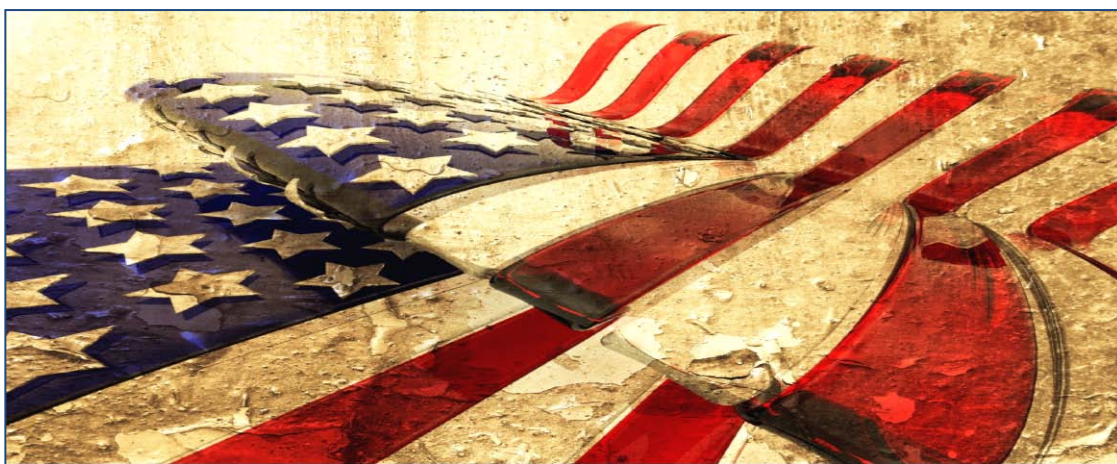


Revised August 2014

Parent's Rights in the Special Education Process



Ohio Coalition for the Education of Children with Disabilities

The Ohio Coalition for the Education of Children with Disabilities (OCECD) is a statewide, nonprofit organization that serves families of infants, toddlers, children and youth with disabilities in Ohio, and agencies who provide services to them. OCECD works through the coalition efforts of more than 40 parent and professional disability organizations which comprise the Coalition.

Established in 1972 and staffed primarily by parents of children and adults with disabilities, persons with disabilities, and education professionals, the Coalition's mission is to ensure that every Ohio child with special needs receives a free, appropriate, public education in the least restrictive environment to enable that child to reach his/her highest potential. Throughout Ohio, the Coalition's services reach families of children and youth, birth through twenty-six, with all disabilities.

OCECD's programs help parents become informed and effective representatives for their children in all educational settings. In addition, youth are assisted to advocate for themselves. Through knowledge about laws, resources, rights and responsibilities, families are better able to work with agencies to ensure that appropriate services are received for the benefit of their sons and daughters.



**OHIO COALITION FOR THE EDUCATION OF
CHILDREN WITH DISABILITIES**

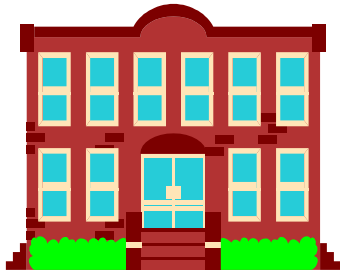
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Download the free mobile barcode reader on your smartphone at www.i-nigma.com and scan this barcode to visit our website instantly and get more information about OCECD.



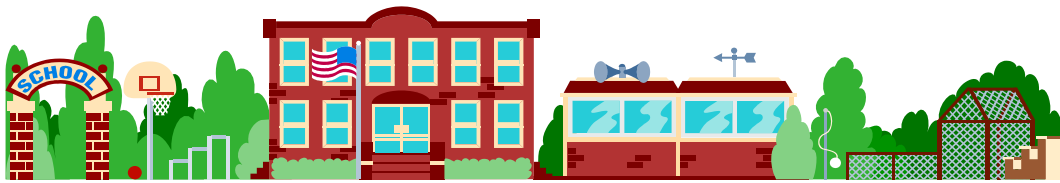
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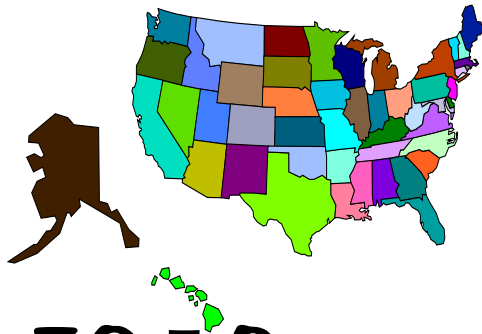
Some History

In order to truly understand the educational rights afforded children with disabilities, a brief review of the history is very helpful. When we know why things are the way they are, it is easier to apply them to our lives.



It all started with parents. Children with severe disabilities were not being educated and in some states were not even allowed in school as late as 1976.

36 Court Cases



27 States

**50 I.Q. or below
excluded**





Constitution of U.S.A.
11th & 14th Amendment



Freedom from Slavery 1865



Women's Right to Vote 1922



Civil Rights Act 1964

Rehabilitation Act 1973

Section 504



This is a **CIVIL RIGHTS LAW.**

“No otherwise qualified disabled individual in the United States shall solely by reason of his disability

- be excluded from the participation in,
- be denied the benefits of,
- or be subjected to discrimination

under any program or activity receiving federal assistance.”

Even after the Rehabilitation Act became law, the federal government had to be encouraged to develop regulations to implement the law.

At the time, the federal government had 10 regional offices of the Department of Health, Education and Welfare (HEW).

People with disabilities from around the United States rallied at these offices and participated in a national sit-in, taking over the HEW offices.

Sit-ins/Regulations Signed 1977



Finally the regulations were signed, four years after the law passed.

This law applies to public schools that receive federal funds for many programs such as school lunch.

Americans with Disabilities Act 1990

When President Bush signed into law the Americans with Disabilities Act, the world's first comprehensive civil rights law for people with disabilities, in front of 3,000 people on the White House lawn on July 26, 1990, the event represented an historical benchmark and a milestone in America's commitment to full and equal opportunity for all of its citizens.

The President's emphatic directive on that day, "Let the shameful walls of exclusion finally come tumbling down", neatly encapsulated the simple yet long overdue message of the ADA: that 43 million Americans with disabilities are full-fledged citizens and as such are entitled to legal protections that ensure them equal opportunity and access to the mainstream of American life.

Enactment of the ADA reflects deeply held American ideals which treasure the contributions which individuals can make when free from arbitrary, unjust, or outmoded societal attitudes and practices that prevent the realization of their potential. The ADA reflects a recognition that the surest path to America's continued vitality, strength and vibrancy is through the full realization of the contributions of all of its citizens.

Parallel Movement

Education of All Handicapped Children Act 1975

This is an **EDUCATION LAW**.

The History of IDEA

Public Law...

108-446	2004	IDEA 2004
105-17	1997	IDEA '97
102-119	1992	IDEA
101-476	1990 →	new name-the IDEA!
99-457*	1986	EHA
98-199	1983	EHA
94-142	1975	EAHCA

*Early Intervention Amendments added

Early Intervention Amendments

- Early intervention services for **birth-3 year olds** provided in a natural environment.
- Continuity of services and programs
 - ✓ An Individualized Family Services Plan (IFSP) can act (under certain conditions) as an Individualized Education Program (IEP) when entering preschool program.
 - ✓ Local Education Agency (LEA) must attend transition planning meeting.



I. D. E. A.

INDIVIDUALS with DISABILITIES EDUCATION IMPROVEMENT ACT 2004

IDEA has **6** principal parts:

1] **FAPE**

Free **A**ppropriate **P**ublic **E**ducation

This means that an education at **no cost** to the parents is available to all children with disabilities between the ages of 3 and 21 years. This includes children with disabilities who have been suspended or expelled from school.

Children with disabilities are to be provided “full educational opportunities” **appropriate** to the child’s needs and manner of learning.

2] Appropriate Evaluation

An evaluation is given to help determine if a child is a child with a qualifying disability and if they are in need of special education and related services.



Before the first evaluation, a reevaluation, or before special services or related services are given, **Written Parental Consent** must be given.

Evaluation results and other information will be used to write an IEP if the child is eligible.

Information List on Evaluation

- 1) Tests that do not discriminate.
- 2) Validated test by trained personnel.
- 3) Variety of tools and strategies used.
- 4) Tests to measure strengths as well as areas of need.
- 5) Not just one test.
- 6) Evaluation in all areas of suspected disability that identifies all areas of need.
- 7) Review the need for reevaluation every three years.
- 8) Independent Evaluation if parent disagrees with the public school's evaluation.
- 9) Copy of evaluation given to parent.
- 10) Meeting held with the school and parent to review evaluation results and determine if services are needed.

(The Ohio Coalition for the Education of Children with Disabilities offers a training detailing the evaluation process.)

3] IEP

Individualized Education Program

After the evaluation meeting is held and determination of eligibility is made, an IEP team meeting is scheduled. At **age 14**, a **Transition Plan** is a required component of the IEP and postsecondary goals must be written for the child's future.

People on the IEP team are:

- Parents
- Child
- Special education teacher
- Regular education teacher
- District representative – person who is aware of all programs available and can make money decisions
- A person who can interpret evaluation results

Do not sign any document unless you agree with what is written in it.

4) Least Restrictive Environment (LRE)

LRE is the combination of services, supports and location, that will enable a student with disabilities to achieve their greatest success and independence possible.

Education with non-disabled students and in a regular education classroom is to be considered first.



5] Parent Participation

Parents are **EQUAL** partners on the team of people that will make decisions to determine their child's:

- Eligibility for services
- Educational placement

Parents must be given the opportunity to attend and actively participate in all meetings for their child that involve:

- Provision of FAPE
- Evaluation
- Identification and
- Educational Placement

A Parent is Defined as:

- a biological or adoptive parent of a child but not a foster parent of a child;
- an individual acting in place of biological parent, such as, grandparent, stepparent or other relative;
- a guardian authorized to act as the child's parent.
- a surrogate parent who has been appointed to the child; or
- a person(s) ordered by judicial decree to act as the parent.

Parents, including surrogate parents, have the right under IDEA to be a part of all meetings that discuss their child's educational life. It is not just about participation, but parents are to be actively involved in the decision making.

6] Procedural Safeguards

Parents must be given their “procedural safeguards”, the process they can follow if they **do not agree with or have questions** on the process of evaluating and providing services to a child with disabilities. They are listed in a booklet called *"Whose Idea is This"* that is given to the parents by the school district.

Notice of “procedural safeguards” should be given when:

- Initial referral for evaluation
- Reevaluation
- When an IEP meeting is called
- Filing for a due process hearing

The information of procedural safeguards must be in an understandable language.



Prior Written Notice is given when the school accepts or refuses to begin or change any of the following four areas that would pertain to the needs of a child with disabilities:

- Identification
- Evaluation
- Educational placement
- FAPE

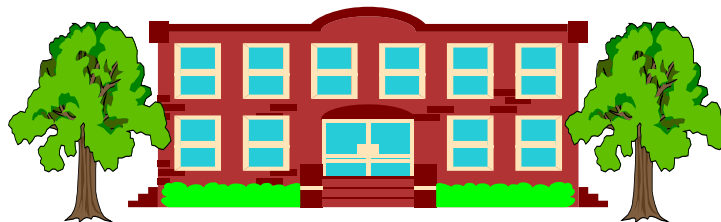
The IEP is generally looked at as acceptance of services.

Prior Written Notice must be provided to the parents of a child with a disability in their **native language** and must be **understandable** to the general public.

If a service is denied to a student, the parent may write a letter to the school requesting **Prior Written Notice**. The notice will contain information about the service that the school is refusing to place on the IEP.

There are **seven parts of the response to the Prior Written Notice letter** the school then sends back to the parent. They are:

- 1) Proposed or refused action
- 2) Why the action is proposed or refused
- 3) Options considered and rejected
- 4) All records used by the district in reaching a decision
- 5) Other factors relevant to proposal or refusal
- 6) Where parents may obtain procedural safeguards
- 7) Who parents can contact about understanding their rights

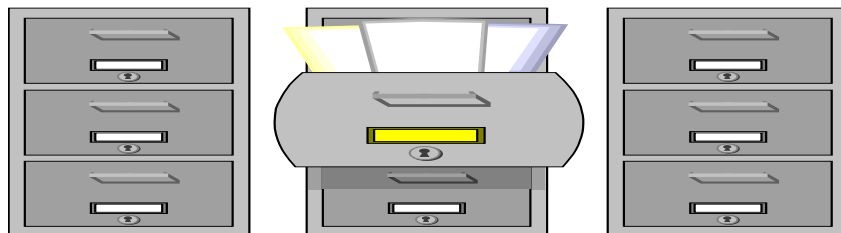


School Records

Parents have the right to inspect and review all of their child's educational records.

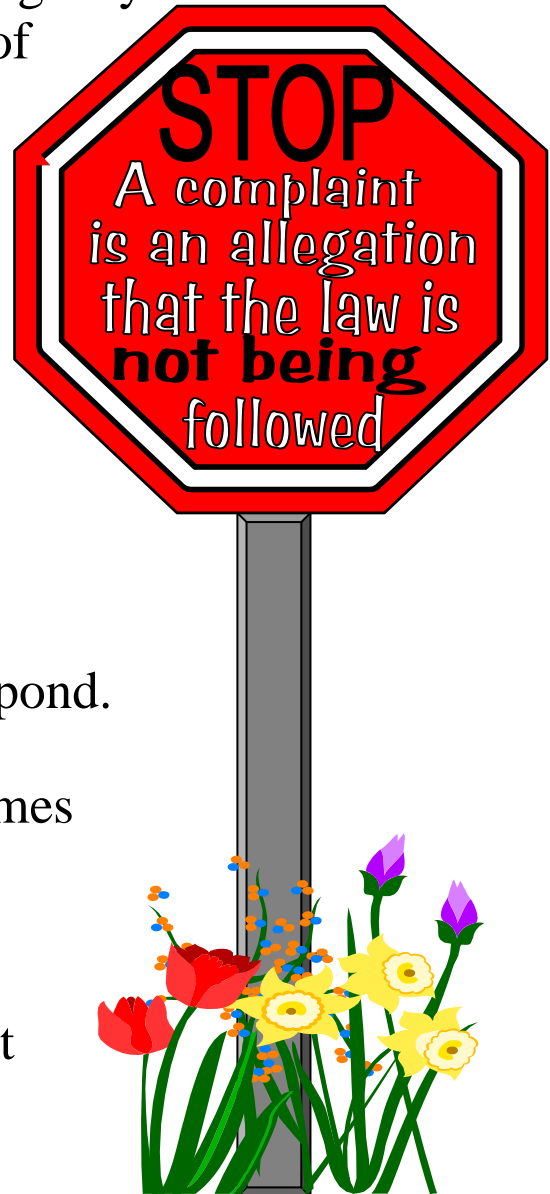
Parents may request copies of the records as well but the school may have up to 45 days to complete the process of copying. The school may also charge a reasonable fee for this process.

Records would include any document that contains personally identifiable information pertaining to the child in question.



State Complaint Procedures

- The statement that a public agency has violated a requirement of Part B of IDEA.
- The violation is not more than one year old.
- The facts of the complaint are clearly written and sent to the state education agency (SEA).
- The SEA has 60 days to respond.
- Time extensions are sometimes available.
- The decision will contain actions needed to implement the final decision.



Mediation

Mediation is requested by the parents of a student with disabilities or by a school system.

It is sought because, for one reason or another, the parties involved have not agreed on FAPE.

- **Voluntary** – one's own choice or consent
- **Timely** – within a reasonable amount of time (usually within 45 days)
- **Impartial** – treated fairly or equally
- **Confidential** – not public knowledge; private
- **Written agreement** – signed, written document or official paper

- Mediation may begin with everyone meeting in the same room.
- After the mediator explains the mediation process, the school personnel may move to another room.
- The mediator then meets with the parents and their support people to discuss the issues regarding FAPE.
- The mediator then moves from room to room until an agreement is made or until it is decided that an agreement cannot be reached.
- If an agreement is reached, it is written and signed by both parties the day of the mediation.
- There are other models of mediation that may be used.



Due Process Hearing

If the mediation process does not resolve the issues of FAPE, a parent may request a **DUE PROCESS HEARING**.

When **requesting** a Due Process Hearing the parent must provide **in writing** to the school and State Educational Agency (SEA):

- Child's name, address, and school of attendance
- The problem the parent wants resolved
- The solution the parent wants

It is recommended that a parent obtain the **services of an attorney** for a due process hearing. The school must provide information in writing to parents about:

- Mediation
- Information on free or low-cost legal services
- A model form to assist parents when requesting a due process hearing

Within **45 days** after the State Educational Agency **receives the letter requesting** a due process hearing, a hearing officer studies the information. Then a due process meeting is held and a decision is made. A copy of the decision is mailed to the parent and school.

The hearing officer may **grant an extension**, if either the school or parent needs additional time to gather information.

A **list of hearing officers** is given to the parent and school from the SEA. Both parties **agree on one** or the SEA appoints one.

The DUE PROCESS HEARING is set up **similar to a courtroom**. When each party has presented their documentation and witnesses, the hearing is over. The hearing officer **then makes his/her decision** and **mails** it to each party as stated previously.

A **state level review process** is available. The review will be completed **within 30 days** of request and a copy is mailed to the parent and school.

Age of Majority
















In the state of Ohio when a child reaches their 18th birthday, they are no longer considered a minor.

Under IDEA when a child reaches the age of majority, the rights afforded the parents under IDEA transfer to the child unless the parents have obtained guardianship.

At least one year before a child turns 18, the child's IEP must include a statement that the parents and child have been informed that all rights under IDEA will transfer to the child.

Checklist of Rights

-  I **requested an evaluation** in writing from the school my child attends. I gave consent in the letter to begin the evaluation process.
-  I sent the letter **certified mail** and kept a copy for my records. Date sent _____.
-  I received a copy of "**Whose Idea is This**". This is a booklet that explains my procedural safeguards. (My rights if I disagree with any decision made.)
-  The **evaluation is completed**. Date _____.
-  A **meeting** was set and held **to review the evaluation** results. I was given a copy of the evaluation.
-  I **AGREE** with the evaluation results and **signed** the evaluation form. Eligibility for services was determined.

-  I do **NOT AGREE** with the evaluation report. I **DID NOT SIGN** it.
-  I did not sign the evaluation report so I am requesting an **Independent Evaluation**.
-  A **list** of Independent Evaluation Examiners was given to me by my child's school.
-  The **independent evaluation was reviewed** with the team. The evaluation team report was signed and eligibility for services was determined.
-  My child is eligible for services and an **IEP meeting date** is setup. I received written notification of the IEP date. Date for IEP _____.
-  I returned the IEP meeting form with agreement on the date or gave some **alternate dates** to the school. I also listed who would be attending the IEP meeting with me.
-  At the IEP meeting, my **thoughts and ideas are valued**.

- If my child is **14 years old**, the first form completed on the IEP is the **Transition Form**.

- The IEP meets the needs of my child discussed in the evaluation report. I **AGREE with the IEP** and have signed it. Date signed_____.

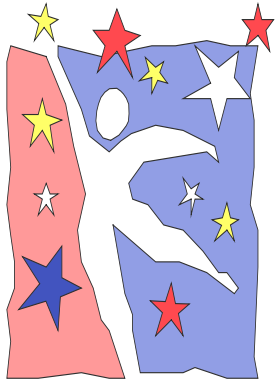
- I DO NOT AGREE** with the IEP and have **NOT SIGNED** it.

- I have requested **Prior Written Notice** for each service for which I have documented a need and that the school is denying to my child.

- I have **reviewed** and/or **received a copy** of all my child's **records**.

- I have **requested** in writing a **Mediation** and/or **Due Process Hearing**. Date_____.

Notes: _____



Laws and regulations help insure predictability.

They create a foundation that when combined with a variety of circumstances will produce the same results. In this case the result is FAPE.

Parents and schools working together under these circumstances can be assured that appropriate services will be provided for each child under IDEA.

For this reason, parents and schools working together with the same knowledge base in regards to the laws and regulations and for the benefit of the student is *always* best practice.

OHIO COALITION PROGRAMS FOR PARENTS AND SCHOOLS

Updated 7/2014

Meaningful Parent Engagement for Families with Children with Disabilities (PE)

School Age

OCECD provides information, support and assistance to individual families, parent networks, parent organizations, district personnel and universities, addressing the individual needs of each, via phone contact, mail, email, trainings and material dissemination.

OCECD assists the Ohio Department of Education, Office for Exceptional Children with dissemination and return of the Parent Satisfaction Survey. We plan and conduct the Partnering for Progress conference each fall.

OCECD provides technical assistance and support to the Parent Mentors of Ohio by attending their regional meetings, providing trainings in their area, site visits, case consultations by phone or email, and reviewing new applications. We participate yearly, in conjunction with staff from OEC, in conducting an orientation for new mentors, a topical conference in one of the Parent Mentor regions, and a fall and spring training conference for Parent Mentors and identified school districts' representatives. OCECD also conducts transition trainings for students using the "It's My Turn" curriculum and conduct trainings in transition (post secondary and early childhood) for parents, teachers, and administrators.

Preschool

OCECD informs parents about preschool special education programming, preschool special education performance measures, the Early Learning Content Standards, and the Early Learning Program Guidelines. OCECD employs one full-time preschool parent mentor to provide information and support to families of preschool age children with disabilities across the state of Ohio, regarding transitioning to kindergarten, or entering district services for the first time.

Parent Training and Information Center - Region 2 – Disseminates information throughout 65 central and northern counties regarding disability issues through fact sheets, outreach brochures, bilingual FORUM quarterly newsletter, group emails, website postings, state and regional conferences, newspapers, newsletters and radio stations. Provides training to parents, in the parents' native language when possible, on IDEA and Ohio regulations, parent participation with students and schools and student outcomes. Provides information and assistance to parents of children with all disabilities ages birth through 26 annually on topics including specific disabilities, IDEA, IEPs (Part B), IFSPs (Part C), evaluation, early intervention, educational development, transitions, related services, technologies, practices and interventions. Assists parents in resolving disputes by explaining the benefits of alternative methods of dispute resolution such as mediation; explains students' rights at the age of majority. Provides leadership development for parent volunteers and parents who are parent mentors.

Parent Training and Information Center - Region 1 – Disseminates information throughout 23 southern counties in Ohio regarding disability issues. Provides outreach and training to serve minority and low income groups with materials that are translated in their native language, such as, Spanish, Somali, Asian including Chinese, Korean, Japanese, Vietnamese, Khmer (Cambodian), Thai (Thailand), and Lao (Laos). Trains parents and professionals about the importance of early intervention, childhood development, transition from school to community and building their knowledge base of IDEA and Ohio regulations, IEPs, transition, evaluation, reading, parent participation with students and schools, and student outcomes. Provides one-on-one individual support by phone, individual parent meetings, IEP Clinics, IEP meetings via conference calls, and mailings. Publishes and disseminates a quarterly bilingual FORUM newsletter and a bi-annual FUN newsletter. Provides leadership development for parent volunteers and parents who are parent mentors.

State Parent Library: Serving Parents of Children with Disabilities – OCECD provides parents across Ohio access to timely publications which are disability specific. This library collection contains print materials, including bi-lingual materials, DVD and CD media, Spanish language assessment materials for loan to school professionals, and special education magazines, journals and activity kits. OCECD provides access through a link on our website, which has searching and circulation capabilities. A certified librarian maintains and updates the collection.

State Professional Development Grant (SPDG) – A subcontract with the Ohio Department of Education, Office for Exceptional Children for Ohio's State Improvement Grant (SIG/OISM) implementation, now called SPDG.

OHIO COALITION FOR THE EDUCATION OF CHILDREN WITH DISABILITIES
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