



# Individualized Education Program (IEP): Summary, Process and Practical Tips

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The information was prepared as of August 19, 2011, is not updated or reviewed periodically, and no obligation to do so is undertaken. This is not intended as legal advice. Answers to your questions and courses of action will depend not only on the federal laws referenced, but also on state and local laws, rules, regulations, customary practices, policies and procedures, and actual recommendations and courses of action will be based on your specific factual circumstances and locale. While this is intended to provide a general overview, you are strongly encouraged to speak with an experienced lawyer in your locale about your specific circumstances.

## Presentation Item

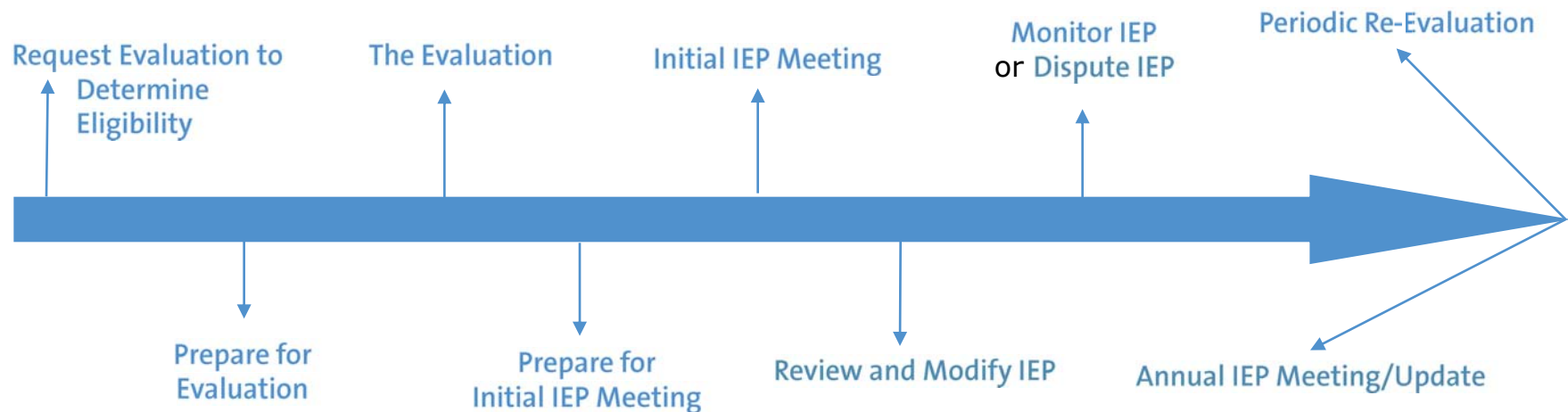
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# IEP Timeline

This Timeline shows the order of some of the key events that make up the IEP process. You can follow each link for a brief overview and tips for each event. If you have any questions, or want more details, please refer to the more detailed IEP Guide. You can also click the heading of each section of the Timeline to link directly to the relevant part of the IEP guide.



*Note: the information in this presentation is meant to provide a general overview of the IEP process from a national perspective. Answers to your concerns will depend on state, as well as federal, laws and customs.*

*Please visit our state-by-state [Resource Guide](#) for more information.*



# Request an Evaluation to Determine Eligibility

- ✓ Ask school for information about the evaluation process and make a formal written request to the special education administrator.
- ✓ You can also have a private evaluation done.
  - ✓ Check with your insurance provider before doing a private evaluation to see if this is covered.
- ✓ The school can decide to do an evaluation on its own.
  - ✓ Your consent is required prior to any evaluation.  
*Note:* While your consent is required, parents should normally err on the side of providing consent for evaluations and assessments





# Prepare for Evaluation

- ✓ You are allowed to request a meeting with the evaluator prior to evaluation.
  - ✓ If possible, research the tests that will be used and ask and consider whether they are appropriate for your child.
- ✓ Begin to gather helpful information.
  - ✓ Feedback from your child's teacher.
  - ✓ Input and medical records from your child's pediatrician.
  - ✓ Your child's school records.



# The Evaluation

- ✓ Must be completed within 60 days after your consent.
- ✓ Evaluators will use objective tests to assess certain characteristics including:
  - ✓ General intelligence
  - ✓ Reading comprehension
  - ✓ Psychological states
  - ✓ Social development
  - ✓ Physical abilities
  - ✓ Interfering behaviors
- ✓ You will be given an explanation of these tests and your child's results.
- ✓ The evaluation will also include informative information, including:
  - ✓ Teacher and parent reports
  - ✓ Evaluations by experts
  - ✓ Letters from your child's doctor or counselor (including any private practitioner)
  - ✓ Evidence of school performance
  - ✓ Collect and share prior assessments and evaluations
- ✓ The evaluation ends with a conclusion regarding your child's eligibility for special education and a recommendation for how to meet your child's needs.
- ✓ If you are dissatisfied with the school district's evaluations, you may request an 'independent evaluation' at the school district's expense (this request should be made in writing)



# Prepare for Initial IEP Meeting

- ✓ Prior to the initial IEP meeting, be sure to do your own research about the programs, placement options, related services and supplementary aids that may be appropriate to meet your child's needs. You can consult our state-by-state [Resource Guide](#) for helpful sources of information, including:
  - ✓ Local or state parent organizations
  - ✓ Parents with children who have similar needs
  - ✓ Special education lawyers
  - ✓ Internet resources
  - ✓ Special education professionals in your area
- ✓ Prepare a blueprint and/or draft of your child's IEP including goals, programs, placement options, related services and supplementary aids.
  - ✓ You can obtain a form IEP from your school or school district.



# Initial IEP Meeting

- ✓ Bring all of your child's school and medical records.
- ✓ Bring all written materials you have received from the school and school district (including letters, e-mails).
- ✓ Bring your own research about programs as well as any private assessments and evaluations you have not previously shared with the school district.
- ✓ Take notes during the meeting (or openly tape record it). Keep notes for your records.
- ✓ During the meeting, voice any concerns you have and make sure a record of your concerns is being kept.
- ✓ Share any recent private evaluations or assessments.
- ✓ Consider consultation with a private educational consultant and/or a behavior analyst.
- ✓ Consider bringing educational consultant, private evaluator or behavior analyst to initial meeting.





# Review and Modify IEP

- ✓ The initial IEP meeting should result in a written plan. You and the school district must both sign the plan.
  - ✓ Do not feel pressured to sign the plan immediately (or ever if you disagree with the plan). You can take time to review it to suggest modifications.
  - ✓ While parents should sign the "attendance" page of the IEP and generally consent to any further evaluations requested by the school district, there is no obligation to sign the actual IEP at the IEP meeting, or even thereafter, if there is disagreement.
- ✓ If the school rejects your proposed modifications, send a letter to the special education administrator explaining your revisions.
  - ✓ Keep a copy of the letter for your records.
- ✓ If you reject the plan, send a letter to the school and the school district that explains why.
- ✓ The IEP should begin promptly after the plan is signed.



# Monitor IEP

- ✓ **Track your child's progress.**
  - ✓ Regularly review your child's work
  - ✓ Keep in contact with your child's teacher.
  - ✓ Identify areas where your child is excelling or struggling.
- ✓ **Start a binder to keep track of important documents, including:**
  - ✓ School records (report cards, attendance and disciplinary records, evaluations)
  - ✓ Correspondence between you and the school (including all envelopes with post-mark dates)
  - ✓ Forms and informational materials sent to you by the school
  - ✓ Health and medical records
- ✓ **Keep a calendar of important deadlines and meetings.**
- ✓ **At any time, you and the school district can agree in writing to make changes to your child's IEP.**



# Annual IEP Meeting/Update

- ✓ There must be a meeting at least once a year to update your child's IEP\*.
  - ✓ You can have more frequent meetings if you or the school feels your child's IEP needs to be updated or specific issues need to be addressed.
- ✓ IEP Meetings can be done in person, by video conference or a conference call
- ✓ Consider having educational consultant or behavior analyst observe and assess your child's performance and appropriateness of IEP goals“
- ✓ Timely document and communicate problems in IEP performance (e.g. missed sessions, etc.)“
- ✓ Write the school district to request further IEP meetings to try to iron out any significant problems that arise“
- ✓ From time to time, request the school district's "data" or other assessment measures reflecting your child's performance against the then existing IEP goals“
- ✓ Consider asking the school district to conduct additional evaluations or assessments (e.g. ABLLS assessment, Functional Behavioral Analysis, etc.)"

\*Unless your school district is in a pilot program that requires a meeting every 3 years.



# Periodic Re-Evaluation

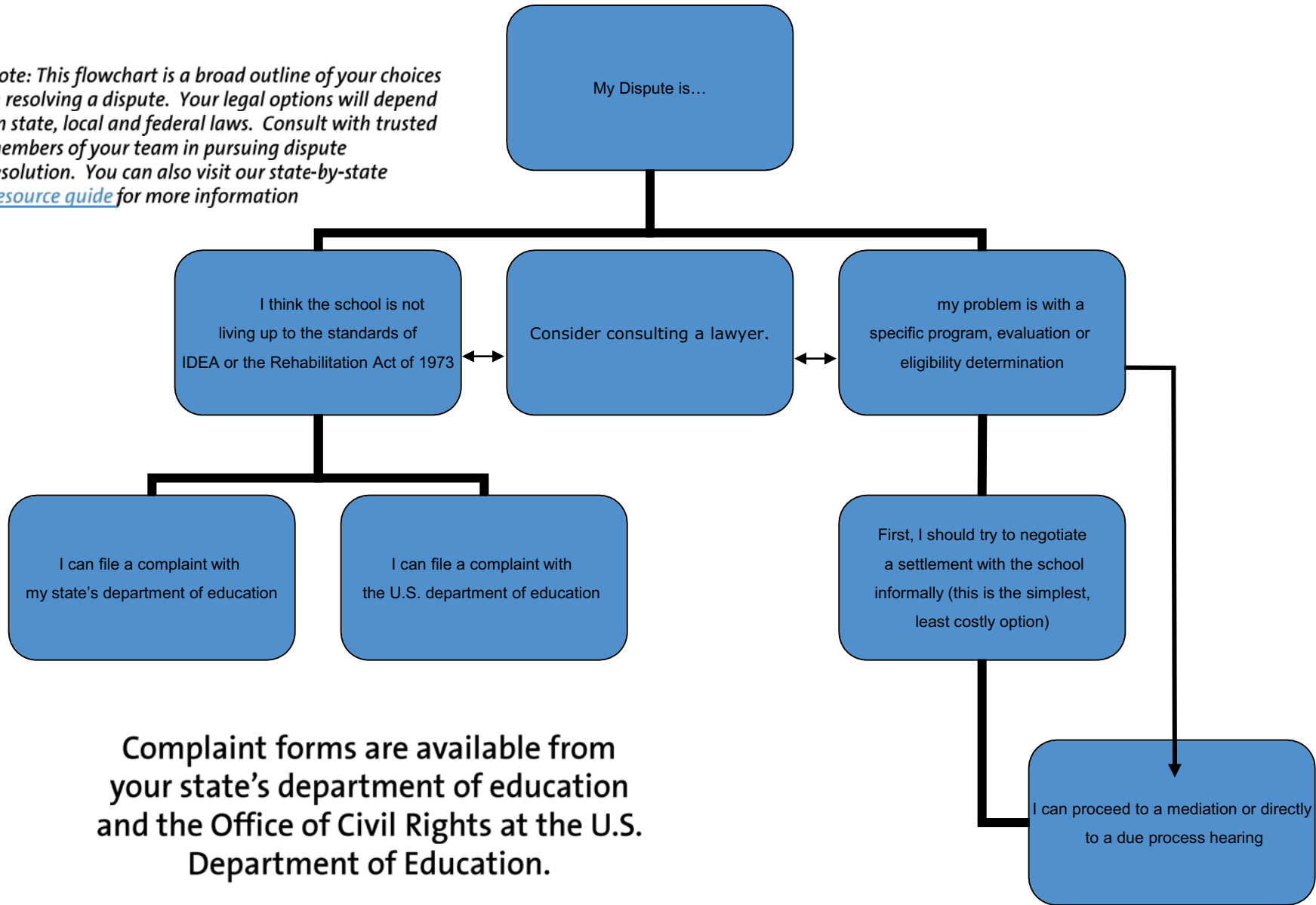
- ✓ You have the right to have your child re-evaluated once a year.
- ✓ Under the IDEA, re-evaluation is required at least once every 3 years.
- ✓ You also may request an independent evaluation at school district expense if you are dissatisfied with the school district's evaluations.





# Dispute IEP

*Note: This flowchart is a broad outline of your choices in resolving a dispute. Your legal options will depend on state, local and federal laws. Consult with trusted members of your team in pursuing dispute resolution. You can also visit our [state-by-state Resource guide](#) for more information*



Complaint forms are available from your state's department of education and the Office of Civil Rights at the U.S. Department of Education.



# Helpful Websites

- [U.S. Department of Education IDEA](#)
- [U.S. Department of Education IDEA \(part B – ages 3-21\)](#)
- [Individualized Education Programs](#)
- [Q & A Regarding IEPs](#)
- [Autism Speaks 100 Day Toolkit](#)



## Sample Request for Information on Special Education from School

Date:

To:

Re: Request for Special Education Information

Hello,

My name is [ ] and I am writing to you because my child, [ ], is experiencing difficulties in school. I understand there is a process to evaluate a child and determine his/her eligibility for special education programs and services. Please send me any written information you have about this process. Please also send me any information you have that could put me in touch with other parents and local support groups involved in special education.

Thank you for your time and your help. I look forward to working together to help [ ] get the education to which [he/she] is entitled

Sincerely,

## Sample Request for Special Education Eligibility Evaluation

Date:

To:

Re: [Child's Name], Request for Evaluation

Hello, my name is [ ] and I am writing to you because my child, [ ] is having some troubles in school. I believe that special education programs could help with his/her difficulties. I am formally requesting that the school immediately begin process for instituting a special education program. I understand that this process begins with the initial evaluation to determine eligibility and that you will send me an evaluation plan that explains the tests you will administer to [ ]. If possible, I would like to receive the plan within 10 days so that I have time to prepare for the process. Once I have given my consent for the plan, please let me know the date you set for the evaluation. I would greatly appreciate any other information you have regarding the evaluation process, including your criteria for determining eligibility and your general IEP framework.

Thank you for your time and your help in this matter. I look forward to working with the school to make sure [ ] gets the education [he/she] needs.

Sincerely.



# Questions to Consider in Developing Your Child's Draft IEP

## Classroom and Peers

- Should my child be in a mainstream or special education class? Both?
- Should he/she be partially or fully mainstreamed?
- What transition plan should be in place for mainstreaming?
- What type of special education class would be ideal?
- If special education is appropriate, what are the educational classifications and cognitive and maturity levels of fellow classmates?
- How many other students should be in the classroom?
- How old should the other students be? What range of skill level should they have?
- What extra-curricular activities should be available?
- How far is the class from home? What distance am I comfortable with?
- What type of classroom or behavioral or teaching support(s) and accommodations my child needs to be supported in the least restrictive environment (whether in a self-contained, mainstream, or hybrid inclusion classroom)

## Teachers and other Staff

- How many teachers should be in the classroom? How many aides?
- What is the ideal teacher/student ratio?
- What kind of special experience or training should the teachers have? The aides?

## Class Content

- What specific topics do I want in the curriculum? What don't I want?
- Are there specific known programs that would work for my child?
- Will my child take any statewide assessment exams? What accommodations will be necessary?

## Related Services

- What specific support services does my child need?
  - Transportation
  - Development services
  - Corrective services
  - Artistic services, art therapy
  - Music or dance therapy
  - After school or weekend services
  - Assistive (augmentative) technology and consultative support
  - The "transition services" point should add a parenthetical qualifier: "(generally at age 14 and older)"

## Goals

- What specific and measurable goals are appropriate?

## Transition Services

- What services does my child need to be ready to (consider if appropriate)...
  - Live on his/her own?
  - Go on to higher education?
  - Work?



## Individualized Education Program (“IEP”): Summary, Process and Practical Tips

Prepared by: Goodwin Procter LLP  
As of August 19, 2011

This information is intended to provide a general overview of a typical IEP. The information was prepared as of August 19, 2011, is not updated or reviewed periodically, and no obligation to do so is undertaken. This is not intended as legal advice. Answers to your questions and courses of action will depend not only on the federal laws referenced, but on state and local laws, rules, regulations, customary practices, policies and procedures, and actual recommendations and courses of action will need to be based on your specific factual circumstances and locale. While this is intended to provide a general overview, you are strongly encouraged to speak with an experienced lawyer in your locale about your specific circumstances.

### **I. What is an IEP? What are the basic requirements for an IEP?**

- a. **Defining an IEP.** An individualized education program (“IEP”) is the process put in place under the Individuals with Disabilities Education Act<sup>1</sup> (“IDEA”) to determine the programs and services that should be provided to meet the education needs of a child with disabilities. An IEP must be developed to address a child’s specific and unique needs and is not a “one size fits all” program.
- b. **Understanding What the IDEA Requires.** Under the IDEA your child is entitled to a “free appropriate public education” in the “least restrictive environment.” A “free appropriate public education” may include placement in a mainstream and/or special education classroom at a public school with appropriate modifications or accommodations to meet a child’s specific needs, placement at a private school (at public expense, if your school district cannot provide an appropriate placement in a public school) and/or the provision of related services (such as speech, occupational therapy, physical therapy, counseling services, mobility services and/or transportation). In addition, the “least restrictive environment” requirement is intended to ensure that a child is not unnecessarily removed from non-disabled peers and is integrated into mainstream classroom environments (with appropriate modifications and accommodations) to the extent possible. Generally, the IEP process is intended to allow you and the school district to determine what a “free appropriate public education” in the “least restrictive environment” means for your child.

If, at any time, you either disagree with the IEP developed for your child or you believe that the school district has not complied with its legal obligations under the IDEA (*i.e.*, to provide your child with a “free appropriate public education” in the “least restrictive environment”) or Section 504 of the Rehabilitation Act of 1973,<sup>2</sup> there are several remedies available for you to pursue. These remedies are discussed in further detail in Sections V and VI below.

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<sup>1</sup> 20 U.S.C. §1400, et seq.

<sup>2</sup> Section 504 of the Rehabilitation Act of 1973 is a federal disability rights law that requires all agencies that receive federal financial assistance (e.g., school districts) to provide “access” to individuals with disabilities. In the context of a school district this generally requires that children with disabilities be provided with access to education with any necessary modifications.



**c. IEP Requirements. Your child's IEP should include:**

- i. a description of your child's current status in school in the areas of cognitive skills, linguistic ability, emotional behavior, social skills and behavior and physical ability;
- ii. an annual meeting to discuss your child's needs and progress, unless you or the school district determine that changes to your child's IEP are necessary prior to the next annual IEP meeting, in which case, you and the school district may either meet to update your child's IEP or agree to modifications in writing;
- iii. a written plan developed based on those meetings, which should detail the (a) measurable annual academic and functional goals for your child, (b) appropriate instructional setting or placement for your child (including a particular school class or classroom setting), (c) related support services, such as developmental, corrective or supportive services, necessary for your child and the details of how such services will be provided (*i.e.*, amount, duration, student to provider ratio and qualifications of provider), (d) any accommodations your child will receive for testing or other assessments, (e) a transition plan (if your child is entering high school or perhaps in connection with significant IEP changes), and (f) any other pertinent items, such as a particular curriculum or methodology to be utilized;
- iv. a summary of how your child's disability affects his or her participation in the general curriculum, how your child will be involved in the general curriculum, extracurricular and nonacademic activities and with children with and without disabilities;
- v. how you will be regularly informed of your child's progress;
- vi. your child's participation in district or statewide assessments of student achievement and any necessary modifications or accommodations;
- vii. transition services to be provided for your child once your child is 16 years old; and
- viii. how the school district will meet your child's need for any assistive technology or any specific teaching methods or particular class subjects.

**d. Process Participants.**

- i. The following individuals should be involved in the IEP meetings:
  1. you;
  2. your child (if appropriate);
  3. your child's teacher (regular education and/or special education)<sup>3</sup>;
  4. a representative of the school district<sup>4</sup> who is qualified to provide or supervise your child's special education and is knowledgeable about the general curriculum;

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<sup>3</sup> Either your child's current teacher or teacher for the upcoming year should participate in any IEP meeting. You should note in your files if your child's teacher does not participate.





5. school specialists, if appropriate and your child's school has such resources (e.g., school psychologist, speech or occupational therapist, communications therapist or physical education specialist); and
  6. other participants as determined by you or the school, such as your child's physician, your lawyer, the school's evaluator or an outside independent evaluator you select. The mandatory attendees at the IEP will differ from state to state.
- ii. Any of the individuals listed above may be excused from attending an annual IEP meeting if both you and the school district agree. Generally, in making a decision to excuse a particular participant you should consider if the participant's area of curriculum or related services will be modified or discussed and/or if such participant has submitted meaningful and comprehensive written input into the development of your child's IEP, such that participation at the meeting is not necessary.
  - iii. At the beginning of any IEP meeting, you should ask each participant about their experience in working with students with needs similar to your child, the extent of such experience and how current such experience is. If you have concerns regarding the participants' qualifications or experience as it relates to your child's specific needs, raise these concerns and request the school district address your concerns by involving more appropriate participants. You should keep a record of all concerns raised. If the school district does not address your concerns, document this in writing.

## II. What is the process and timeline for developing an IEP for your child?

- a. Request a Special Education Eligibility Evaluation: If you or your child's pediatrician know or believe that your child may have an autism spectrum disorder or if you otherwise believe your child is having difficulty in school, then you can formally request for your child to have a special education evaluation through the special education administrator of your child's school. Your school district may also initiate a special education eligibility evaluation, however, you do not need to wait for this to occur. In advance or in addition you may decide to pursue a private evaluation (i.e., one conducted by a private practitioner and not through the school district), particularly if you have requested a special education eligibility evaluation and your school district has not accommodated this request in a timely manner. If you pursue a private evaluation, be sure to check with your insurance provider to determine if the cost of such private evaluation will be covered.<sup>5</sup> Your consent is required prior to any evaluation. Your school district should send you an evaluation plan including the names of any tests that will be used in the evaluation, an area for you to suggest additional methods of evaluation and a space for you to provide written approval or disapproval of the evaluation plan.
- b. Initial Eligibility Evaluation

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<sup>4</sup> The school district in which you reside has the ultimate responsibility for your child's IEP.

<sup>5</sup> The following link may provide helpful information to determine if the cost of a private evaluation would be covered by your insurance:  
[http://www.autismvotes.org/site/c.frKNI3PCImE/b.3909861/k.B9DF/State\\_Initiatives.htm](http://www.autismvotes.org/site/c.frKNI3PCImE/b.3909861/k.B9DF/State_Initiatives.htm).





- i. To prepare for the initial eligibility evaluation, you should gather all relevant information, including:
  1. feedback from your child's teacher regarding your child's development and behavior in the classroom and any recommendations your child's teacher may have to address your child's needs;
  2. input and medical records from your child's pediatrician relating to your child's development;
  3. speak with other parents that have children with autism spectrum disorders to find out information on how your school district is addressing the needs of other similarly situated children; and
  4. obtain your child's school records (*i.e.*, report cards, medical data, attendance records, disciplinary reports, testing data, evaluations, teacher comments, school photos) – make this request in *writing* and retain a copy for your records.<sup>6</sup>
- ii. Under the IDEA, your school district must complete your child's initial eligibility evaluation within 60 calendar days of receiving your consent to do the evaluation, however, your school district may impose a shorter deadline. You have a right to propose modifications to the proposed evaluation plan and if your modifications are not accepted by the school district evaluator, then send a letter to your school district's special education administrator expressing your proposed modifications and keep a copy for your records. If you reject the proposed evaluation plan, you should explain in writing why you are rejecting the proposed evaluation plan. School districts will typically attempt to modify the plan to get your approval; however, the school district may also look to proceed to mediation or a due process hearing.
- iii. Although not required by the IDEA, you may request to meet with the assigned evaluator prior to the evaluation. This will give you an opportunity to ask questions about the tests to be performed and the other evaluation methods to be utilized.
- iv. An evaluation should include the following:
  1. objective tests to evaluate your child in areas such as general intelligence, reading comprehension, psychological states, social development and physical abilities, an explanation of such test and your child's test results. *If possible, research these tests to determine if the tests the school district has proposed to utilize during your child's evaluation are the most appropriate tests and how the results will provide a basis for developing an IEP for your child;*
  2. informative information such as teacher and parent reports, evaluations by experts specializing in your child's disability, letters from your child's pediatrician or counselor and evidence of school performance; and

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<sup>6</sup> You have a right to access this information under the IDEA or the Family Educational Rights and Privacy Act (prior to a determination your child is eligible for special education).



3. a conclusion regarding your child's eligibility for special education and recommendations to meet your child's specific needs. *If you disagree with this conclusion, you may exercise your due process rights (as described in further detail in Section V below).*
- c. Periodic Re-evaluations You have a right to have your child re-evaluated once per year and the IDEA requires that your child be evaluated at least every 3 years.
  - d. Initial IEP Meeting Once a determination is made that your child is eligible for special education, an initial IEP must be developed. At your child's initial IEP meeting, your child's initial IEP will be discussed by you and the other IEP team participants and prepared based on the school district's IEP form. Make sure to bring all of your child's school and medical records, all written materials (including correspondence) you have received from the school and the school district and any independent research you have conducted regarding programs, types of placement and related services that you believe may be appropriate for your child. Take notes during the IEP meeting or tape record the IEP meeting for your future reference. Your child's IEP must be set forth in writing and signed by you and the school district, which can either be done at the end of the meeting (if, and only if, you are comfortable and agree with the IEP prepared) or shortly after the meeting (if you would like to further review the IEP prepared and document any objections you have to the IEP). Implementation of your child's initial IEP should commence promptly after you and the school district have signed the IEP.
    - i. The IEP should include all of the information described Section I(c) above.
    - ii. Prior to the initial IEP meeting, research the programs, placement options, related services and supplementary aids that may be available or appropriate to meet your child's needs. Parent organizations, parents with children with needs similar to your child's, the internet, special education lawyers and special education professionals in your area can all be good resources to research the options available to your child. Also, take time to prepare notes or a draft of your child's IEP prior to the meeting, including the goals, program(s), type(s) of placement, related services, supplementary aids, accommodations and any other items you believe should be incorporated into your child's IEP.
    - iii. Goals should be specific and measurable and can relate to academic, cognitive, social-behavioral or other skills. The related services or supplementary aids that will be provided to your child should be detailed and address the frequency, duration and manner (*e.g.*, provider to student ratio and provider qualifications) in which such services and aids will be provided.
    - iv. Make sure you and the school district have had time to review all pertinent information, including evaluations and progress reports. If not, suggest that all participants take time at the beginning of the IEP meeting for such review.
    - v. During the meeting, voice any objections or concerns with the IEP being formulated for your child and make sure that a record is kept of these objections and concerns, such as on the parent addendum portion of the IEP form, or in a place to record minutes. You should carefully review all notes and minutes and request to correct any inaccuracies or the failure to include material points raised, and keep notes or a record of all objections. This will permit you to later challenge a determination made that you disagree with through your due process rights.



- e. Annual IEP Meeting / Update IEP Without Meeting At least once per year, a meeting must be held to update your child's IEP, unless your school district is required to participate in a pilot program that requires establishing multi-year IEPs that are updated at a meeting held every 3 years.<sup>7</sup> You are entitled to more frequent IEP meetings to the extent you or your school district feel your child's IEP needs to be updated or specific issues need to be addressed. Also, in lieu of a meeting you and your child's school district may agree in writing to make changes to your child's IEP. In addition to in-person meetings, IEP meetings may be held by video conference or conference call.

### III. How can you be an effective participant in developing and managing your child's IEP?

- a. Be Organized. You should maintain a calendar that tracks your child's annual IEP process, including all important deadlines and meetings. In addition, one of the most important ways you can be an effective participant in your child's IEP is to retain and organize all of the information relating to your child's school and medical records. Organization tools such as a three-ring binder or a file drawer can be useful to allow for easy access to important documents as you need it during the IEP process. You should retain and organize the following information:
  - i. all school records, including report cards, attendance and disciplinary records, and evaluations;
  - ii. your child's IEP and your notes from all IEP meetings;
  - iii. all correspondence to and from your child's school and the school district, *including the envelopes with date stamps*;
  - iv. forms and informational materials sent to you by the school district;
  - v. your child's health and medical records and any letters from your child's health professionals;
  - vi. any evaluations conducted outside the IEP process (*e.g.*, by private practitioners);
  - vii. any research you gather regarding programs and services that may be appropriate to incorporate into your child's IEP program;
  - viii. information on any private programs or service options you research that may meet your child's specific needs;
  - ix. contact information for the individuals with whom you interact during the IEP process; and
  - x. a journal to track all meetings, telephone and in-person conversations and other correspondence with individuals involved in the IEP process, including the date and time, the participants, the substance of the meeting, conversation or correspondence and any necessary follow-up actions and attempts.

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<sup>7</sup> 20 U.S.C. §1414(d)(5).





- b. Track Your Child's Process. Over the course of the year, you should track your child's progress in school to help identify the areas in which your child is excelling and struggling. This will be particularly helpful as you and the IEP team draft goals for your child's annual updated IEP program. Keep in regular contact with your child's teacher and make sure you regularly review your child's school work.
- c. Research School Programs. Do not only rely on your school or school district to provide information regarding programs and services that may be effective to meet your child's particular educational needs. Conduct your own research on the programs and services that may be appropriate for your child and be prepared to raise these with your child's IEP team.
- d. Prepare For and Attend IEP Meetings. Take time to prepare for your child's IEP meetings by reviewing the files and materials you have gathered. Based on this review, prepare notes or a draft of what you believe should be incorporated into your child's IEP. In particular, take time to identify what goals and objectives you believe should be incorporated into your child's IEP program. If your child has an existing IEP, review its goals, consider progress to date, the appropriateness of placement and/or services provided to achieve such goals, and your views on portions of the existing IEP to be changed or maintained. Also, be sure to identify and vocalize any particular concerns you have about your child's current IEP program.

#### **IV. What resources are available to help you navigate the IEP process?**

- a. Parent Organizations. In many school districts there is a parents organization dedicated to special education matters. You may contact your school district or your PTA for information on local parent organizations. If your school district does not have a parents organization dedicated to special education matters, consider either looking for a state-level parent organization or forming a parents organization with other parents in your area with children with similar special education needs to your child.
- b. Special Education Lawyers. Lawyers with an expertise in special education law can be a valuable resource during the IEP process and particularly if a dispute arises with respect to your child's IEP. The main considerations when determining whether (or when) to consult or hire a special education lawyer include cost, the complexity of your child's IEP process and the fact that involving an attorney may make the IEP process more adversarial with the school district.
- c. Guides and Other Helpful Resources. There are a number of guidebooks available for purchase that will help parents navigate the IEP process. The internet may also be a good starting place as there are many articles, websites and organizations dedicated to the IEP process, however, it is important to be more discriminating with internet resources and to verify that the authors or providers of the information have reliable credentials in the area of special education.

#### **V. What can you do if you disagree with the IEP developed for your child or your child's eligibility determination?** If you have a factual dispute regarding your child's IEP (*i.e.*, not a dispute that the school district has violated its legal duties to your child, which disputes are covered in Section VI below), you may file a due process complaint. Typical factual disputes include: eligibility for special education; the results of an evaluation; the goals of the IEP; the adequacy of related services; and proposed changes to the IEP. IDEA provides that you have up to two years to file and exercise your right to due process from the date you knew or should have known of such factual dispute.





- a. **Request an Informal Resolution Meeting.** Prior to filing a due process complaint or to the extent your dispute is not one of due process, you may request an informal meeting with your school district to resolve your dispute. This is the most cost-effective and simple approach to resolving a dispute, but may not end with a satisfactory resolution of the dispute. If you are unable to resolve the dispute with an informal resolution meeting, send a letter to your school district describing the dispute and the solution you have proposed.
- b. **Consult a Lawyer.** You may elect to consult or hire a lawyer to represent you in connection with a mediation session and/or due process hearing. It is important to consult or hire an attorney that is familiar with the IDEA and the IEP process in your state and your school district. Often, the main consideration with consulting or hiring an attorney is the cost; you may want to explore whether one is available on a *pro bono* basis. For a mediation session, you can negotiate for the school district to pay your attorney fees as part of the settlement, but the school district is not required to do so. If you proceed to a due process hearing and you are successful at such hearing, by law you will be entitled to reimbursement of your attorney fees by the school district. If you are not successful at the due process hearing you will, however, be responsible for your attorney fees. Depending on the complexity of the issue, some families also report success working with advocates, who normally will charge less than an attorney will.
- c. **File a Due Process Complaint.** To commence a due process proceeding, you must file a written due process complaint with the school district and send a copy of this due process complaint to the state department of education responsible for special education. A due process complaint must include the information set forth in [34 C.F.R. § 300508\(b\)](#), including you and your child's names and addresses, the name of your child's school, a description of the issue you are disputing, your desired resolution and whether you wish to mediate or proceed to a due process hearing.
- d. **Mediation.** As a first step after filing a due process complaint, you may request a mediation session or elect to proceed immediately to a due process hearing. A mediation session is less formal and confrontational than a hearing. A neutral third party familiar with the IDEA and IEP process will preside over the mediation and will help both sides explore compromises to resolve the dispute. If the parties are able to resolve the dispute during a mediation session, then the settlement of the dispute will be documented in writing and binding on you and the school district.
- e. **Due Process Hearing.** A formal due process hearing allows you and the school district to make opening and closing statements and present written evidence and witness testimony. Witnesses will be questioned by both you and the school district, so make sure to prepare your witnesses to answer questions that may be asked by the school district and also prepare questions to ask the school district's witnesses. A neutral third party, a hearing officer, will preside over the hearing and will make a final, binding, written determination regarding the dispute. Both you and the school district have the right to appeal the written determination to a state or federal court. You should consider the strength of your case, the time and costs relating to filing an appeal prior to proceeding. This may be an appropriate time to consult with an attorney, if you have not done so already.

**VI. What can you do if you believe that the school district has not complied with its legal obligations to develop and administer your child's IEP?**

If you believe the school district has violated the IDEA or Section 504 of the Rehabilitation Act of 1973, you may file a complaint. This is a different complaint than the due process complaint



described above. If you are unsure whether the dispute you have is a factual due process complaint or a legal complaint, you should file both or consult a lawyer to help make the determination.

A complaint alleging a violation of IDEA law must be filed within one year after the violation occurs. A complaint alleging a violation of Section 504 of the Rehabilitation Act of 1973 must be filed within 180 days of the last alleged act of discrimination against your child. You may obtain a complaint form from your state department of education or the U.S. Department of Education, Office for Civil Rights. Upon filing a complaint, the applicable government agency will investigate the complaint, which will likely entail meeting with you and providing you an opportunity to present additional information, meeting with the school district and allowing the school district to present information, reviewing the evidence and records and then issuing a decision. IDEA requires a decision to be issued within 60 days after the complaint is filed. However, especially in "autism" proceedings, and depending upon each state's administrative procedures, that deadline is sometimes extended by agreement of the parties.

