

Questions and Answers Regarding Procedural Rights under IDEA for Parents of Students with Disabilities

The Individuals with Disabilities Education Improvement Act (IDEA), ensures that all children with disabilities receive a free appropriate public education (FAPE). IDEA outlines the process for determining special education and related services which are designed to meet a child's unique educational needs. As the parent of a child who has or may have a disability, IDEA provides you and your child certain rights – called procedural safeguards. IDEA ensures that families of children with disabilities have meaningful opportunities to participate in the education of their children and requires that families be informed of their child's special education rights, including how families and schools can resolve problems. Below are questions and answers that may explain some of the common questions parents ask when young preschool children are first entering the program as a child with a disability.

1. Question: If I'm concerned about my child's development, can I ask for someone in the school system to evaluate him/her?

- **Answer:** Yes. If you believe that your child has a disability, your child can be evaluated at no cost to you to determine his/her eligibility for services under the definition of a child with a disability. The school system program that is responsible is called the Exceptional Children Program. Please contact the Exceptional Children Program Director or Preschool Coordinator in your school system, or you can find the phone number and email address at the following site: <http://www.earlylearning.nc.gov/PreKindergarten/PreschoolEC/infoforFamiliesEC.asp> First, a written referral must be completed in which your concerns are recorded. You may provide the written referral letter to the Exceptional Children Program or they will assist you in completing this process. The Preschool Coordinator will hold an IEP Team meeting to discuss your concerns and determine which assessments are necessary. Prior to assessment you must sign consent for the school system representatives to evaluate your child.

2. Question: Will I be able to see the evaluation report and have someone explain it to me?

- **Answer:** Yes. You should be given a copy of the evaluation report and have someone from the Exceptional Children Program explain the results. Parents also have the right to inspect and review all education records relating to their child that the public agency collects, maintains, or uses. This might include schoolwork examples in the file, evaluations, reports, and other records related to the child's evaluation, educational placement, identification as a child with a disability, and the provision of a free appropriate public education (FAPE) to the child.

3. Question: How does my child qualify for services?

- **Answer:** Depending on the area of concern, your child will be screened and evaluated in several areas of development. A disability may be identified if the evaluation results indicate: a) a delay of a specific degree in one of 14 disability categories, b) if the delay or disability has a negative impact on your child's educational performance, and c) if he/she requires specially designed instruction to receive a free appropriate public education. The Individualized Education Program (IEP) Team, of which you are a member, will review your child's strengths and weaknesses and all of the evaluation results to determine if he/she is eligible to receive services.

Before services can begin, you must give written consent for those services. The IEP Team must develop an individualized education program which addresses your child's unique needs through measurable goals and provide you a written statement explaining what services they propose to provide to your child.

4. Question: *In which meetings do parents have the right to participate?*

- **Answer:** Parents have the right to participate as an IEP Team member in meetings related to the evaluation, identification, educational placement of their child, and the provision of a free and appropriate public education (FAPE).

5. Question: *How will I know when meetings are going to be held?*

- **Answer:** Public schools must provide parents with a written notice of a meeting, (Invitation to Conference), that tells the location and time of the meeting, the purpose, and the individuals who will be present. It should also tell you that you may bring individuals who have knowledge or special expertise about your child. If neither parent can participate in a meeting, the school must use other methods to ensure your participation, such as individual or conference calls, or video conferencing.

6. Question: *Can the school system share my child's information with others?*

- **Answer:** The information maintained and used by your school system about your child will be kept confidential and is available to you on request. This information is stored and released in accordance with the Family Educational Rights and Privacy Act (FERPA) of 1974. You must provide written consent for the school system to share this information with any other individual or program. Your consent is not required for the school system to transfer your child's records to another public school if your child should transfer.

7. Question: *Can the services be changed after I give my consent?*

- **Answer:** Yes. If the Exceptional Children Program proposes to change anything about the services listed on the IEP, a meeting may be held to discuss the proposed changes. Before services listed on the IEP can be changed, the Exceptional Children Program must provide you a written statement (called Prior Written Notice) explaining what they propose to change and the reasons, and you have the right to request mediation or a due process hearing if you disagree.

8. Question: *What if I do not agree with the decision made by the IEP team?*

- **Answer:** You have the right to disagree with your child's identification, evaluation or provision of services. There are several options in North Carolina for resolving disagreements between the school and parents of students with disabilities. It is always appropriate to discuss the matter

- with the IEP Team, Preschool Program Coordinator or Exceptional Children Program Director in the central office of the school system. However, when there is an unresolved disagreement, the options for dispute resolution can be found on the following link:

<http://ec.ncpublicschools.gov/parent-resources/dispute-resolution>

- **Informal Dispute Resolution**

Facilitation

When parents or school representatives are apprehensive about the next IEP meeting, or it is a complex meeting with numerous participants, or communication between home and school is becoming tense, an impartial facilitator can be requested to assist the IEP team members in communicating more effectively, keeping the focus on student outcomes, and developing compliant IEPs.

For more information on requesting a facilitated IEP meeting, please go to:

<http://ec.ncpublicschools.gov/parent-resources/dispute-resolution/facilitation>

- **Formal Means of Dispute Resolution**

When informal means for solving disagreements have not been successful, more formal dispute resolution alternatives are available through the provisions of federal and state laws governing special education [the Individuals with Disabilities Education Act (IDEA) and Article 9 of Chapter 115C of the North Carolina General Statutes]. Additional information and the forms for requesting dispute resolution assistance are on this link:

<http://ec.ncpublicschools.gov/parent-resources/dispute-resolution>

Mediation

You or the school have the right to request the Department of Public Instruction (DPI), Exceptional Children Division to provide a neutral mediator if the IEP Team is unable to agree upon the identification, evaluation, educational program, placement or the provision of a free appropriate public education (FAPE) for your son or daughter.

Formal Written Complaints

You may file a written complaint with the DPI Exceptional Children Division. A State complaint is a signed written statement that alleges a school or local educational agency is not following special education law and regulations found in IDEA , *NC Policies Governing Services for Children with Disabilities* or in Article 9 of Section 115C in the NC General Statutes. This complaint is a formal request for the EC Division to investigate the allegation(s) of noncompliance.

Due Process Hearings

A “due process hearing” is designed to resolve legal disputes between parents of children with disabilities and school systems concerning identification, evaluation, placement, a manifestation determination, and/or the denial of a free appropriate public education (FAPE). Parents must complete a petition and submit it to the Superintendent of their school system, to the Office of Administrative Hearings, and to the Due Process Liaison at the

Exceptional Children Division at the North Carolina Department of Public Instruction. The petition starts a legal proceeding against the local school system. An independent administrative law judge will conduct a hearing and determine the facts and law supporting your allegations about your dispute. You have the burden of proving that the school system has violated the law, and you must provide evidence and witnesses to support your allegations. Petition forms for due process hearings and more information about due process are available by contacting the Due Process Liaison at 919-807-4059 or by going to <http://ec.ncpublicschools.gov/parent-resources/dispute-resolution>.

9. Question: Where should I go to read about all of the “Procedural Safeguards”?

- **Answer:** The document containing specific information for all of the procedural safeguards can be found at <http://ec.ncpublicschools.gov/parent-resources/parents-rights-handbook>. The *Handbook on Parents’ Rights* is the procedural safeguards document that school systems are required to give parents that explains 13 rights of children with disabilities and their parents.
 1. Parental Consent
 2. Prior Written Notice
 3. Independent Educational Evaluation
 4. Confidentiality and Access to Records
 5. Unilateral Placement of Children with Disabilities by Parents in Private Schools at Public Expense
 6. Mediation
 7. State Complaint Procedures
 8. Filing a Due Process Petition
 9. Hearings on Due Process Petitions
 10. State-Level Appeals
 11. Civil Actions
 12. Attorney’s Fees
 13. Disciplinary Procedures

You may also contact your school system Exceptional Children Director listed below for a written copy.

Your school system contact is: _____

Phone: _____ Email: _____

Exceptional Children’s Assistance Center (ECAC)

Additional information, a lending library, resources, and assistance with individual issues are available at no cost at the **ECAC**. It is a private non-profit organization that is operated by and staffed primarily with parents of children with disabilities and special health care needs for families of students with disabilities. You can reach ECAC at <http://www.ecac-parentcenter.org/> or by telephone at 800-962-6817.