



EDUCATIONAL NEEDS OF YOUR PATIENT

EDUCATION LAW

Federal:

- Individuals with Disabilities Education Act
- Section 504 of the Rehabilitation Act
- Guidance from US Department of Education
- Case Law

Illinois:

- School Code
- Administrative Code
- Case Law

THE RIGHT'S OF THE CHILD

- All qualified persons with disabilities within the jurisdiction of a school district are entitled to:
 - **F**ree
 - **A**ppropriate
 - **P**ublic
 - **E**ducation
- Available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

504 PLAN

- Plan under Section 504 of the Rehabilitation Act: Anti-discrimination statute.
- Eligibility is broad
 - Applies to anyone who (i) has a **physical or mental impairment** which substantially limits one or more major **life activities**, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.
- 504 PLAN- type of plan created to make sure that a child with a disability is receiving accommodations to allow for academic success and **access** to a learning environment

504 ELIGIBILITY

IMPAIRMENT is ANY condition affecting one or more of the child's body systems:

- neurological
- musculoskeletal
- special sense organs
- respiratory organs
- speech organs
- cardiovascular
- reproductive
- digestive
- genito-urinary
- hemic and lymphatic
- skin
- endocrine

LIFE ACTIVITY includes:

- caring for oneself
- performing manual tasks
- walking
- seeing
- hearing
- speaking
- breathing
- learning
- working
- eating
- sleeping
- standing
- lifting
- bending
- reading
- concentrating
- thinking
- communicating

IEP

- Under the Individuals with Disabilities Education Act (IDEA)
- IEP- Individualize Education Plan:
 - type of individual plan created by agreement between school and parents for each child who is eligible for special education services
 - Eligibility is narrow: student must meet specific disabilities outlined in the statute AND the impairment must adversely affect the student's educational performance

- Autism
- Deafness
- Hearing Impairment
- Mental Retardation
- Multiple Disabilities
- Orthopedic Impairment
- Other Health Impairment (OHI)
- Serious Emotional Disturbance
- Specific Learning Disability
- Speech or Language Impairment
- Traumatic Brain Injury
- Visual impairment, including Blindness.

IEP ELIGIBILITY CATEGORIES



504 PLAN

IEP

WHAT IS IN AN IEP?

Outline of a plan for instruction and services individually designed to meet a particular student's needs.

- **Includes:**

Academic, developmental & functional skills, basic life skills, different placement settings, behavioral skills, emotional skills etc.

- **Related services:**

Assistive technology, Occupational Therapy, Transportation, Behavioral Assessment or Intervention Plan, Social Work, etc.



FORMAL
EVALUATION

School districts have an obligation to identify children with disabilities and provide testing.

IEP PROCESS

- **District OR Parent Request an Evaluation**
- Obtain Parental Consent—Parent's do not have to consent, but district has a process where it can request to move forward without parental consent
- **Within 60 SCHOOL days of consent:**
 - Evaluation must be completed
 - School must decide if child is eligible for special education services
 - If eligible, an IEP meeting must be held within 30 days of the decision.
 - If not eligible: right to appeal and can request an independent education evaluation (IEE) at the districts expense.

IEP

- Written agreement about the special education services the school will provide
- Developed during a team meeting to set academic goals, extracurricular activities, placement, and accommodations

Parents are part of the IEP team

- Does the Parent have to agree/sign?

PLACEMENT, ACCOMMODATIONS, AND SERVICES

Least Restrictive Environment (LRE):
Students must be taught in regular classes
when possible.

- Students cannot be placed in
separate/restrictive environments
because they require special assistance



WHAT ARE THE RIGHTS FOR A PATIENT THAT ALREADY HAS AN IEP?

- Annual review of the child's progress and modify his/her IEP as needed
- Parents can request an IEP meeting at any time throughout the school year
- Every three years, the child will undergo a continuing evaluation

ENROLLMENT ISSUES

- “Residence” = where you actually live
- 1 person = 1 residence
- No waiting period
- Child’s residence = parents’ residence
- “Legal custody”
- Do not need court order to enroll

ENROLLMENT ISSUES

- “Legal custody”:
 - lives with parents
 - court order
 - short-term guardianship
 - adult care-taker relative receiving public aid

“LEGAL CUSTODY”

Custody exercised by an adult who shows that he or she has taken legal responsibility for the student and provides the student with a regular, fixed, nighttime home for purposes other than to access the school district. An Illinois State Board of Education affidavit can be used as proof.

HOMELESS STUDENTS

McKinney Vento Act:

- Applies to “homeless” children: broad definition. Essentially, a student who does not have a regular overnight place to stay
- “homeless” includes living in emergency or transitional shelters or living with relatives

MCKINNEY VETNO ACT

- Immediate enrollment
- Kids can stay at old school
- Or choose to attend new school
- Provides transportation
- Local Liaison

STUDENT DISCIPLINE

- Suspension:
 - In School Suspension (ISS)
 - Out-of-School Suspension (OSS)
- Expulsion

IN-SCHOOL SUSPENSIONS

- Detentions & In-School Suspensions (ISS): Are not considered a deprivation of a right, and therefore there is no due process.
- Depending on frequency, reasons etc. be different for student's with an IEP

OUT-OF-SCHOOL SUSPENSION

- Suspension: when a school removes a student from class for 10 days in a row or less
 - Up to 3 Days: for each serious act of disobedience or misconduct if the student's presence in school would: be a threat to school safety and disrupt other students' learning experiences.
 - 3-10 Days: only if the school has tried other interventions, which have not worked AND the student's presence in school would: be a threat to school safety and disrupt other students' learning experiences
 - If longer than 3 days: school must give the student the ability to make up the work at equivalent credit.

EXPULSION

Expulsion: when a school removes a student from school for more than 10 days in a row. (11 days until 2 years)

- Hearing: students have a right to a fair and impartial hearing:
 - either in front of the school board, or an impartial hearing officer. If a hearing officer, the officer will make a recommendation to the school board (who has the ultimate decision)
- Be represented by counsel
- Inspect evidence
- Cross examination
- Present evidence
- Remain silent
- Make a statement

- Guardian is entitled to written notice via certified mail of the violations of the school code and the hearing date and time.

DISCIPLINE FOR IEP STUDENTS

- As a general rule, the school's ability to discipline students who have an IEP is limited:
 - The student's right to FAPE
 - Least Restrictive Environment
 - Rules relating to a change in placement—certain steps have to be followed prior to changing placement. (Removing a student from the school environment can = a change in placement)
 - The right to remain in the student's current placement during proceedings.
- Manifestation Determination: IEP team decides if the behavior is a manifestation of the disability.
 - If it is determined either of the below items are true, the district cannot expel the student.
 - Caused by or had a direct & substantial relationship to the disability, OR
 - Direct result of the districts failure to properly implement and IEP
- Even if expelled, the district still must provide the services under the IEP

BULLYING

- Bullying is any action that:
 - Causes a student to fear or harm themselves or their belongings,
 - Harms a student's physical or mental health,
 - Affects a student's grades
 - Prevents them to participate in class, and
 - Affects a student's desire or ability to take part in school activities.
- Illinois School Code requires that all public schools, non-sectarian nonpublic schools, and charter schools are to create and implement policies concerning bullying prevention.
- These policies must also be reviewed and re-evaluated every two (2) years and be updated to reflect any necessary and appropriate revisions.

IDENTIFYING A NEED

Does the child currently have an IEP or 504 plan?

Is the child struggling or failing in school?

Does the child need additional help to make progress in school?

Has the child been held back in school (failed to move up to the next grade level)?

Does the child have behavior problems? At school? Does the school have a plan in place for dealing with the behavior issues?

Has the child been physically restrained at school?

Is the child often suspended?

IDENTIFYING A NEED

Is the child receiving social security disability benefits?

Has the school determined that the child is not eligible for special educational services?

Parents have the right to appeal a finding of no eligibility

Has the school failed to complete an evaluation within 60 days of the parents consenting to the evaluation?

Did the school determine that the child was eligible for special education services and fail to schedule an IEP meeting within 30 days of the determination of eligibility?

Does the parent agree with the IEP?

WHAT LAND OF LINCOLN DOES NOT DO

- Sue schools for monetary damages
- Truancy*

HOW LAND OF LINCOLN CAN HELP

- Explain the special education process to parents
- Help parents navigate the school system
- Act as a mediator between the parent and the school
- Advocate for the student within the special education process
- Ensure that the child receives due process
- Help the parent act on behalf of the child
- Attend IEP meetings

HOW LAND OF LINCOLN CAN HELP

- Assist with enrollment issues
- Representation in disciplinary matters (ISS, OSS, Expulsion)

QUESTIONS?

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