is determined necessary, the IEP team must consider -

- evaluation of reading and writing skills
- evaluation of needs

- communication needs
- appropriate reading and writing media
- future needs for instruction in Braille or the use of Braille

What Parents Need to Know or Do.

Understand your child's impairment and what he or she needs.

Share with the IEP team what has and has not worked at home.

Revocation of Consent

Citations

23 IAC 226.540, Consent
34 CFR 300.300, Parental consent

What Does It Mean?

A parent may revoke consent for the district to provide special education services at any time after the initial consent for services has been provided.

Revocation may be provided orally or in writing.

What Needs to Happen?

After the parent has revoked consent, the district must terminate all special education services to the student once the district has provided prior written notice to the parent that services will be terminated.

What Parents Need to Know or Do.

In most cases, all protections and rights given to parents of students with disabilities will be terminated along with the termination of special education services.

School districts may not use procedures such as due process or mediation to dispute the parent's decision to revoke consent.

If the parent changes his or her mind after revoking consent and after the district has provided prior written notice for terminating services, the district will need to evaluate the student's eligibility for special education again.

If the parent disagrees with the services being provided to the student but does not disagree with the student's special education eligibility, the parent should initiate a complaint or request due process, rather than revoke consent.

Least Restrictive Environment (LRE)

Citations

34 CFR.300.107, Nonacademic services
34 CFR 300.110, Program options

34 CFR 300.114, LRE requirements
34 CFR. 300.115, Continuum of alternative placements
34 CFR. 300.116, Placements
34 CFR.300.117, Nonacademic settings
34 CFR.300.320, Definition of individualized education program
34 CFR 300.327, Educational placements
23 IAC 226.75, Definitions

What Does It Mean?

Students with disabilities must be educated with children who do not have disabilities as much as possible.

Education placement decisions are made based on the student's needs and
may include the following locations (this is not an exhaustive list):

- General education
- Resource room (Special class)
- Self-contained room (Special classes)
- Separate day school (Special Schools)
- Residential program (Special Schools)
- Hospital/homebound program.

What Needs to Happen?

Students with disabilities should be removed from general education classes to separate classes or special schools only if the disability is so severe that education in general education classes with supplementary aids and services is not satisfactory.

Placement decisions are made by a group of persons, including the parents, who are knowledgeable about -

- the student
- the meaning of the evaluation data
- the placement options

What Parents Need to Know or Do.

Decide what educational supports the student needs.

The first step when talking about placement is to adjust or modify the student's education program or provide extra supports. That way, the student can continue to learn alongside the rest of the students in the general education program and regular classroom environment.

The decision in every case is based on the individual needs of the student.

Secondary Transition

Citations

34 CFR 300.43(a), Transition services
23 IAC 226.230(c), Content of the IEP
23 IAC 226.750(c), Additional services
23 IAC 226.690, Transfer of parental rights
105 ILCS 5/14-6.10, (Section 14-6.10 of the School Code), Transfer of parental rights at the age of majority
105 ILCS 5/14-8.03, (Section 14-8.03 of the School Code), Transition Services
23 IAC 226.50(c), Requirements for a Free Appropriate Public Education (FAPE)
34 CFR 300.324(c), Development, review, and revision of IEP
23 IAC 226.230(d), Content of the IEP

What Does It Mean?

Transition services are a coordinated set of activities and activities, services, experiences and instruction. Transition services should assist the student in moving from school to adult life activities including post-secondary education, vocational training, employment, adult education, adult services, and independent living.

Students with disabilities who require continuing education experiences (e.g., transition services) to make a successful transition from school to adult life are eligible to continue through age 21 inclusive (until the day before his or her 22nd birthday, unless his or her 22nd birthday occurs during the school year, in which case he or she is eligible for services through the end of the school year).

Students who have graduated with a regular diploma are not eligible to continue to receive a free and appropriate public education (FAPE) after graduation.
Students with disabilities who have fulfilled the minimum state graduation requirements (School Code – 105 ILCS 5/27-22) are eligible to receive a regular education diploma.

What Needs to Happen?

The transition plan must include -

- Appropriate, measurable postsecondary goals based upon age-appropriate assessments related to education, training, employment, and where appropriate, independent living skills.
- Transition services that are needed to assist the child in reaching those goals, including courses of study and any

other needed services to be provided by entities other than the school district.

The school district must provide the student with a copy of the Delegation of Rights at the IEP meeting in the year during which the student turns 17 years of age. The student can end the Delegation of Rights at any time; otherwise, it will be in effect for one year after the date of completion.

At least one year before a student is to receive a regular high school diploma, the school district must send both the parent and student written notice that a diploma will be issued. The notice must explain that eligibility for special education services ends after the student receives the diploma. The notice should also explain that the parent or the student may request an IEP meeting to review the school district's recommendation.

Students with disabilities can participate in graduation ceremonies while maintaining their rights to continued eligibility for special education services.
For students who have developmental disabilities, the IEP team should assist families in making a connection or linkage with their local Pre-admission and Screening (PAS) Agency to first complete the "PUNS" (Prioritization of Unmet Needs for Services) survey and an application packet that will be submitted to the Department of Human Services Division of Developmental Disabilities. Information about the PUNS survey may be found via this link:
https://www.dhs.state.il.us/OneNetLibrary/27897/documents/Brochures/4313.pdf

You may also call 888/DD-PLANS or 866/376-8446 (TTY).

What Parents Need to Know or Do.

The student and his or her parents should actively share their vision for his or her life as an adult in the areas of employment, postsecondary education, community participation including recreation and health care, and independent living options such as an apartment, a dormitory, or a supported living arrangement.

Parents, families, and guardians can assist in transition planning with the IEP team by helping find the answers to questions about the student, including: long-range employment and life goals, interests and talents, learning styles, positive personality traits, achievements, social skills, work experiences (paid and unpaid), where he or she might like to work, needs for accommodations and support, and options after high school

(college, trade school, military, work, living arrangements, recreation, healthcare, etc.)

Transfer of Rights at Age of Majority

Citations

34 CFR 300.320, Definition of an individualized education program
23 IAC 226.230, Content of the IEP
23 IAC 226.690, Transfer of parental rights
105 ILCS 5/14-6.10, Transfer of parental rights at the age of majority

What Does It Mean?

The rights and responsibilities for special education services that are given to parents will belong to the student at age 18.

In addition, the district must inform the parents and student of the student's right to delegate decision-making to another adult individual.

At least one year before turning 18, the parents and the student will receive notices in writing from the school about the change.

What Needs to Happen?

The district must document that the parents and the student received the notice and were told about the transfer of rights.

The school must provide the student with a copy of the Delegation of Rights form. https://www.isbe.net/SPEDReqNotConForms/nc_deleg_34-57k.pdf

What Parents Need to Know or Do.

At age 18, your child is now considered an adult and the rights you had are transferred or given to him or her.

The Delegation of Rights -

- may be terminated by your child at any time
- will remain in effect for one year
- must be signed by the student and the designee can be renewed each year
- The school must use the ISBE form or one that is almost the same.

Prepare for transition by talking to your child early so that you can create a meaningful plan that reflects his or her preferences.

Behavioral Intervention

Citations

23 IAC 226.230, Content of the IEP

What Does It Mean?

If a child's behavior gets in the way of his or her learning or the learning of other students, then the IEP team should consider the use of positive behavioral interventions and supports.

What Needs to Happen?

Some students may need a Behavioral Intervention Plan (BIP) included in the IEP. The IEP of a student who requires a BIP shall-

- summarize the findings of the Functional Behavioral Assessment (FBA)
- summarize prior interventions implemented
- describe any behavioral interventions to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors
- identify the measurable behavioral changes expected and methods of evaluation
- identify a schedule for a review of the interventions' effectiveness
- identify provisions for communicating with the parents about their child's behavior and coordinating school-based and home-based interventions

What Parents Need to Know or Do.

Learn about FBAs and BIPs.

If you want to request an FBA, please do so in writing. It is also best to have someone at the school sign and date a copy of the letter or send it certified mail, return receipt requested.

A plan to teach new behaviors with positive strategies is called positive behavioral interventions and supports (PBIS).

A positive BIP is not a plan to discipline or punish but is a plan that is used to teach or reinforce positive behaviors.

Ask for a BIP before your child gets into serious trouble.

A BIP also details what the school staff should do to help the student be successful.

Students are more successful when the same things happen at home and at school.

Student Discipline

In-School Suspension

Citations	**34 CFR 300.530,** Authority of School Personnel **105 ILCS 5/10-20.14,** Student discipline policies **105 ILCS 5/10-22.6,** Suspension or expulsion of pupils
What Does It Mean?	When a student with an IEP receives an in-school suspension, he or she is removed from class for a specific amount of time as a result of breaking school rules. The student is in the school building but not attending classes.
What Needs to Happen?	The school must notify the parents immediately and provide the parents with a full statement of the reasons for the suspension and their right to a review of the decision.
What Parents Need to Know or Do.	Often, an in-school suspension will include doing schoolwork without being in the classroom. An in-school suspension would not be considered a part of the cumulative days of suspension as long as the child can continue to appropriately participate in the general curriculum, continue to receive the services specified on the IEP, and continue to participate with nondisabled children to the extent they would have in their current placement.

Out-of-School Suspension

Citations	**34 CFR 300.530,** Authority of school personnel
What Does It Mean?	When a student with an IEP receives out-of-school suspension, he or she is removed from school for not more than 10 consecutive school days as a result of breaking school rules. A student may receive additional suspensions of not more than 10 consecutive school days in the same school year for separate incidents of misconduct.
What Needs to Happen?	The school must notify the parents immediately and provide the parents with a full statement of the reasons for the suspension and their right to a review of the decision.
What Parents Need to Know or Do.	It's important for parents to understand why their child was suspended.

You have the right to request a review of the decision to suspend your child.

After a student with an IEP has been removed from his or her current placement for 10 school days in the same school year, the district must provide educational services during any additional suspensions, even if in another setting. The district must also hold a **Manifestation Determination Review (MDR) meeting**.

Additionally, if the student is suspended for more than 10 school days in the same school year, the district is required to hold an IEP team meeting to review the student's BIP. If the student's IEP does not have a BIP, then one must be developed.

Make sure your child receives the services he or she needs.

Think of ways to assist the school in preventing your child from being suspended again.

Manifestation Determination Review (MDR)

Citations

20 USC Sec. 1415(k), Placement in alternative educational setting
34 CFR 300.530(e), Manifestation determination

What Does It Mean?

A meeting of the district, parent, and relevant members of the IEP team to decide if a student's behavior is a result of the disability.

What Needs to Happen?

If the student is removed for more than 10 consecutive school days, or if a series of removals totals more than 10 days in a school year, the MDR meeting needs to be held to decide if the student's behavior is a symptom of the disability.

To make the decision, the district, parents, and IEP team must look carefully at relevant information, including:

- the IEP
- information from the parents
- observations of the student
- new or existing evaluation results

The team will decide the behavior is a manifestation of the disability if -

- the behavior was caused by the disability or had a direct and substantial relationship to the disability

- the behavior was a result of the school's failure to follow the IEP.

What Parents Need to Know or Do.

If the behavior **is** a manifestation of the disability, then the team must do a functional behavioral assessment and develop a behavioral intervention plan. If a BIP already exists, the team must review it and make changes, if needed.
If the behavior is a result of the student's disability, the child must be returned to his/her placement unless you and the district agree to a change of placement as part of the BIP review.

If the incident involves a weapon or an illegal drug, however, the school district can remove your child from the current placement, even if you disagree and even if the behavior is a manifestation of your child's disability.

If the behavior is NOT a manifestation of the disability, the student can be disciplined as any other student would be, **but** the school must continue to provide educational services. During this time, your child needs to continue to make progress on his or her IEP goals and to participate in the general education curriculum.

Removal of Drugs, Weapons, or Serious Bodily Injury

Citations

34 CFR 300.530(g), Authority of school personnel - special circumstances

What Does It Mean?

There are three situations where a district can remove a student from his or her current placement for not more than 45 school days, regardless of whether the behavior is a manifestation of the disability:

- If the student brought a weapon to school or to a school function; or if the student possessed a weapon at school or a school function
- If the student knowingly has, uses, sells, or tries to buy illegal or controlled substances at school or at a school function
- If the student inflicted serious bodily injury on another person at school or a school function

What Needs to Happen?

The district will call the police and can move the student to an Interim Alter- native Educational Setting for not more than 45 school days.

The student's IEP team decides on the interim alternative educational setting.

What Parents Need to Know or Do.

A parent who disagrees with the change in placement has the right to request an expedited due process hearing (see Chapter 10).

School Records

Citations

34 CFR 300.322, Parent participation
34 CFR 300.306, Determination of eligibility
34 CFR 300.613, Access rights
Family Educational Rights and Privacy Act (FERPA), (20 USC 1232g, 34 CFR Part 99)
Illinois School Student Records Act, 105 ILCS 10/

What Does It Mean?

School records are confidential. Personal information (anything that identifies who the person is) may not be released without written consent unless it is -given to school officials or teachers with a legitimate educational interest, state and local education authorities, or certain individuals designated under federal law used to meet a requirement under federal law

Personal information includes the following:

- the name of the student, parent, or other family members
- the home address
- personal information, such as the student's social security number

What Needs to Happen?

Schools must maintain the student's permanent record for at least sixty (60) years after the student has transferred, graduated, or permanently withdrawn from school.

All information not required in the student permanent record including special education information and reports and discipline issues (including suspension or expulsion) must be maintained for at least five (5) years after the student has transferred, graduated, or otherwise permanently withdrawn from school.

Schools must provide custodial and noncustodial parents access to their children's records unless there is a court order, law, or legal document (such as a divorce decree or custody order) that terminates a parent's rights.

Districts must keep a record of anyone who looks at the records. The record must state the name of the person reviewing the file, the date, and the reason for the review. Parents, the student's teachers, or other school staff do not have to sign a record when reviewing the file.

What Parents Need to Know or Do.

Take the opportunity to examine all education records in your child's file.

Request an explanation of the documents in the file.

Know where the records are kept.

Review your child's records before -

- transferring to another school
- participating in IEP meetings
- participating in a due process hearing

Request that a representative inspect and review the records.

Early Childhood Services

Citations

34 CFR 300.124, Transition of children from the Part C program to preschool programs
23 IAC 226.260, Child Reaching Age Three
34 CFR 300.323, When IEPs must be in effect
23 IAC 226.250, Child Aged Three Through Five
34 CFR 300.101, Free appropriate public education (FAPE)

What Does It Mean?

Children who have been receiving early intervention services have the right to a smooth and efficient transition into early childhood special education services when they turn 3.

What Needs to Happen?

By the third birthday of a child transitioning from early intervention, the school district must have eligibility determined and if eligible, an IEP developed and implemented.

What Parents Need to Know or Do.

Stay in touch with the early intervention service coordinator and the school district staff as the child nears his or her third birthday and keep appointments for evaluations and meetings.

Appendix C: Glossary of Key Terms

The following section contains a list of key terms used throughout this guide. If a common acronym is associated with the term (for example, “IEP” for Individualized Education Program), you will find that acronym, too.

Word or Term	Acronym	Definition
Alternative Education Placement	**AEP**	An alternative classroom setting used to improve classroom behavior and address needs that cannot be met in a general classroom setting.
American Sign Language	**ASL**	A form of communication used among deaf persons. The system uses signs to communicate based on specific movements and shapes of the hand and arms, eyes, face, head, and body posture.
Americans with Disabilities Act	**ADA**	Enacted in 1990, the ADA gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities with regard to public accommodations, employment, transportation, state and local government services, and telecommunications.
Annual Goal		A required component of an Individualized Education Program (IEP). It is a goal that a student will strive to achieve in a twelve-month period. An example would be, "David will read at a second-grade level by the end of the next school year."
Annual Review		Students with disabilities are required by law to have an educational program that is reviewed each year. A review involves updating the student's progress, planning his or her educational program, and developing a new IEP for the upcoming year.
Appeal		A written request for a court to review or change the decision of a hearing officer.
Appendix A		Appendix to the federal special education regulations that answers questions about IEPs, IEP teams, parental roles, and transition.
Applied Behavior Analysis	**ABA**	An intervention technique that may be used to teach children with autism. It breaks down skills into very small components which are then taught systematically. Each skill builds the foundation for the next one.
Assessment		A way of collecting information about a student's special learning needs, strengths, and interests to help make educational decisions. An assessment may include giving individual tests, observing the student, looking at records, and talking with the student and his or her parents.

Word or Term	Acronym	Definition
Assistive Technology Device		Any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.
Audiologist		Specialist who is concerned with studying the nature of hearing, administering hearing tests to detect possible hearing loss, and giving information about hearing aids, training programs, and medical treatment. Related service includes identification, determination of hearing loss, and referral for habilitation of hearing.
Autism Spectrum Disorder	**ASD**	Autism Spectrum Disorder means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disability. A diagnosis of ASD now includes several conditions that used to be diagnosed separately: autistic disorder, pervasive developmental disorder not otherwise specified (PDD-NOS), and Asperger syndrome. These conditions are now all called autism spectrum disorder.
Behavioral Intervention		A method or technique used to influence a student's actions.
Behavioral Intervention Plan	**BIP**	A written plan developed as part of the IEP to address a serious behavioral problem. It is based on a functional behavioral assessment of the student's behavior and describes the interventions to be used, methods of evaluation, and provisions for coordinating with the home. The BIP outlines what the school personnel will do differently to support the needs of the student.
Benchmark		Refers to a major milestone that will enable parents, students, and educators to monitor progress toward a goal during the year.

Word or Term	Acronym	Definition
Bilingual	**BIL**	The ability to use two languages with equal or nearly equal fluency.
Brief		Written argument that supports a case that usually contains a statement of facts and a discussion of law.
Building Level Support Team	**BLST**	A team that analyzes needs and clarifies school support systems for teachers, students, and parents.
Burden of Proof		Duty of a party to substantiate its claim against the other party. In civil actions, the weight of this proof is usually described as a preponderance of the evidence.
Business Day		Monday through Friday except for federal and state holidays.
Calendar Day		Any consecutive, non-specific day on a calendar that is not otherwise indicated as a business day, school day, weekday, or holiday.
Case Law		Decisions issued by a court.
Case Study Evaluation		A set of procedures specified within IDEA and expanded greatly in Illinois under 23 IAC 226.110 to determine possible special education eligibility.
Certified Occupational Therapist Assistant	**COTA**	A trained professional who works under the direction and supervision of an occupational therapist (OT).
Child Find		Requirement that states ensure that all children with disabilities are identified, located, and evaluated to determine which children should be receiving special education and related services.
Chronologically Age-appropriate		A standard by which children's activities may be evaluated. Instruction and materials should be directed at the student's actual age, rather than to the interests and tastes of younger children.
Claim		The written or electronically submitted request for payment of benefits for Medicaid-covered services that have been provided to students.
Code of Federal Regulations	**CFR**	The regulations developed by the U.S. Department of Education designed to implement statutory requirements such as IDEA and Section 504.
Cognitive Disability		See "Intellectual Disability."
Complaint		The written action taken to notify ISBE that special education regulations are not being followed.

Word or Term	Acronym	Definition
Computer-assisted Instruction	**CAI**	Drill-and-practice, tutorial, or simulation activities used alone or in conjunction with classroom instruction.
Confidential		Information held by the school district that can only be shared with non-school parties with written parent permission, unless stated otherwise in the law.
Confidential File		File maintained by the school that contains evaluations conducted to determine whether a child has a disability and other information related to special education placement. Parents have a right to inspect the file and have copies of any information contained in it.
Confidentiality		Precautions an individual, other than the student's parent, must take in not revealing information, without consent, about a specific student to someone who is not directly involved with that student.
Consent		Requirement that the parent has been fully informed of all information that relates to any action that the school wants to take about the child. Parents understand that consent is a voluntary agreement to let the school take an action that affects their child's education. Consent is shown when the parent signs a form or letter which describes the action the school wants to take: (1) The parent must be fully informed of all information relevant to the activity for which consent is sought in his or her native language or other mode of communication; (2) The parent understands and agrees in writing to the implementation of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and (3) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.
Continuum of Services		The range of services that must be available to the students at a school district so that they may be served in the least restrictive environment.
Controlled Substance		Means a drug or other substance identified under schedules I, II, III, IV, or V of the Controlled Substances Act; does not include a substance that is legally possessed or used under the supervision of a licensed health care provider.

Word or Term	Acronym	Definition
Cooperative		Voluntary association of school districts that join together to provide special education services using a shared administrative structure.
Counseling Services		Related service; includes services provided by social workers, psychologists, guidance counselors, or other qualified personnel.
Culturally and Linguistically Diverse	**CLD**	Refers to students who come from a different culture and whose background includes a different language.
Cumulative File		General file maintained by the school; parent has right to inspect the file and have copies of any information contained in it.
Curriculum		The subject matter that is to be learned; the coursework offered by a school. A curriculum is usually described in terms of its scope and sequence.
Curriculum-based Assessment	**CBA**	An ongoing assessment of a student's ability to meet expected performance standards in grade-level curricular areas.
Curriculum-based Measurement	**CBM**	A method that teachers use to find out how students are progressing in basic academic areas such as math, reading, writing, and spelling. These measures are based on how well a student masters the curriculum goals. When using CBM, the teacher will give the student brief, timed samples (called probes) which are created from material taken out of the school curriculum. To keep things standard, the teacher will read the same directions every time that he or she gives a specific probe. These probes are timed and may last from one to five minutes, but this will depend on the child's age and the skill being measured. The child's performance on a probe is scored for speed and accuracy of performance. Used repeatedly as practice drills, the student's results are charted to monitor the rate of academic progress.
Day		A calendar day, unless otherwise indicated as a business day, school day, or holiday.
Deaf-Blindness		Deaf-Blindness means simultaneous hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that students with these combined impairments cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Word or Term	Acronym	Definition
Deafness		Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects the child's educational performance.
Delay		Development which does not occur within expected time ranges.
Developmental Delay	**DD**	A delay in physical, intellectual, communication, social/ emotional, or adaptive (self-care) development among children from 3 through 9 years of age.
Developmental Disabilities	**DD**	A diverse group of severe, lifelong, chronic conditions due to mental and/or physical impairments manifested prior to age 22.
Developmentally Appropriate Practices	**DAP**	Practices that are age-appropriate and individually appropriate for each student.
Discovery		Term for methods of obtaining evidence in advance of trial; includes interrogatories, depositions, and inspection of documents.
Domain		An aspect of a child's functioning or performance that must be considered in the course of designing an evaluation. The domains are health, vision, hearing, social and emotional status, general intelligence, academic performance, communication status, and motor abilities.
Due Process		A legal term that assures that persons with disabilities have the right to challenge any decision made on their behalf.
Due Process Hearing		A formal meeting held to settle disagreements between parents and schools in a way that is fair to the student, the parents, and the school. The meeting is run by an impartial hearing officer.
Duration		The length of time a student will need a special program or service during the school year or extended school year, as documented on the IEP.
Early Childhood		Programs and services provided to children with disabilities from ages 3 through 5.
Early Childhood Education	**ECE**	The education of a child in grades pre-kindergarten through third grade (age range of birth through 8 years of age).

Word or Term	Acronym	Definition
Early Childhood Intervention	**ECI**	Programs designed to provide assistance to preschool- aged children with physical or developmental problems.
Early Intervention		Programs and services provided to infants and toddlers with disabilities from birth through age 3.
Early Intervening Services	**EIS**	Assistance given to children who have not yet been identified as eligible for special education and related services under IDEA but who need extra help and support to progress in the general education environment. District can use no more than 15% of IDEA Part B funds to develop and implement early intervening services. EIS emphasizes assistance to children in grades kindergarten through third grade (K-3). EIS may also be used with children in fourth through twelfth grades (4-12) . EIS funds may be used for professional development of teachers and other school staff.
Education Records		All records about the student that are maintained by an educational agency or institution; includes instructional materials, teacher's manuals, films, tapes, test materials and protocols.
Eligibility Conference		A conference held to determine, review, terminate, or consider changes in a student's eligibility for special education.
Eligibility Conference Summary Report		A written report containing a summary of the results of the evaluation and the determination of eligibility for special education.
Eligible		A decision that determines a student meets the requirements for and is in need of special education and related services. The decision is based on the results of the evaluation and the conclusions reached at the eligibility conference.
Emotional Disability	**ED**	Disability category under IDEA. A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: An inability to learn that cannot be explained by intellectual, sensory, or health factors An inability to build or maintain satisfactory interpersonal relationships with peers and teachers Inappropriate types of behavior or feelings under normal circumstances

Word or Term	Acronym	Definition
		A general pervasive mood of unhappiness or depression A tendency to develop physical symptoms or fears associated with personal or school problems Emotional disability also includes schizophrenia.
English as a Second Language	**ESL**	English learned in an environment where it is the predominant language of communication.
English for Speakers of Other Languages	**ESOL**	English instruction for persons who speak a language other than English.
English Language Learner	**ELL**	Someone who speaks a language other than English and is learning to speak and understand the English language.
Evaluation		Collecting information about a student and any problems that may affect his or her educational development for the purpose of determining eligibility for special education and related services. The evaluation may include giving individualized tests, observing the student, looking at records, and talking with the student and his or her parents (see also assessment).
Every Student Succeeds Act	**ESSA**	ESSA is the reauthorization of the 50-year-old Elementary and Secondary Education Act, the country's national education law which embodies a commitment to equal opportunity for all students. ESSA incorporates ambitious long-term goals, supports for low-performing schools, challenging academic standards and assessments, and universal indicators of school quality and student progress.
Exhibit		Anything tangible that is produced and admitted in evidence during a trial.
Extended School Day		A provision for a student who receives special education services to have instruction for a period longer than the standard school day. This sometimes includes "double" kindergarten, later afternoons, or earlier starting times.
Extended School Year Services	**ESY**	A provision for a special education student to receive instruction during ordinary school "vacation" periods. Purpose is to prevent serious regression of previously learned skills that cannot be regained in a reasonable length of time with the intent being to maintain IEP goals and objectives, not to introduce new skills. The IEP team determines eligibility for ESY services.

Word or Term	Acronym	Definition
Family Educational Rights and Privacy Act	**FERPA**	A federal law that regulates the management of student records and disclosure of information from those records. The Act has its own administrative enforcement mechanism.
Fiscal Year	**FY**	A twelve-month period used for calculating yearly financial reports. Most schools use the state fiscal year which runs from July 1 to June 30.
Free Appropriate Public Education	**FAPE**	The words used in the federal law (IDEA) to describe the right of students with disabilities to receive special education and related services that meet his or her individual learning needs, at no cost to the parents.
Functional Behavioral Assessment	**FBA**	A process to improve understanding of problem behavior in order to identify what skills need to be taught. The process includes observation, interviews, and data collection to identify when, where, and why the behavior is occurring.
General Curriculum		Curriculum adopted by the LEA or SEA for all children from preschool through high school.
Guardian		Person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment but excludes one who is merely guardian ad litem.
Guardian ad litem		Person appointed by the court to represent the rights of minors.
Head Start	**HS**	A child development program for children ages 3 to 5 and their families that focuses on increasing the school readiness of young children from low-income families by increasing opportunities for learning.
Hearing Impairment	**HI**	A hearing impairment is one that is either permanent or fluctuating and adversely affects a child's educational performance, but that is not included under the definition of deafness.
Hearing Officer	**HO**	An impartial person in charge of a due process hearing who issues a written decision based upon the evidence and witnesses presented at the hearing.
Illinois Administrative Code	**IAC**	The regulations relevant to the provision of special education are located in Title 23 at Part 226.
Illinois Freedom of Information Act	**IFOIA**	This Act (5 ILCS 140/) regulates access to public records. It is useful for accessing the policies and minutes of public bodies but does not provide for access to individual student records.

Word or Term	Acronym	Definition
Illinois Revised Statutes or Illinois School Code	**ILCS**	Chapter 105. Commonly called the "Illinois School Code." It includes state law regulating the operation of public schools. Article 14 is specific to special education matters.
Illinois Student Records Act	**ISRA**	A portion of the Illinois School Code regulating the management of all student records whether or not those students have disabilities.
Illinois State Board of Education	**ISBE**	The state agency responsible for educational services.
Independent Educational Evaluation	**IEE**	An assessment conducted by someone who is not employed by the school district. Anyone completing the assessment must be fully trained and qualified.
Individual Family Service Plan	**IFSP**	The document that outlines the services to be delivered to families of infants and toddlers receiving special services.
Individualized Education Program	**IEP**	The written educational program for a student receiving special education and related services with goals and objectives to be attained during a calendar year. The IEP is developed and implemented to meet a student's unique educational needs.
Individualized Education Program (IEP) Conference		A meeting held annually to develop, review, and consider changes in a student's special education and related services and educational placement.
Individualized Education Program (IEP) Team		The group of individuals, including the parents, teachers, and school or district officials, who determines the special education and related services to be provided to an eligible student. The IEP team and other qualified professionals are required to participate in meetings when identifying specific assessments, determining eligibility, and conducting manifestation determination reviews.
Individualized Functional Assessment	**IFA**	An assessment that examines whether a child can engage in age-appropriate activities effectively.
Individualized Transition Plan	**ITP**	Transition services begin when a student is ready to transition from high school to postsecondary education, vocational training, independent employment, continuing and adult education, adult services, or independent living. When transition services begin for students with an IEP, a transition planning interview will be completed to identify the students' needs. The IEP team will use this

Word or Term	Acronym	Definition
		information to develop an ITP, which is designed to accomplish the student's goals.
Individuals with Disabilities Education Act	**IDEA**	The federal law mandating that all children with disabilities have available to them a free, appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living.
Individuals with Disabilities Education Law Reporter	**IDELR**	The Individuals with Disabilities Education Law Reporter is a specialized full text reporting service that publishes policy letters and administrative level actions as well as case law.
Initiation Date		The date, month, and year in which a program or service will begin as documented on the IEP.
In-school Suspension	**ISS**	An alternative placement program that allows students to come to school, but they are not allowed to attend regular class. They are placed in a supervised setting, typically separated from other classmates, where they can complete their schoolwork.
Intellectual Disability		Intellectual disability means significantly below average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.
Interrogatories		Written questions served on a party that must be answered under oath before trial; method of discovery.
Joint Agreement		A voluntary association of school districts (cooperative) that join together to provide special education services.
Judgment		Order by a court.
Learning Disability	**LD**	See Specific Learning Disability (SLD).
Least Restrictive Environment	**LRE**	A requirement of IDEA that describes procedures that ensure, to the maximum extent appropriate, students with disabilities are educated with students who are not disabled. The IEP team must determine the LRE for each student based on his or her individual needs.
Limited English Proficient	**LEP**	Term used to describe a student who is not proficient in English, speaks a language other than English at home, and does not demonstrate English language

Word or Term	Acronym	Definition
		skills of comprehension, speaking, reading, and writing at a level that would allow him or her to be placed in a mainstream class setting where only English is spoken.
Local Educational Agency	**LEA**	Local education agency or school district.
Manifestation Determination Review	**MDR**	A meeting of the IEP team convened by the school to determine whether the behavior of a student who receives special education services was caused by the student's disability.
Mediation		A process in which parents and school personnel try to settle disagreements with the help of a trained mediator provided by ISBE.
Medicaid		A federal-state public medical assistance program administered by the Illinois Department of Human Services that enables eligible recipients to obtain medical benefits outlined within the state Medicaid guidelines.
Medical Services		Related service which includes services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.
Modifications		Substantial changes in what the student is expected to demonstrate. Includes changes in instructional level, content, and performance criteria. May include changes in test form or format. Includes alternate assessments.
Multiple Disabilities		Multiple disabilities means a combination of various impairments that cause such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.
Notice		Mandatory written notice provided to parents before the school's proposal or refusal to initiate or change the student's identification, evaluation, or educational placement. Notice in the parent's native language must also be provided in advance of any scheduled IEP meetings.
Occupational Therapist	**OT**	A trained professional who provides occupational therapy.

Word or Term	Acronym	Definition
Occupational Therapy	**OT**	A special education related service which is usually focused upon the development of a student's fine motor skills and/or the identification of adapted ways of accomplishing activities of daily living when a student's disabilities prevent him or her from doing those tasks in typical ways (e.g., modifying clothing so a person without arms can dress independently).
Office of Civil Rights	**OCR**	This federal agency serves student populations who face discrimination based on race, color, national origin, gender, age, disability, religion, and political beliefs. OCR advocates on behalf of students to resolve complaints of discrimination, as well as develop creative approaches to preventing and addressing discrimination.
Office of Special Education and Rehabilitative Services	**OSERS**	An agency of the federal government's executive branch within the Department of Education.
Office of Special Education Programs	**OSEP**	Part of the U.S. Department of Education, its goal is to improve results for infants, toddlers, children and adolescents with disabilities ages birth through 21 by providing leadership and financial support to assist states and local districts.
Opinion		Formal written decision by judge or court; contains the legal principles and reasons upon which the decision was based.
Orthopedic Impairment	**OI**	An orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).
Other Health Impairments	**OHI**	Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, which results in limited alertness with respect to the educational environment, that - Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia,

Word or Term	Acronym	Definition
		nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and Adversely affects a child's educational performance.
Parent		Natural or adoptive parent; a guardian, but not the State if the child is a ward of the State; a person acting in the place of a parent (e.g., a grandparent or stepparent with whom the child lives, or a person legally responsible for the child's welfare); or an educational surrogate parent.
Parent-Teacher Association	**PTA**	A school district-based group that is part of the National PTA.
Permanent Record		A file that includes the following information: parent name(s) and address(es), student name, address, birth date, birthplace, gender, transcripts, grades, class rank, graduation date, grade level achieved, scores on college entrance exams, attendance reports, accident reports, health records, release of information forms, honors/awards received, and participation in school-sponsored activities and events.
Physical Therapist	**PT**	A trained professional who provides physical therapy
Physical Therapist Assistant	**PTA**	A professional who works under the direction and supervision of a physical therapist and provides rehabilitative services to students with physical or developmental impairments.
Physical Therapy	**PT**	Instructional support and treatment of physical disabilities provided by a trained physical therapist, under a doctor's prescription that helps the student remediate gross motor skills and improve the use of bones, muscles, joints, and nerves.
Placement		Where the IEP will be carried out. The placement decision is made by the IEP team, including the parents and others who know about the child, what the evaluation results mean, and what types of placements are appropriate. The parents have the right to be members of the group that decides the educational placement of the child. Placement decisions must be made according to IDEA's least restrictive environment requirements, commonly known as LRE. These requirements state that, to the maximum extent appropriate, children with disabilities must be educated with children who do not have disabilities.

Word or Term	Acronym	Definition
Precedent		A court decision that will influence similar cases in the Future.
Pre-Kindergarten	**Pre-K**	The year of education that occurs before kindergarten. The goal of pre-K is to promote school readiness so that children have a better chance of later success in school.
Present Level of Academic Achievement and Functional Performance	**PLAAFP**	A required IEP component; statements in an IEP that specifically describe what a student can or cannot do, includes the effects of the student's disability on the student's involvement and progress in the general education curriculum.
Prior Written Notice		Required written notice to parents when school proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the student.
Pro Se		Representing oneself without assistance of legal counsel.
Procedural Safeguards		Precautions taken to ensure that an individual's rights are not denied without due process of law.
Procedural Safeguards Notice		Requirement that schools provide a full and easily understood explanation of procedural safeguards at least once a year to parents. It must include information on independent educational evaluation, prior written notice, parental consent access to records, complaint process, mediation process, due process and the child's placement during due process, interim alternative educational settings, private school placements by parents at public expense, disclosure of evaluation results and recommendations, state-level appeals, civil action, and attorney's fees.
Psychologist		Person with an advanced degree who specializes in administering and evaluating psychological tests including intelligence, aptitude, and interest tests. A psychologist could also provide counseling and apply principles of human behavior.
Reasonable Accommodation		Modifications of a facility or program that can be accomplished without undue administrative or financial burden.

Word or Term	Acronym	Definition
Reevaluation		An assessment that occurs every three years, or more if needed, to determine continued eligibility for special education.
Referral		The process of requesting that a student be evaluated for special education and related services. Any concerned person may refer a student, including teachers, principals, parents, other agency personnel, or the student.
Regression/Recoupment		The amount of loss of skills a child experiences over an instructional break (primarily summer vacation) and the amount of time it takes him or her to recover the lost skills. Standards for when regression and recoupment concerns require ESY are noted in case law and in state and federal policy letters.
Rehabilitation Act of 1973		Civil rights statute designed to protect individuals with disabilities from discrimination; purposes are to maximize employment, economic self-sufficiency, independence, inclusion and integration into society.
Rehabilitation Counseling Services		Related service; includes career development, preparation for employment, vocational rehabilitation services funded under the Rehabilitation Act of 1973.
Related Services		IDEA requires that school districts provide whatever related services (other than medical care which is not for diagnostic purposes) a child needs in order to benefit from his or her special education program. Related services are support services that may include, but are not limited to, speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, early identification and assessment, counseling, rehabilitation counseling, orientation and mobility services, school health services, social work services, parent counseling, and training.
School Day		Any day, including a partial day, during the regular school year that students are at school for instructional purposes.
School Health Services		Related service; services provided by a qualified school nurse or other qualified person.
Screening		A review of all children in a given group to identify those students who may need an evaluation to determine the need for special education services.

Word or Term	Acronym	Definition
Section 504		Provision of the Rehabilitation Act of 1973 which prohibits recipients of federal funds from discrimination against persons with disabilities; an evolving area of administrative procedures. School districts may make a Section 504 hearing process available, but that process need not be the same as the IDEA hearing mechanism.
Settlement		Conclusion of a legal matter by agreement of opposing parties in a civil suit before judgment is made.
Short-term Instructional Objectives/Benchmarks	**STO**	Statements in an IEP that describe the steps that allow the student to reach the annual goals.
Special Education		Special education means specially designed instruction, to meet the unique needs of a child with a disability.
Specific Learning Disability	**SLD**	Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Disorders that are not included in the specific learning disability category are learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disability, or of environmental, cultural, or economic disadvantage.
Speech Language Pathologist	**SLP**	Sometimes referred to as speech therapists or speech teachers, these professionals assess, diagnose, and treat students who need help with speech, language, communication, voice, swallowing, fluency and other related disorders.
Speech Therapy		Process for remediation of speech disorders such as stuttering, lisping, and misarticulation conducted by a qualified speech language pathologist on an individualized or small group basis.
Standardized Tests		Tests that have norms reflecting a larger population; usually these are age or grade-based norms reflecting the performance of children throughout the country on the same tests.

Word or Term	Acronym	Definition
State Education Agency	**SEA**	State departments of education such as the Illinois State Board of Education.
Statute of Limitations		Time within which a legal action must be commenced.
Statutory Law		Written law enacted by legislative bodies.
Statutory Rights		Rights protected by statute, as opposed to constitutional rights that are protected by the Constitution.
Student Assistance Team	**SAT**	See Student Support Team.
Student Support Team	**SST**	Student support team can also be called student assistance team (SAT): a team of school professionals (including classroom teachers, curriculum specialist, school psychologist, speech-language therapist, principal or assistant/vice principal), and parents who meet to discuss problems a child is having in general education classes. The goal of the SST is to discuss ways in which to assist a child so that his or her learning or behavioral problems minimize the effect they have on his or her education.
Supplementary Aids and Services		Aids, services, and other supports provided in general education classes or other educational settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate (in the least restrictive environment) as required under IDEA.
Surrogate Parent		An individual trained and appointed by ISBE to exercise special education rights on behalf of children with disabilities who are wards of the Illinois Department of Children and Family Services (DCFS) or are otherwise without access to parents.
Suspension		Removal from all school programs by administrative action for gross disobedience or misconduct.
Telecommunications Device for the Deaf	**TDD**	Special telephones with typewriter keyboards and visual displays that provide people who are deaf with access to telephones.
Temporary Record		A file that includes, but is not limited to, family background information, intelligence test scores, aptitude test scores, special education evaluations, achievement level test results, participation in extracurricular activities, disciplinary information, eligibility conference summary reports, IEPs, reports or information from non-educational persons or

Word or Term	Acronym	Definition
		agencies, and other information of relevance to the education of the student; access is governed by the Illinois Student Records Act.
Testimony		Evidence given by a person as distinguished from evidence from writings and other sources.
Transcript		Official record taken during a trial or hearing by an authorized stenographer.
Transition Planning		At a minimum, this is planning for adolescents' postsecondary lives and must begin by age 14½. Helping a student transition from school to adult life requires effective planning, school experiences, services, and supports so that he or she can achieve a desired outcome. See Individualized Transition Plan.
Transition Services		Transition services means a coordinated set of activities for a child with a disability that - is focused on improving the academic and functional achievement of the child with a disability to assist in the child's movement from school to postsecondary activities, and is based on the individual child's needs, taking into ac- count the child's strengths, preferences, and interests.
Traumatic Brain Injury	**TBI**	Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, psychosocial behavior, physical functions, information processing, speech, and sensory, perceptual, and motor abilities. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.
Visual Impairment	**VI**	Visual impairment includes any type of sight problem that even with glasses or contacts adversely affects school performance. Children with visual impairments can be further described as partially sighted or blind based on the degree of visual impairment and their educational needs.

Word or Term	Acronym	Definition
Weapon		Means a “dangerous weapon” as defined in the United States Code (weapon, device, instrument, material, or substance, animate or inanimate that is used for or is readily capable of, causing death or serious bodily injury, except that such term does not include a packet knife with a blade of less than 2½ inches in length), per 18 USC 930(g)(2).