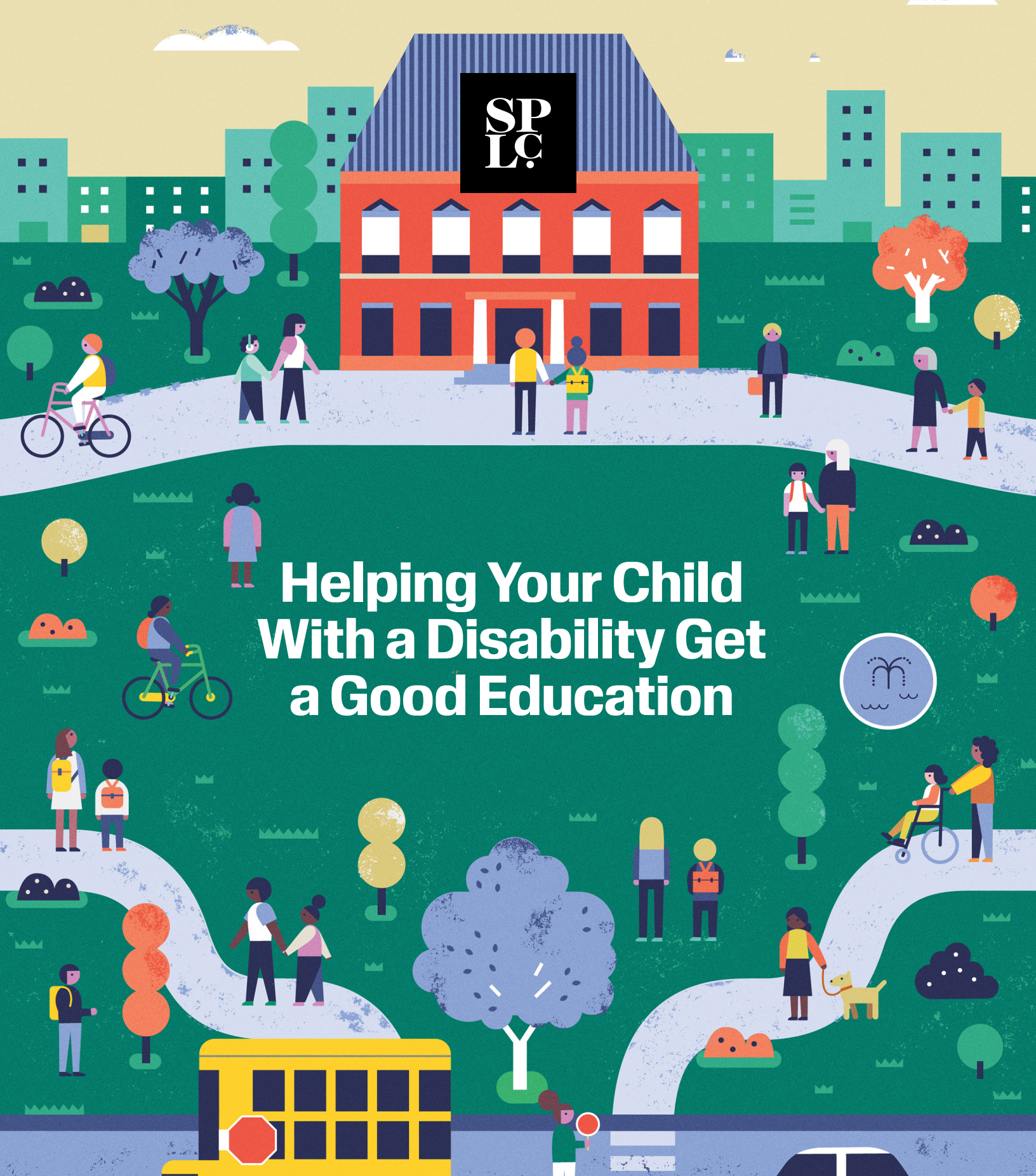




Helping Your Child With a Disability Get a Good Education

Illustration by Sol Linero

Louisiana

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Louisiana

**Helping Your Child
With a Disability Get
a Good Education**

Introduction

Children with disabilities have a unique set of requirements in order to thrive in any setting, including the classroom. These children are legally obligated to be served in a way that meets their needs, and all parents and guardians have a vital role to play in the successful and appropriate education of their children.

Federal laws guarantee a host of services and supports for children with disabilities, but it's up to you to make sure your child gets these services.

You need to know your rights and responsibilities as your child progresses through the educational system, so you can make the right decisions that will shape your child's future.

Your child is guaranteed a “free, appropriate public education” — at no cost to you — that meets their unique educational needs. You will see that term a lot throughout this handbook; those words are significant under federal law and trigger a process that will help you get your child the services they need. This right is guaranteed under a federal law called the Individuals with Disabilities Education Act (IDEA).

The IDEA opens the way for services designed to assist your individual and unique child best and help them gain the most they possibly can during their years in the public education system. Louisiana has its own state law and policies as well to protect the rights of students with disabilities.

Your child's school district must — with your input and agreement — develop an educational program that will provide the services and supports your child needs. This is called an Individualized Education Program (IEP). You will have to request an IEP from school officials, based on your child's diagnosis of special needs.

If at any time you don't agree with the school district's decisions about your child's education, you can appeal those decisions — first to the school district, then to an impartial third party and, if you're still not satisfied, in court. Don't be afraid to ask questions or to challenge school district decisions if you don't think they are in the best interest of your child.

Also, don't be afraid to look for help and support. Sometimes, it helps to talk with other parents of children with disabilities. They can be an invaluable source of information, ideas, and strategies.

The process of securing a good education for your child despite their disabilities is not an easy one. At times, it can seem overwhelming.

But don't give up. You can do it! And this guide will help you.

About This Handbook

This handbook is not legal advice. Rather, it is a guide to help you — the parents, grandparents, guardians, and allies of children with disabilities — navigate the complex system that governs educational services for children with special needs.

This handbook is not all-encompassing. For example, it does not address students with disabilities who are in juvenile facilities, youth development facilities, jails, prisons, private schools, colleges, or universities. It also does not address children with disabilities who are younger than kindergarten age. In other words, this handbook only addresses students with disabilities in grades K-12 who are enrolled in public schools.

This handbook will walk you through the maze of red tape that might otherwise be intimidating, overwhelming, or confusing, and that could prevent your child from getting the services they need.

Also, while much of the information in this handbook is applicable anywhere in the nation, it is based specifically on the policies and procedures of the state of Louisiana and is intended primarily for Louisiana parents and guardians.

Contents

Evaluation	10
Who's Eligible?	12
Free Appropriate Public Education	13
Individualized Education Program Team	14
IEP Team Meeting Tips	16
Individualized Education Program	17
Requirements of the IEP	18
Other Parts of the IEP	18
Annual Review	19
Placement	19
Discipline	20
Prior Written Notice	23
Procedural Safeguards	23
Records	23
Section 504 of the Rehabilitation Act	26
Dispute Resolution	28
Appendices	33
A. Definition of Disabilities/ Areas of Eligibility	34
B. Examples of Supports for School Personnel, Accommodations and Modifications	36
C. Key Sections of Louisiana's Model IEP Form	38
D. Additional Tips	39
E. Commonly Used Acronyms and Abbreviations	40
F. Resources	41
G. Tools	42
H. Sample Letters	46
I. Charter Schools	53

Evaluation

This is the first step. Before your child can get special education and related services, you must first prove that they have a disability. The evaluation is your school district's responsibility — and the districts has to pay for it. But you may have to ask for it since school district do have a child find obligation and sometimes refer the child for evaluation prior to any parental request.



Tip

If you request an evaluation, put the request in writing and keep a copy of it.

By law, schools have to identify and evaluate all children with disabilities, from birth to age 21, who need special education and related services. It doesn't matter if the child is migrant or homeless, not enrolled in school, in foster care, enrolled in educational programs like Head Start, or advancing from grade to grade.

If you think your child has a disability, ask the school district to evaluate them. You can do this verbally or in writing, but it would be best for your records to submit your request by email, so you keep a paper trail.

Evaluation with your permission

Before conducting the evaluation, the school district must get your permission, and must make sure you are informed about your decision to have your child evaluated. The evaluation must take place within **60 business days** of when you give your permission (see Bulletin 1706 302.C.1.a). If your child enrolls in another school district within that time frame, the original school district does not need to go through with the evaluation, and you will have to decide if you want to make a request to the new district and start over again.

The school district is not allowed to do anything that would delay the evaluation beyond 60 days after you give permission for it, unless you make a request for an evaluation and then your child leaves the district before a decision can be made about whether to evaluate your child.

The initial evaluation must be designed to determine if your child has a disability, and what the educational needs of your child are. The evaluation must include a variety of assessment tools and strategies, including functional, developmental, and academic information, as well as information that you provide about your child.

The district must evaluate all areas of the suspected disability, including health, vision, hearing, social and emotional well-being, general intelligence, and academic performance, as well as your child's ability to communicate and physically move around.

You can help with the evaluation by accurately answering questions, providing medical or other records, helping your child understand the testing process, and encouraging your child to do their best on every test.

When the district evaluates your child for special education and related services, it cannot use only one single measure or assessment to determine whether your child should receive these services. The evaluation must also not discriminate against your child based on race or national origin, and it must be conducted in your child's native language or other mode of communication.

You can request a draft copy of the evaluation results before the meeting to determine your child's eligibility for special education and related services. You should send this request in writing. The school is required to respond within 10 business days of your request and provide you

with the draft prior to the dissemination meeting.

Independent educational evaluation

If you disagree with the results of the evaluation, you have the right to have another evaluation done by a qualified examiner who does not work for your child's school district. This independent educational evaluation (IEE) will be provided at no cost to you. If you wish to request this additional evaluation, you must do so in writing.

Your child's district can ask why you object to the original evaluation, but you do not have to give an explanation. Additionally, if you choose to request this second evaluation, the district cannot unreasonably delay that evaluation. The only way a school district can avoid paying for an IEE is to file a request for due process and convince an administrative law judge that it should not have to pay.

You can also have an independent evaluation of your child done at any time, if you choose to, and the school must consider the results of that evaluation.

Re-evaluation

After the initial evaluation, your child's school district must re-evaluate your child's need for special education and related services. The re-evaluation is done to find out if your child still has a disability that qualifies for special education and related services, or if your child's needs have otherwise changed. If you or a teacher request a re-evaluation, the district must complete one.

The re-evaluation must include a review of existing information about your child, including information and evaluations that you provide, as well as anything your child's teacher(s) may notice about your child in the classroom.

Every child who receives special education and related services must be re-evaluated every three years, unless you and the district agree that it is not necessary. You can also request an evaluation for your child every year.

Additionally, the district must re-evaluate your child's special education needs before it can change the special education and related services your child receives, or before it can determine that your child no longer needs special education and related services.

An important thing to keep in mind is not to waive your child's right to a re-evaluation. Even if your child is clearly still eligible for special education and related services, their educational needs or disabilities may have changed over time.

Tip

Before a meeting with the school about your child's eligibility for special education, request a copy of the evaluation results. You have the right to receive them within **10 business days** of your request.

What kind of independent educational evaluation does my child need?

Each child's needs are different. You should speak with your child's teachers and primary care physician to find out what kind of testing might be best for them.

You can ask the school to have an independent evaluator do the same tests again. If you are not sure who can provide this testing, the school must provide you with information about possible providers.

In some cases, you can also request tests the school did not already provide. For example, most schools do not provide neuropsychological assessments. A neuropsychological assessment can help diagnose issues with reading, language usage, attention, learning, processing speed, remembering, problem-solving, mood, and personality.

Your child's insurance plan also may cover a neuropsychological assessment. If you need recommendations for a neuropsychologist, ask your child's primary care physician or pediatrician for recommendations.

Who's Eligible?

This section explains which children are eligible to receive special education and related services.

In order for a child to be eligible for an IEP they must:

- **Be aged 3 to 21**
- **Have a qualifying disability**
- **Need special education and related services as a result of said disability**

To be eligible for the services provided under the IDEA, a child must be age 3 to 21, must have one of the qualifying disabilities listed below, and must — because of the disability — need special education and related services.

The categories of disabilities that qualify for special education and related services under the IDEA are: intellectual disability, a speech or language impairment, a visual impairment (including blindness), an emotional disability (also referred to as serious emotional disturbance), developmental delay (for children from birth to age 9 only), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, hearing disabilities, deaf-blindness, or multiple disabilities.

Eligibility determination

After the evaluation is done, school staff will meet with you. You must be invited to attend this meeting in writing.

At this meeting, the team must determine whether your child has a disability under one of the areas described above, and what their educational needs are. The team cannot decide on what your child's disability is, or if your child even has a disability, before this meeting. The team also cannot consider limited English proficiency to be a disability.

After this meeting, the team must create an Individualized Education Plan ("IEP") for your child, if the school determines they have a disability.

In order for your child's school district to determine that they have a disability, it must rely on a variety of sources, including your input;

aptitude and achievement tests for your child, recommendations from your child's teachers; and information about your child's physical condition, social or cultural background, and ability to adapt to their circumstances.

Your child's school district must carefully consider and document the information from all of these sources. It must also provide you with a copy of the team's evaluation report, and some documentation of the team's decision about your child's eligibility for special education and related services.

If you disagree with the team's decision about whether your child is eligible for special education and related services, you should ask for the fact that you disagree to be written directly into the report, and you should also give the chairperson a written note or letter saying that you disagree. You can also ask for mediation or a due process hearing (see Dispute Resolution, p. 28).

Parental consent for services

As the parent, you have the right to decide whether or not your child receives special education and related services. Before any services can be provided, the school district must first get your permission. You can withdraw your permission at any time, but you will have to do that in writing.

Once you withdraw your permission for special education or related services, your child will no longer receive them. The child will also lose eligibility once they reach age 22 or graduate with a general education high school diploma, whichever comes first.



1 LEA

(Local Education Agency)

Receives a referral to evaluate a child.



2 LEA

Gives parents written notice to get parental consent.

3

EVALUATION



Within 60 business days of parental consent.



Designed to determine disability and educational needs.



LEA uses a variety of evaluation tools.



School documents its findings in an evaluation report.



4

Parents may request an IEE (Independent Educational Evaluation). Following an IEE, a re-evaluation may be necessary.

Free Appropriate Public Education

All children who are eligible for special education and related services must be given the opportunity for what is formally known as a “free appropriate public education” (FAPE). A FAPE provides special education and related services at no cost to you. The FAPE must meet Louisiana standards and comply with an Individualized Education Program (IEP) that is designed to meet your child’s specific and unique needs.

This education must include: (1) services that meet your child’s needs, just as the school must meet the needs of students who do not have disabilities; (2) special aids or services to accommodate your child’s unique needs; and (3) your child must be educated with students who do not have disabilities, to the extent possible.

IEP Team

An Individualized Education Program (IEP) team is a group of people who are responsible for developing, reviewing, and revising an education plan that is specifically designed to meet your child's needs. In Louisiana, this team is called an "IEP team."

The IEP team must include several people:

- **You, the parent or caregiver**
- **At least one regular education teacher**
- **At least one special education teacher**
- **A school district administrator or representative**
- **Someone who can explain any evaluation results (may be one of the above)**

A child with a disability must have an IEP team that includes you, at least one of your child's regular teachers, at least one special education teacher, a school representative, someone who can explain any evaluation results (this person may be one of the school employees listed above), and your child, if appropriate.

The IEP team may also include related services personnel, other people who have knowledge or special expertise about your child, and an attorney or advocate to help you.

An IEP team member may be excused from a meeting only if you and the district agree in writing. If the meeting involves discussion of that person's curriculum or related services, then that person must provide written input before the meeting.

Definition of 'parent'

Under federal law, a parent is defined as a biological or adoptive parent; a foster parent; a guardian who is authorized to act as the child's parent or make educational decisions for the child (except for the state, if the child is a ward of the state); someone who is acting in the place of a biological or adoptive parent (such as a grandparent, stepparent or other relative) who lives with the child or is legally responsible for

the child's welfare; or a surrogate parent who has been appointed by a judge or the district.

Child's participation

If a purpose of the IEP team meeting is to develop a plan (and the necessary services) for your child to meet their goals for after high school, the district must invite the child. The invitation must be in writing. Ultimately, if your child has not yet reached the age of majority, it is up to you as the parent if the child participates in the IEP meeting. You can choose to have your child participate in parts of the meeting or the entire meeting.

The district also must notify your child that all rights under the IDEA will transfer from the parent to the child when your child turns 18, unless your child has been declared incompetent. Your child must receive this notice no later than their 17th birthday. (See Bulletin 1530 s. 107(6))

Your participation in IEP team meetings

Your child's school district must invite you to all IEP team meetings. The invitation must be in the form of a notice that includes a list of who else will attend the meeting, by name and position; a statement that you or the school may invite other people who have knowledge or special expertise about your child; the meeting time and location; and a description of the meeting's purpose.

The district must maintain records of its attempts to invite you to the meeting, including detailed records of any phone calls it made or attempted and the results of those calls; copies of any letters sent to you and any responses received; and detailed records of any visits it made to your home or job, and the results of those visits.

For a child who has been determined to have a disability, the LEA must hold an IEP team meeting to develop an initial IEP within 30 days of the determination that your child needs special education (i.e., the eligibility meeting).

If needed, the district must also provide an interpreter for you if you are deaf, or a translator if your native language is not English, to ensure that you can understand what is happening in the meeting and allow you to participate in discussions related to your child.

You and the district may also agree to hold meetings a different way, such as by video conferencing or conference calls. If you can't attend the IEP team meeting in person, then the school must offer you another way to participate.

The district can make a decision about placing your child in special education and/or related services without your involvement, but only if it has tried to get you to participate in the decision and you have failed or refused to participate. But if it does make a decision without you, it must have a record of its attempts to involve you. If the district made a decision without involving you and you did not receive any invitations to a meeting, you can request their records showing that they tried to contact you and challenge the decision made about your child.

Reasons for IEP team meetings

An IEP team meeting is required in order to develop your child's IEP and to make any significant changes to it.

However, an IEP team meeting is not required for corrections or minor changes to the IEP, as long as you and the district agree to the changes in writing, and every member of the IEP team is informed of the changes.

You can request an IEP team meeting at any time to make changes to the IEP that will help the district meet your child's needs.

IEP team decision-making

All decision of the IEP team should be made by consensus, but the Officially Designated Representative ("ODR") ultimately decides what to include in the IEP (see Dispute Resolution).

IEP Team Meeting Tips



Before the meeting

Below are a few tips to help you when you attend an IEP team meeting. Be prepared in advance to advocate for your child. Start by preparing a list of topics you want to discuss at the meeting.

- First, you should consider bringing people to the meeting who can help you make your case about the resources your child needs. (See Appendix F for available resources.) These people may include an attorney or advocate, as well as professionals who may have relevant information about your child's disability – such as a pediatrician, psychologist, or social worker. Notify your child's school ahead of time if you want to bring any of these people with you.
- Next, ask your child's school district to invite anyone from outside agencies who you think should also be there. These may include representatives from the Louisiana Department of Health, the Louisiana Department of Rehabilitative Services, etc.
- If you plan to bring your child to the meeting, make sure they are prepared to help by meaningfully participating. Also, be prepared to share your thoughts about your child's education, including anything positive that is happening, as well as your concerns.
- You should consider sharing developments in your child's life that are taking place outside of school that may affect your child's education, such as new medication, traumatic events, or a change in family dynamics.

- If you need an interpreter, notify the district in writing as early as possible.
- Prepare any documents you may want to share at the meeting, such as a letter from your child's doctor, and bring multiple copies with you.
- Last but not least, pack a drink and a snack, as well as a pen and paper to take notes.

During the meeting

- When the meeting begins, ask each person in attendance their name and position or title. Take notes and/or make a recording of the meeting. Try to remain calm, polite, and respectful.
- If you ask for special education or a related service for your child and you are told, "We don't do that," ask for a copy of the written law, policy, or regulation that supports their refusal to provide that service.
- Make sure you understand everything that is said at the meeting. Don't be afraid to ask questions, ask for clarification, or ask the team to slow down.
- Practice self-care. Have a drink and snacks. Take breaks when you need them.

At the end of the meeting

- When the meeting is coming to an end, ask for and review a copy of the IEP that was just developed. Make sure everything in it was documented accurately and completely.
- Signing the IEP only shows that you attended the meeting, not that you agree with the IEP. If you disagree with anything in the IEP, write notes

directly on the document, indicating your disagreement. You should also make sure your disagreement is noted in the Parental Concerns section of the IEP.

- Then, on a separate piece of paper, write a detailed note about the reasons for your disagreement and the changes you want. Your child's district must keep all notes expressing disagreement with the IEP. Make a copy for your own records, too.
- Make sure you understand the IEP. Ask to have it translated into your native language if needed.
- Further, ask the IEP team to identify who will be responsible for ensuring that each teacher and other professional who will be providing services to your child has a copy of the document.

Individualized Education Program

An Individualized Education Program (IEP) is a written statement of the educational program that the IEP team has developed to meet the needs of your child. As such, each IEP must be specifically tailored to your child's individual needs.



Tip

Ask how your child's progress toward the goals will be measured.

The IEP is a legally binding document — the district has to follow it by law. If your school district does not follow it, you can take corrective action.

The IEP is also a “living” document — it can be changed as often as needed to accommodate your child's unique learning needs.

Development of the IEP

For any child who has been determined to have a disability, the district must hold an IEP team meeting to develop an initial IEP within 30 days of determining that your child is eligible for special education and related services.

In developing your child's IEP, the IEP team must consider your child's strengths, your concerns about enhancing your child's education, the results of the initial or most recent evaluation of your child, and your child's needs.

Once your child's IEP is developed through a data-driven process, it must be implemented immediately.

Special circumstances

If your child's behavior prevents your child or other children from learning, the IEP team must also consider what are known as positive behavioral interventions and supports — also known as PBIS — or other strategies to address the behavior.

For a child who has difficulties speaking and understanding English, the IEP team must also

consider the child's language needs as well as those related to the IEP.

For a child who is deaf or has trouble hearing, the IEP team must consider the child's language and communication needs, their opportunities for direct communication with peers and school personnel, their academic level and their full range of needs.

For a child who is blind or has trouble seeing, the IEP team must provide instruction in Braille and the use of Braille, unless the team determines that Braille is not appropriate for the child.

Children who transfer

Any child with an IEP who transfers from one school district to another school district must receive comparable services based on their current IEP. This requirement is in effect until the new school district adopts the IEP from the previous school district or develops and implements a new IEP.

If a child who had an IEP in another state transfers to a Louisiana school district within the same school year, the new district must provide services that are comparable to those described in the child's IEP. This requirement is in effect until the new district conducts an evaluation, if it determines that one is necessary, and develops, adopts, and begins using a new IEP, if appropriate.

Requirements of the IEP

Current academic and functional performance

Your child's IEP must include a statement of their current levels of academic and functional performance, including how their disability affects their progress in the same curriculum that children without disabilities are using.

Functional performance means skills that are not considered academic, including dressing, eating, going to the bathroom; social skills such as making friends and communicating with others; behavioral skills such as knowing how to behave across a range of settings; and mobility skills, such as walking and going up and down stairs.

Annual goals

The IEP must also include a statement of measurable goals, including academic and functional goals. The goals must be designed to help your child make progress.

Also, the IEP must describe how your child's progress toward meeting the annual goals will be measured, and a schedule of when the district will provide you with periodic progress reports throughout the year.

Special education

Special education is defined as specially designed instruction to meet the unique needs of a child with a disability, at no cost to the parents. It is designed to ensure your child's access to the general curriculum, so they can meet the educational standards that apply to all children.

Examples of specially designed instruction include academic instruction, speech or language instruction, special and/or adapted physical education, vocational instruction, training in organizational skills and strategies, special and/or adapted instruction in developmental skills, and extended school-year services.

The IEP should state the kinds of IEP services the school will provide to your child, including the amount of time they will receive those services (e.g., 30 minutes), how often they will receive those services (e.g., three times a week), and where the services will be provided (e.g., special education class or general education class). The IEP should also include the kinds of professionals who will provide those services, such as special education teachers.

Other Parts of the IEP

The IEP also includes other services and assistance for your child.

Related services

Related services are transportation and developmental, corrective, or other support services that your child needs to benefit from a special education. They include speech-language pathology and audiology services; interpreting services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; counseling services, including rehabilitation counseling; orientation and mobility services; medical services for diagnostic or evaluation purposes; school health and school nurse services; school social work services; and parent counseling and training.

Students with disabilities must not arrive at school later — or leave earlier — than other students for the convenience of staff, bus drivers, or the availability of vehicles. Students with disabilities must attend school for the same amount of time as other students, unless the IEP team has decided otherwise based on the individual needs of the student (i.e., shortened school day).

Accommodations vs. modifications

Aids, services, and other supports allow children with disabilities to participate in academic, extracurricular, and non-academic settings. These supports allow children with disabilities to receive an education alongside nondisabled children as much as possible.

There are two very different kinds of changes to your child's educational experience that will affect how they learn in school: accommodations and modifications.

Accommodations do not change what your child learns, but they do address the strategies that teachers or other professionals will use to help your child learn. Accommodations also involve the methods your child will use to demonstrate what they have learned. For example, a child may be given extended time to complete an assignment, they may be allowed to use a calculator to complete math assignments, or a scribe may be allowed to write down the child's answers when they are taking a test.

Modifications, on the other hand, are changes

that alter or reduce the expectations for what your child learns. Modifications include changes to your child's curriculum, activities, or responses that allow your child to participate in activities with other children in the classroom or in schoolwide activities.

Extended school year

Extended school year (ESY) services are special education and related services that are provided to a child with a disability beyond the normal school year and into the summer. These services are provided when your child's IEP calls for them, and at no cost to you.

The district must provide ESY services to your child if the IEP team determines that they are necessary for your child to avoid regression during the summer. The district must not limit ESY to particular categories of disabilities; limit the type, amount, or duration of these services; or consider financial resources when determining the need for such services. In Louisiana students must meet specific criteria to qualify for ESY services. The criteria typically involves evidence that the student regresses with regard to IEP goals during extended breaks.

Transition services

Transition services are designed to help your child successfully make the move from high school to a life after high school, or from childhood to adulthood. These services must include instruction, exposure to community experiences, and the development of employment and other post-school, adult-living objectives. These services may include help with learning daily living skills and a vocational evaluation to determine whether your child is able to work.

Your child's district must invite them to the IEP meeting if a purpose of the meeting will be to consider goals for your child after they finish high school, and what kinds of services they will need to attain those goals. If your child does not attend the IEP team meeting, the district must take other steps to ensure that your child's preferences and interests are considered. Transition services must begin by the time your child turns 16, or even earlier if the IEP determines that this is appropriate.

Annual Review

Each year, the IEP team must review your child's IEP, as well as any available data on your child's

performance. The IEP team must review your child's IEP periodically, but not less than once a year. This will help the IEP team determine whether the annual goals for your child are being achieved. This is called an "annual review."

At the annual review, the IEP team must revise the IEP to address a lack of progress toward your child's annual goals, the results of any re-evaluation, information you or your child have provided, your child's anticipated needs, or any other relevant information.

The IEP team does not need to wait a full year to make minor revisions along the way. These changes may include reviews, revisions, or amendments, and these may happen with or without an annual review. However, if the IEP team does amend the plan without a meeting, you and the district must agree, in writing, to the process as well as the amendments.

Additionally, after any revisions or amendments are made to the IEP, the district must provide you with a copy of the new IEP and written notice of the changes.

Placement

Your child's school district must ensure that your child is placed in the right academic setting or program so that they can receive special education and related services. This "continuum" of placements includes: instruction in regular classes, special education classes, special schools or programs, homebound instruction in which a special education teacher provides services in your home or a nearby location, and instruction in hospitals and institutions.

Least restrictive environment

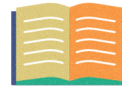
Schools must educate children with disabilities in the least restrictive environment. This means that children with disabilities must be educated with children who do not have disabilities, as much as possible.

Your child, therefore, cannot be placed into special classes, separate schooling, or otherwise be removed from regular classes unless their disability makes it impossible for them to receive FAPE in regular classes.

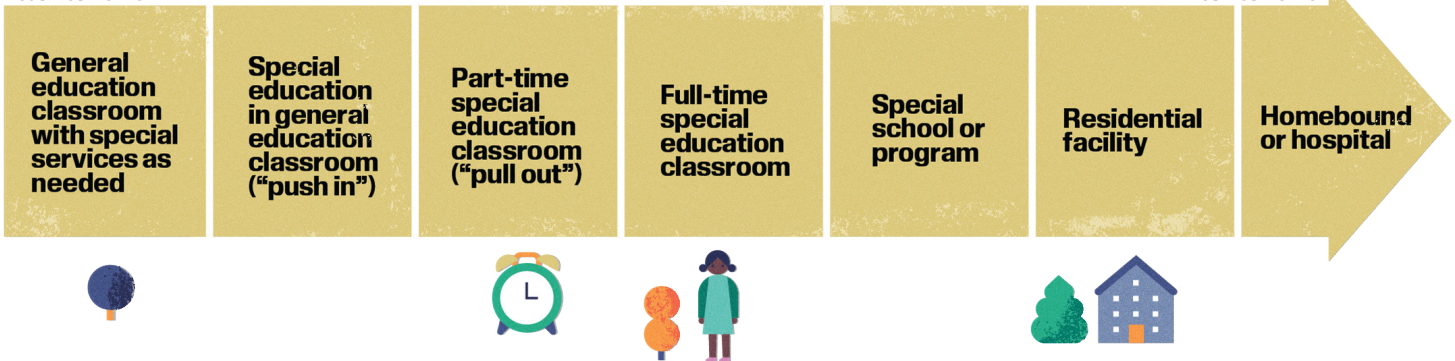
Further, your child cannot be removed from regular classrooms just because they need modifications to get an education in the regular classroom. Even if your child cannot make the

Special Education Placements

Least restrictive



Most restrictive



same progress in the general curriculum as children who do not have disabilities, this does not automatically mean they must be placed somewhere else. Decisions about your child's placement in general education should not be made based on whether your child can "keep up."

The IEP team must document its decisions on which classrooms — regular or special education — it places your child into, as well as the specific reasons why it made those decisions.

Non-academic services and settings

In addition to providing academic instruction for your child with disabilities, your child's school district must also provide them with non-academic and extracurricular activities. And it must do so in a way that gives your child the same opportunity to participate in these activities as a child who does not have a disability.

Some examples of non-academic services and settings are meals, recess, counseling services, sports, transportation, health services, recreational activities, special interest groups or clubs that the school provides, referrals to agencies that provide assistance to people with disabilities, and student employment opportunities.

Placement decisions

A "placement" is the kind of education setting where your child spends their day. It is determined by how much time your child is with children who do not have disabilities. Your child's placement does not necessarily change when they are assigned to a different school, as long as the amount of time they spend with children who do not have disabilities stays the same as in

the previous school. In other words, the location where your child receives an education is not the same thing as your child's placement.

The decision about your child's placement is made by the IEP team. Your child's placement must be determined at least once a year.

Unless your child's IEP calls for something different, your child must be educated in the school that they would attend if they did not have a disability. Your child should be educated with peers of the same age to the greatest extent possible.

If you are unhappy with your child's placement and you decide to file a due-process complaint about it, your child will remain where they were placed in the IEP while the case is pending, unless you and the district agree to a different placement.

Discipline

A child with a disability who receives discipline from their school in the form of a change in placement is entitled to special protections and services, as outlined below. It is important for you to know your child's rights related to discipline.

Definition of 'removal'

An expulsion or out-of-school suspension (OSS) is a removal, even if the school district calls it something else, like a "cooling-off" day. A school day is considered to be a day of out-of-school suspension if (1) for any part of that day, your child is removed from the school and their return to school depends upon a parent meeting that results in your child being absent from school, (2) if you have voluntarily removed your

child from the school at the school's request, or (3) if your child is suspended from special transportation that results in them being absent from school. A bus suspension is not considered a removal, unless bus transportation is part of your child's IEP.

An in-school suspension (ISS) should be considered a removal, even if it involves having your child sit in the front office, unless (1) your child is allowed to continue participating in the general curriculum, (2) the school continues to provide the services specified in their IEP, and (3) your child continues to participate with their peers who do not have disabilities to the extent required by the IEP.

Definition of 'change in placement'

A removal of a child with a disability is a "change in placement" if your child has a single removal that lasts more than 10 consecutive school days, or a series of removals that forms a pattern. Multiple removals are a pattern if they total more than 10 school days in a school year, and if your child's behavior is very similar in the incidents that led to the removals.

Manifestation determination review (MDR)

Before a child with disabilities can be expelled or suspended for more than 10 days due to a disciplinary problem, you must meet with your child's school district and any relevant members of the IEP team to determine if the behavior your child is being punished for is related to their disability. This meeting is called a manifestation determination review (MDR). The MDR meeting must take place within 10 days of any decision to change your child's placement.

The first step in the MDR process is to review all relevant information in your child's file, including your child's IEP; their medical, psychological, academic and disciplinary records; teacher observations; and any relevant information you can provide.

Next, the group must answer three questions: First, was the child's misbehavior caused by the child's disability? Second, did the child's conduct have a direct and substantial relationship to the child's disability? Third, was the misbehavior a result of the school district's failure to implement the IEP?

If the answer to all three of those questions is no, then the school district is allowed to remove your child and change their placement, the same way

it would for a child who does not have a disability.

However, if the answer to any of the questions is yes — meaning the child's misbehavior is either caused by or directly and substantially related to their disability — then the school district has to return your child to the placement from which they were removed. This is true except when you and the district agree to a change of placement, or special circumstances apply to the situation.

Even if your child's misbehavior is caused by or directly and substantially related to their disability, or results from failure to implement the

IEP, the district may still be allowed to move your child temporarily to what is known as an interim alternative educational setting (IAES) for up to 45 school days. The school district can do this only if one of the following special circumstances applies: Your child carried a weapon to or possessed a weapon at school, on school premises or at a school function; your child knowingly possessed or used illegal drugs, or your child sold or solicited the sale of a controlled substance at school, on school premises or at a school function; or your child caused serious physical harm to someone at school, on school premises, or at a school function.

An IAES is a place other than school that allows a child to participate in the general educational curriculum, and allows your child to keep making progress toward meeting the goals in their IEP. The IAES must also be used for children who do not have disabilities. Alternative schools often are used as IAES.

If the conduct that caused your child to be expelled or suspended was related to their disability, the IEP team must also do a functional behavioral assessment, unless the district did an FBA before the behavior that led to the discipline. The IEP team must also put into place a behavioral intervention plan (BIP) for your child, or, if your child has a BIP already, review and modify it as necessary to address the behavior.

If the reason your child engaged in conduct that led to discipline was the direct result of the school's failure to implement their IEP, then the school district must immediately review the IEP and take immediate steps to correct their mistakes. The IEP team also should meet again to review the IEP and make sure it is addressing all of your child's needs.

Every time your child is suspended, expelled, or otherwise removed from school for more than 10 days in a school year (all at once, or in total), there must be a Manifestation Determination Review (MDR).

Be sure to remember that every time your child is suspended, expelled, or otherwise removed from school for more than 10 days in a school year (all at once, or in total if part of a pattern), there must be an MDR to determine why the behavior happened, and how the school can better serve your child in the future.

Contesting the MDR outcome

If you disagree with any decision about your child's placement as a result of the MDR, you can appeal the decision. To do so, you need to ask for an expedited due process hearing.

Due process procedures for MDRs are different from the standard due process procedures. Due process for MDRs is carried out in this way: A meeting to resolve the dispute must take place within seven days from the day your child's school receives a "notice of due process complaint" from you — unless you and the school agree to waive that meeting.

If that meeting is unsuccessful in resolving the dispute, then there must be a hearing within 20 school days of the date the complaint was filed. The hearing officer must make a written determination to resolve the dispute within 10 school days of the hearing.

Functional behavioral assessment (FBA)

A functional behavioral assessment (FBA) is a process that seeks to find out why your child misbehaved.

The FBA evaluates the misbehavior, collects and analyzes information about it, and comes up with a theory about what caused it. An FBA collects information such as where the behavior is happening and not happening, when it happens, how often it happens, who else is there when it happens, what happens immediately before and after, and how appropriate behavior might be instilled to replace problematic behavior.

The FBA can use a number of methods to collect information, including observations of your child; a review of your child's records, including previous disciplinary issues; and interviews with you, your child, and school staff.

A child may misbehave in order to escape from physical sensations, activities, settings or people they do not like; to get attention; or for stimulation of their senses.

Behavioral intervention plan (BIP)

A behavioral intervention plan (BIP) encourages your child to show good behavior.

The plan should focus on increasing positive behaviors from your child, decreasing negative behaviors, and creating positive situations instead of reacting to negative ones. It should include an observable and measurable description of the problem behavior, why the behavior happened, and strategies for changing problematic behavior.

The BIP should also include a description of when, where, and how often the strategies will be carried out, and who will implement them. Additionally, it should include a description of a consistent system for monitoring and evaluating how effective the BIP is.

Some of the strategies that may be included in the BIP are changing your child's physical environment, changing the curriculum or the way your child is taught, changing the consequences for your child's misbehavior, and teaching your child a better way to behave in challenging situations.

Your child's school district should review the BIP as often as the IEP is reviewed to make sure it is successful.

Services during changes in placement

A child with a disability who is subjected to a change in placement due to misbehavior must continue to receive a free appropriate public education as outlined in the IEP. They must also continue to participate in the general educational curriculum as much as is appropriate — even if it is in a different setting. They should also receive a functional behavioral assessment (FBA) that is designed to address their misbehavior so it doesn't happen again.

Protections for children with disabilities who were not determined to be eligible

A child with a disability who has not been determined eligible for special education and related services — and who has misbehaved in a way that leads to a change in placement — may assert the right to a manifestation determination review (MDR) and a free appropriate public education (FAPE). But they can only do so if the school district had knowledge of their disability before the misbehavior happened.

A school district is considered to have knowledge of your child's disability if you expressed

concern, in writing, to the child’s school’s supervisory or administrative personnel — or to one of the child’s teachers — that your child needs special education and related services.

The school district is also considered to have knowledge of your child’s disability if you have requested an evaluation to determine whether they are eligible for special education and related services, or if one of your child’s teachers — or other school personnel — has expressed concerns to a school supervisor about your child’s pattern of behavior.

However, a school is not considered to have knowledge of your child’s disability if you have not allowed an evaluation of your child, if you have refused services for the child, or if your child has been evaluated and was determined not to be eligible.

If a request for an evaluation of your child has been made at the same time your child has been subjected to a change in placement, the evaluation must be expedited. Until the evaluation is complete, your child must remain in the educational placement that school authorities have determined — which can include suspension or expulsion without educational services. If and when your child is determined to be eligible, the school must begin providing special education and related services to them.

Prior Written Notice

Written notice, also known as “prior written notice” (PWN), must be given to the parent of a child with a disability before the school can begin or refuse to begin changes in the way it identifies, evaluates, or places the child, or provides a free appropriate public education (FAPE) to the child.

This notice must include a description of the action that the school is proposing or refusing; an explanation of why the school proposes or refuses to take the action; a description of each evaluation procedure, assessment, record, or report the school is using to back up the proposed action or refused action; and a statement that you as a parent have protection under the procedural safeguards.

The notice must also include sources that you can contact to help understand the notice’s provisions, a description of other options the IEP team considered — and why it rejected those options

— and a description of any other reasons why the school accepted or rejected the other options.

Additionally, the prior written notice must be provided to you, as the parent, in your native language and in words that the general public can understand (for example, not in complicated legal words). If your native language is written or can be given in print format (i.e., Braille), the notice must be provided in print unless providing it in print is not feasible. If your native language is not written, however, the notice must be communicated to you orally in your native language to make sure you understand the content of the notice.

Procedural Safeguards

“Procedural safeguards” are the formal protections for you and your child.

Each school must ensure that you get a copy of the procedural safeguards notice once a year, and in certain situations including: (1) after a referral for a special education evaluation, (2) after a request for a re-evaluation, (3) upon receipt of the first formal state complaint in a school year, (4) upon receipt of the first due process complaint in a school year, (5) upon a change of placement due to a disciplinary action, and/or (6) after you request a procedural safeguards notice.

The procedural safeguards notice must be provided to you in your native language or mode of communication, to make sure you understand it.

Records

You are entitled to review your child’s educational records under two federal laws: the IDEA and the Family Educational Rights and Privacy Act (FERPA). See Appendix H for a sample records request.

Your child’s school must give you an opportunity to review all educational records regarding the identification, evaluation, and educational placement of your child; and the provision of a free appropriate public education to your child.

Your child’s school must allow you to inspect and review any educational records concerning your child that it collects, maintains, or uses. The school must make those records available to you without delay, before any meeting about your child’s IEP, and before an impartial due process

Tip

If the LEA proposes a placement with which you are unfamiliar, consider visiting the placement before you decide whether to agree to it.

hearing. Under Louisiana law, you must receive these records within 10 business days.

The information in the records can sometimes be complicated and confusing. That's why you have the right to ask for and receive explanations and interpretations of your child's records. You can also ask a representative of yours — such as a lawyer or psychologist — to review the records and then explain what they say to you. But you will first have to give the school written authorization to release your child's records to that person.

You also have the right to receive a copy of your child's educational records. Be aware, though, that the district may charge you for making these copies. However, if the fee is too high and you can't afford to pay for the records, the district cannot charge you that fee. Additionally, the district is not allowed to charge you for time spent searching for and retrieving your child's records.

Every teacher and service provider who is responsible for carrying out your child's IEP must be given access to the complete IEP, and each person must be informed of their specific responsibilities in carrying it out.

Whenever a child transfers from one school district to another, the new school district must take reasonable steps to get the child's records from the previous school. Additionally, the child's previous school district must respond promptly to a request from the new school.



In case disciplinary change in placement may occur:



1

The LEA notifies parents and provides them with procedural safeguards notice.



2

The LEA, parent and relevant members of the child's IEP team conduct an MDR (Manifestation Determination Review) to answer:

Q1

Was the conduct caused by the child's disability?

Q2

Was the conduct a result of the LEA's failure to implement the IEP?

If **YES**

The LEA must return student to placement.

or

The LEA and parents may agree to a change of placement.

or

The LEA may remove the student to an IAES (Interim Alternative Educational Setting) for 45 school days, but only if the student carries a weapon; knowingly possesses, uses, sells, or solicits drugs; or inflicts serious bodily injury at school.

and

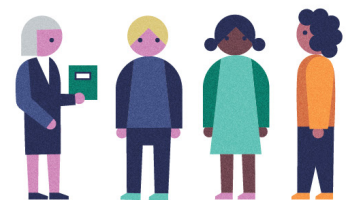
The IEP must conduct an FBA (Functional Behavioral Assessment) and implement a BIP (Behavior Intervention Plan).

If **YES**

The IEP team reviews the child's IEP. The LEA must return student to placement.

and

The IEP team reviews the child's IEP.



If **NO**

And **NO**

The LEA may remove the child and subject the child to a change in placement.

Parents may appeal the decision by requesting a due process hearing.

Section 504 of the Rehabilitation Act

Section 504 of the Rehabilitation Act of 1973 (aka “Section 504”) is a federal law that prohibits discrimination based on disability in any program or activity that is operated by recipients of federal funds.

All primary and secondary public schools — including charter schools — in Louisiana receive federal funding, and therefore are subject to this law.

This part of the manual provides a brief overview of Section 504. Notably, Section 504 provides additional, but different, protections for students with disabilities, including protections related to seclusion (isolation from others) and restraint (being physically held).

The law also requires schools to have a Section 504 coordinator and Section 504 grievance procedures.

Section 504 Plans and Individual Accommodation Plans (IAPs)

Section 504 protects children who have a physical or mental disability that substantially limits one or more of their major life activities, who have a history of such a disability, or who are regarded as having such a disability.

The law requires that each individual child’s disability must be determined on a case-by-case basis, and by a group of knowledgeable people who get their information from a variety of sources.

When the school determines a child’s disability, it must look at how the disability affects the child. The school cannot consider the effects of devices and medications — including devices such as an artificial arm or hearing aid — when evaluating the effects of the disability.

Importantly, Section 504 protects children from discrimination who have an IEP, as well as children with disabilities who do not require special education.

A Section 504 plan, sometimes referred to as an **Individual Accommodation Plan (“IAP”)**, ensures that a child with a disability can completely access the school and its programs, and that they are not excluded or disadvantaged because of their disability.

Section 504 plans or IAPs are typically used for children who need services, accommodations, or modifications in order to have an equal opportunity to access activities and services at school, but who do not need specially designed instruction — like those who are covered by the IDEA.

A child with a disability may be eligible for a Section 504 plan or IAP even if they earn good grades. The child may achieve a high level of academic success, but they may still be substantially limited in a major life activity because of the extra time or effort it takes them to read, write, or learn compared to others.

A student generally should not have a Section 504 plan or IAP if they are eligible for an IEP.

The IDEA vs. Section 504

Many of the requirements under the IDEA also apply to children who are covered under Section 504. However, there are significant differences between the two laws, including those summarized on the next page.

Key Differences Between the IEPs and Section 504 Plans

Area	IEPs	Section 504 Plans and Individual Accommodation Plans (“IAPs”)
Eligibility	1. Child has one of 13 specific qualifying disabilities 2. The disability causes the child to need specialized instruction	1. Child has a physical or mental impairment that substantially limits one or more major life activities 2. Child needs services, accommodations, and/or modifications in order to ensure equal opportunity and benefits from programs and activities
Initial evaluation	Must be conducted within 60 days of receiving parental consent for the evaluation	Must be conducted within a reasonable amount of time
Independent educational evaluation (IEE)	Available to parents	No right to IEEs
Team	Specific school staff must attend (see IEP Team section)	No specific attendance requirements — a group of people, including those who are knowledgeable about the child, the meaning of the evaluation data, and the placement options
	Parental participation required	Parental participation not required
Plan	IEP must be in writing	No requirement that Section 504 plan be in writing
	Specific requirements	No specific requirements
Plan review	At least once every year	Periodic
Re-evaluation	At least once every three years	Periodic
MDR meeting required before suspension longer than 10 days or expulsion	Yes	Yes
Dispute resolution	A due process complaint is an option	A due process complaint might be an option
	A formal state complaint is an option	A formal state complaint might be an option
	A complaint to OCR is only available for disability discrimination, not for violations of FAPE	A complaint to OCR is an option

Dispute Resolution

There are five ways to resolve disagreements between you and your child's school district. One of them is simply informal communication and collaboration between you and the district. The others are mediation, a formal state complaint, a due process complaint, and a federal civil rights complaint.

5 primary ways of resolving disagreements between parents and school districts:

- **Informal communication**
- **Mediation**
- **Formal state complaint**
- **Due process complaint**
- **Civil rights complaint**

Mediation

Either you or your child's school district may request mediation if a conflict arises.

Mediation must be voluntary on the part of you and your child's school district, must be conducted by an impartial mediator — someone who is not an employee of the Louisiana Department of Education or the school district itself — and who does not have a personal or professional conflict of interest.

Mediation must not be used to deny or delay a hearing on your due process complaint, or any other rights under the IDEA.

Each mediation session must be scheduled in a timely manner and must be held in a location that is convenient for you and the school district.

Your child's school district must bear the cost of the mediation, so it is free for you.

The mediator has no authority to make a decision, but instead helps you and the school district reach a solution.

If you and the school district resolve a dispute through mediation, you both must sign a legally binding agreement. The agreement must describe the resolution and state that all discussions during the mediation process will be kept confidential. The agreement must also state that it may not be used as evidence in any due process hearing or civil proceeding in the future. You and a representative of the school district must sign the agreement. If you have trouble understanding the agreement, do not be afraid to ask for an explanation.

Formal state complaint

You can file a complaint with the Louisiana Department of Education claiming that the school district has violated the IDEA. It must include the facts of the alleged violation and your signature.

The complaint must include your child's name, school and address; a description of the facts

related to the problem involving the child; and a proposed way to resolve the problem. You must also state that the school district violated a requirement of Part B of the Individuals with Disabilities Education Act or state implementing regulations. Be sure to include your name and contact information.

You must file your complaint within a year of the alleged violation, or it will have no legal effect.

The complaint must be mailed or emailed to:

Louisiana Department of Education
Attention: Legal Division
P.O. Box 94064
Baton Rouge, Louisiana 70804-9064
DisputeResolution.DOE@la.gov

You can find a sample formal state complaint form in Appendix H. You must also send a copy of your complaint to your child's school district (or charter school, if appropriate) at the time you file your complaint.

After you file your complaint, the Louisiana Department of Education will forward a copy of the complaint to your child's school district. At that time, you and the school district can choose to use mediation or other informal means to resolve your complaint.

The school district must have the opportunity to respond to your complaint, and the Louisiana Department of Education must send you a copy of the school district's written response. In it, the school district must include a statement about the issues in your complaint, and it may include a proposal for a way to resolve it, or possibly a proposal to mediate the dispute.

If the Louisiana Department of Education determines that an investigation is needed, it has 60 calendar days after you file your complaint to complete an independent, on-site investigation. The department must give you an opportunity to file additional information — either verbally or in writing — about your complaint.

After taking those steps, the department must review all relevant information and make an independent determination about whether the school district is violating a requirement of the IDEA. Then, the department must issue a written decision that addresses each allegation in your complaint and includes a statement of the

allegations it investigated, findings of fact and conclusions for each allegation, and the reasons for its final decision.

To resolve a complaint when the Louisiana Department of Education has found that a school failed to provide the appropriate services, the school district must create an “Improvement Plan,” detailing how it will address the complaint and the Louisiana Department of Education’s findings. If the department is satisfied that the district has responded to the complaint, offered to provide the remedy you requested in your complaint, or finds that you have withdrawn your complaint, it will consider that complaint resolved.

Due process

Due process is a formal, legal process for resolving disputes about matters relating to the identification, evaluation, or educational placement of a child with a disability, or the provision of a free appropriate public education to the child.

A “due process” complaint filed by you or by your child’s school district starts the process.

Timing, content, and filing of the complaint

You must file your complaint within one year of the alleged violation. The one-year requirement does not apply if you were prevented from filing a due process complaint because the school district falsely told you it had resolved the problem, or if the school district withheld information from you that it should have shared.

After you file a due process complaint, you must provide a copy of it to the Louisiana Department of Education and the school district. The due process complaint must include your child’s name, address, and school; a description of the problem or dispute, including all relevant facts; and a proposed way to resolve the problem.

Pre-hearing

After you have filed a due process complaint, your child’s school district must inform you of any free or low-cost legal and other relevant services that are available in the area.

Within five days of receiving a due process complaint, the hearing officer (who acts like a judge) must decide whether your complaint meets the requirements outlined above. The hearing officer must notify you and the school district in writing of the decision.

Resolution meeting

If you file a due process complaint, your child’s school district must hold a meeting (called a “resolution meeting”) with you and relevant members of the IEP team, within 15 days of receiving notice of the complaint. This must happen unless you and the school district agree in writing to waive the meeting or use the mediation process.

If the school district files a due process complaint, it is not required to hold a resolution meeting with you. However, you and the school district may choose to use mediation to resolve the issues in the complaint.

The purpose of the resolution meeting is to provide an opportunity for you and the school district to discuss and try to resolve the complaint. The meeting must include a school district representative who has decision-making authority on the school district’s behalf. The school district must not have an attorney in the meeting, unless you have one, too.

If you decide not to participate in the resolution meeting, it could delay the timelines (discussed below under the “Hearing” section) for a due process hearing until the meeting happens. If the school district cannot get you to participate in the resolution meeting after it has made reasonable efforts and has documented those efforts, it can ask to have your complaint dismissed.

If the school district fails to hold the resolution meeting within 15 days of receiving notice of the complaint, you can ask the hearing officer to go ahead with the due process hearing.

If you and the school district are able to resolve the dispute at the meeting, you both must sign a legally binding agreement. You and the school district then have three business days to void the binding agreement.

Hearing officer

The Louisiana Department of Education will assign an impartial hearing officer to address the complaint. A hearing officer must not be an employee of the Louisiana Department of Education or of your child’s school district. The hearing officer must also not be anyone who has a personal or professional relationship that conflicts with their ability to be neutral and unbiased in the hearing.

Tip

Going to a due process hearing is similar to going to court; participants must follow special rules and procedures. Although some parents have represented themselves successfully, consider consulting with an attorney before moving forward.

A hearing officer must conduct a fair hearing, ensure that the rights of everyone in the dispute are protected, define the issues involved, consider all relevant and reliable evidence, ensure an orderly presentation of the evidence and issues, and reach a fair, independent and impartial decision based on all the issues and evidence that are presented in the hearing.

Hearing

If your child's school district has not resolved the due process complaint to your satisfaction within 30 calendar days (the "30-day resolution period") from when it receives notice, then the due process hearing will take place. Each hearing must take place at a time and place that is reasonably convenient to you and your child. The hearing officer will set a date, time, and place for the hearing.

The hearing must occur no more than 45 days after one of the following events: (1) you and the school district have agreed in writing to waive the resolution meeting, so there is no 30-day resolution period at all; (2) you and the school district have agreed in writing, after you have started mediation or resolution meetings but before the 30-day resolution period ends, that no resolution is possible; or (3) you and the school district have agreed in writing to continue mediation at the end of the 30-day resolution period, but later, either you or the school district have backed out of the mediation.

At the end of those 45 days, the hearing officer must hold a hearing and issue a final decision.

Additionally, at least five business days before a hearing, you and the school district must share any evidence that will be presented at the hearing, including evaluations, expert recommendations, and school records. The hearing officer may prevent anyone who does not comply with the notice requirement from introducing any evaluation or recommendation at the hearing.

At the hearing, you and the school district have the right to bring to the hearing a lawyer and/or other people who have special knowledge or training concerning children with disabilities. You and the school district also have the right to present evidence, cross-examine witnesses, require the attendance of witnesses, and prohibit new evidence from being presented at the hearing that has not been shared five business

days before the hearing. You also have the right to a written or electronic record of the hearing, as well as a written or electronic record of the findings of fact and the decision, at no cost.

Federal Civil Rights Complaint

The Office for Civil Rights (OCR) of the U.S. Department of Education is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on disability in any program or activity that is operated by recipients of federal funds. OCR also enforces Title II of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability by public entities, whether or not they receive federal funds. OCR is not responsible for enforcing the IDEA.

However, OCR handles complaints about children with disabilities who suffer from discrimination because of their disabilities. This can overlap with rights under the IDEA. See Section XI.

Ordinarily, if your complaint is about discrimination that your child faced due to having a disability, you must file a complaint with OCR within 180 days (six months) of the last alleged act of discrimination.

Louisiana is covered by the OCR's Regional Office in Dallas. Complaints must be made in writing and can be filed in any of the following ways:

Online

<https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

By email

OCR.Dallas@ed.gov

By fax

(214) 661-9587

By mail

U.S. Department of Education
Office for Civil Rights
Renaissance Tower
1201 Elm St., Suite 1000
Dallas, TX 75270

Summary of Dispute Resolution Options

	Mediation	State Complaint	Due Process	Resolution Session	Office for Civil Rights (OCR)
How is the process initiated?	Both parent and LEA must agree to participate	Parent or organization files with Louisiana Department of Education	Parent or LEA files due process complaint	Due process complaint filed	Parent or organization files with OCR
What issues may be addressed?	Any matter concerning the IDEA and its federal and state implementing regulations	Any alleged violation of the IDEA and its federal and state implementing regulations	Any matter concerning identification, evaluation, placement, or provision of FAPE	Any matter concerning identification, evaluation, placement, or provision of FAPE	Discrimination on the basis of disability, race, color, national origin, ethnicity, ancestry, sex, gender, or age
When must it be requested or filed?	Not specified	Generally, within one year from the violation	Generally, within one year after learning of the issue	Generally, within 15 calendar days of the due process complaint being filed	Generally, within 180 calendar days from the last alleged acts of discrimination
When must it be resolved?	No deadline specified	Generally, within 60 calendar days	45 days after end of resolution period and 20 school days from filing if expedited	Up to 30 calendar days	No deadline specified
Who resolves the issue(s)?	Both parent and LEA must agree to written resolution	Louisiana Department of Education	Administrative Law Judge	Both parent and LEA must agree to written resolution	Either parties in mediation or OCR

Appendix

Appendix A

Definition of Disabilities/ Areas of Eligibility

Autism 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 autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

Deaf-blindness means a combination of hearing and visual impairments that cause such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs that are solely for children with deafness or solely for children with blindness.

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

Emotional disturbance means 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
- A general pervasive mood of unhappiness or depression
- A tendency to develop physical symptoms or fears associated with personal or school problems

Hearing impairment means a loss of auditory function, whether permanent or fluctuating, that adversely affects a child's educational performance, but that is not included under the definition of deafness in this section.

Intellectual disability means significantly sub-average general intellectual functioning, existing at the same time with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance. The term "intellectual disability" was formerly termed "mental retardation."

Multiple disabilities means a combination of impairments (e.g., intellectual disability-blindness or intellectual disability-orthopedic impairment) that together create such severe educational needs that they cannot be accommodated in special education programs that are designed for only one of the impairments. The term "multiple disabilities" does not include deaf-blindness.

Orthopedic impairment means a severe abnormality in bones, muscles, or ligaments 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 impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that 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
- Adversely affects a child's educational performance

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 do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.

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

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 including blindness means a decreased ability to see that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

Appendix B

Examples of Supports for School Personnel, Accommodations, and Modifications

Supports for school personnel:

- Training
- Mentoring
- Interpreter in the classroom or for parent communications
- Aides and behavioral specialists in the classroom
- Extra time for collaboration and planning
- Special equipment or teaching materials

Examples of timing and scheduling accommodations or modifications:

- Additional time
- Adjusted timelines
- Rest breaks
- Regular routines or schedules
- Visual daily schedules

Accommodations or modifications in materials and how information is communicated:

- Review of directions and materials
- Textbooks for at-home use
- Use of alternative books or materials on the topic being studied

- Scribe for note-taking
- Provision of notes, outlines, and materials with appropriate highlighting
- Extra visual and verbal cues and prompts
- Hands-on activities
- Use of mnemonics
- Use of large-print textbooks
- Use of manipulatives (objects students can touch)
- Use of books on tape or video supplements in place of reading text
- Use of a tape recorder for lectures
- Use of graphic organizers
- Supplementing auditory presentations with visuals (and vice versa)
- Immediate feedback
- Directions read aloud
- Reworded questions in simpler language

Examples of response/work accommodations or modifications:

- Answers dictated to scribe
- Use of a calculator, computer, or word processor

- Use of graph paper to assist in organizing or lining up math problems
- Use of adaptive writing utensils
- Use of augmentative communication devices
- Use of software that provides practice on basic skills
- Alternative assignments (e.g., projects instead of written reports)
- Modified workload or length of assignments/tests

Examples of setting, location or environmental accommodations or modifications:

- Space for movement or breaks
- Quiet corner, study carrel or room to calm down and relax when anxious
- Preferential seating
- Separate classroom to complete work, assessments or tests
- Altered classroom arrangement
- Reduction of distractions
- Assistance in maintaining uncluttered space
- Permission to move from place to place in the classroom

Examples of testing accommodations and modifications:

- Oral testing
- Choice of test format (e.g., multiple-choice, essay or true-false)
- Alternate ways to evaluate (e.g., projects or oral presentations)
- Open-book or open-note tests
- Study guides
- Highlighting key directions
- Previewing test procedures
- Simplified or rephrased test wording and/or directions
- Untimed test or extra time
- No penalty for spelling errors or sloppy handwriting
- Modified grades based on IEP
- Word bank of choices for answers to test questions

Examples of behavior accommodations and modifications:

- Cue expected behavior
- Daily feedback to student
- De-escalation strategies
- Positive reinforcement or access to preferred reinforcers
- Proximity or touch control
- Peer supports and mentoring
- Modeling expected behavior
- Chart progress and maintain data
- Verbal and visual cues regarding rules
- Travel between classes before or after other children
- Home-school communication tools, such as a notebook, daily log, phone calls, or emails
- Daily check-in with case manager or special education teacher

Appendix C

Key Sections of Louisiana's Model IEP Form

General Student Information

- Primary disability/exceptionality and secondary (if applicable)
- Names and positions of IEP team participants
- Parent concerns
- Progress or lack of progress
- Special considerations, including:
 - Communication
 - Assistive technology
 - Students who are blind or visually impaired
 - Students who are deaf or hearing-impaired
 - Behavioral intervention
 - Students with limited English proficiency (English Learners)
- Special transportation
- Classes and activities with non-disabled peers
- Extended School Year (ESY) Services (summer services)

Services

- Specially designed instruction
- Instruction/functional accommodations
- Program modifications
- Related services
- Supports for personnel

Placement, including school site

Transition Services (if applicable)

- Measurable Postsecondary Goals, including:
 - Training or Education
 - Employment
 - Independent Living
- Transition assessments
- Transition services
- Graduation date

Instructional Plan (for each area of need)

- Present levels of academic achievement and functional performance
- Measurable annual goals and short-term benchmarks
- Method of measurement
- Date Achieved
- Accommodations, including:
 - Instruction accommodations
 - Testing accommodations
 - Timing and scheduling accommodations

Program

- Participation in the statewide assessment program

Appendix D

Additional Tips

Here are some pointers on how to deal with school officials and how to help your child succeed.

Be involved and visible

- Build a relationship with your child's teachers, school, and school district administrators. Give positive feedback to school staff about things that are working for your child. If possible, visit classes, volunteer at the school, attend school events, and join your local parent organization.
- Share articles of interest and other resources with teachers and other school personnel. Read all documents you receive from the school carefully. Ask your child about school every day. Check your child's grades and academic progress throughout the school year.

Communicate frequently and effectively

- Make sure the school always has your most up-to-date contact information. Make sure you have the contact information for your child's school and teachers. See Appendix G for a chart you can use to organize contact information.
- Communicate regularly with your child's teachers throughout the year (notebooks, phone calls, emails, meetings, and parent-teacher conferences). If you speak with a school staff member, via phone or in person, and they agree to do something to help your child, send them a follow-up email or letter to confirm what you discussed.
- Bring questions, concerns, and praise to parent-teacher conferences and other meetings. During meetings, take notes, ask questions,

and confirm any important points to make sure you and the teacher are on the same page. Do not be afraid to repeat back to the teacher what the teacher just told you so they can be sure they explained themselves correctly to you.

- Keep a log of all communication you have with school staff (see Appendix G), including phone calls, voicemails, letters, and meetings.

Be organized and informed

- Read the school district's (and the school's, if different) student and parent handbook. Keep copies of all documents you receive from the school. Develop a system for maintaining and organizing your child's records. For example, create a binder with the following sections: grades and test results, evaluations, meeting invitations, IEP team meeting notes, IEPs and prior written notices, progress reports, communications, behavioral records, miscellaneous.
- Also, once a year, request and review your child's educational records that the school maintains.

Help ensure that your child is ready to succeed in school

- Check your child's homework each night. Encourage them to read every day. Make sure they get plenty of sleep and eat a healthy breakfast. Encourage them to get involved in positive extracurricular and enrichment activities. Make sure they maintain a well-organized backpack and notebooks.
- Don't be afraid to ask for help, and don't give up!

Appendix E

Commonly Used Acronyms and Abbreviations

- **504** – Section 504 of the Rehabilitation Act of 1973
- **ADA** – Americans with Disabilities Act
- **AT** – assistive technology
- **ADHD** – attention-deficit/hyperactivity disorder
- **AU/ASD** – autism/autism spectrum disorder
- **BIP** – behavioral intervention plan
- **DD** – developmental delay
- **ED** – emotional disturbance or emotional disability
- **ELL** – English language learner
- **ESL** – English as a second language
- **ESY** – extended school year
- **FERPA** – Family Educational Rights and Privacy Act
- **FAPE** – Free appropriate public education
- **FBA** – functional behavioral assessment
- **HI** – hearing impairment
- **IAP** – Individual Accommodation Plan
- **IEE** – independent educational evaluation
- **IEP** – Individualized Education Program
- **IDEA** – Individuals with Disabilities Education Act
- **ID** – intellectual disability
- **IAEP/IAES** – interim alternative educational program/setting
- **LDE** – Louisiana Department of Education
- **LRE** – least restrictive environment
- **LEP** – limited English proficiency
- **LEA** – local education agency
- **MDR** – manifestation determination review
- **MTSS** – multi-tiered system of supports
- **OT** – occupational therapy
- **OCR** – Office for Civil Rights
- **ODD** – oppositional defiant disorder
- **OHI** – other health impairment
- **PT** – physical therapy
- **PBIS** – positive behavioral interventions and supports
- **PWN** – prior written notice
- **SED** – serious emotional disability
- **SPED** – special education
- **SLD/LD** – specific learning disability/learning disability
- **SLI** – speech-language impairment
- **SLP** – speech-language pathologist
- **SEA** – state education agency
- **SWD** – student with a disability
- **TBI** – traumatic brain injury
- **VI** – visual impairment

Appendix F

Resources

Legal Assistance

Disability Rights Louisiana
1-800-960-7705
disabilityrightsla.org/get-help-now/

Loyola Law Clinic
504-861-5590
law.loyno.edu/centers/law-clinic-center-social-justice

Other Support and Advocacy

Families Helping Families of Greater New Orleans
fhfogn.org/

Northshore Families Helping Families
985-875-0511
fhfnorthshore.org/

Friends and Families of Louisiana's
Incarcerated Children (FFLIC)
fflic.org/

Louisiana Council's Advocacy Network
laddc.org/Lacan/

Louisiana Center for Children's Rights
lakidsrights.org/

Orleans Public Education Network (OPEN)
opennola.org/

Government Agencies

Louisiana Department of Education
<https://www.louisianabelieves.com/students-with-disabilities>

U.S. Dept. of Educ. – Office of Special Education
Programs
ed.gov/about/offices/list/osers/osep

U.S. Dept. of Educ. – Office for Civil Rights
ed.gov/about/offices/list/ocr

U.S. Dept. of Justice – Disability Rights Section
justice.gov/crt/disability-rights-section

Regulations

Individuals with Disabilities
Education Act – Regulations
law.cornell.edu/cfr/text/34/part-300

Section 504 of the Rehabilitation
Act of 1973 – Regulations
law.cornell.edu/cfr/text/34/part-104

Louisiana Policies and Procedures Regarding
Children with Disabilities
<https://www.louisianabelieves.com/students-with-disabilities>

Additional Information

Center for Parent Information and Resources
parentcenterhub.org

Understood
understood.org

Wrightslaw
wrightslaw.com



Appendix G

Tools

Contacts

Position	Name	Phone Number	Email
Principal			
Assistant Principal			
Special Ed. Coordinator			
Teacher			
Teacher (if applicable)			
Teacher (if applicable)			
Teacher (if applicable)			
Teacher (if applicable)			
Teacher (if applicable)			
School Psychologists			
Guidance Counselor			
School Nurse			
*Specialists			
*Specialists			
Other			

***Examples: occupational therapist, physical therapist, psychologist, speech/language pathologist**

Meeting Notes

Date	Time	Location

Type of meeting (check all that apply):

☐	evaluation/re-evaluation	☐	functional behavioral assessment
☐	annual review	☐	behavioral intervention plan
☐	manifestation determination review	☐	other:

Participants:

Name	Title/Position	Name	Title/Position

Conversation:

Documents distributed or shared:

Parent School Call Log

Date	Time	Name(s) of School Staff	Notes



Appendix H

Sample Letters

Initial Evaluation Request

Date: _____

RE: INITIAL EVALUATION REQUEST

Dear _____:

I write to request a comprehensive evaluation of my child, _____.

I suspect my child has a disability, and may be eligible for an Individualized Education Program (IEP), because:

I am requesting a copy of the evaluation results before the meeting to review the evaluations. Please provide these copies free of charge, as I would not otherwise be able to review my child's educational records. My contact information is below so that someone may contact me to schedule a date and time for the meeting. Thank you in advance for your assistance.

Sincerely,

Name: _____

Address: _____

Phone: _____

Email: _____

Request for an Independent Educational Evaluation

Date: _____

RE: REQUEST FOR AN INDEPENDENT EDUCATIONAL EVALUATION

Dear _____:

I write to request an independent educational evaluation (IEE) of my child, _____, because I disagree with the school's/district's evaluation. As you know, the IEE must be conducted by a qualified examiner who is not employed by the school/district at public expense (i.e., at no cost to me).

Please provide me, as soon as possible, with:

- written criteria under which independent evaluations must be conducted
- a written list of independent evaluators I may consider

My contact information is below. Thank you in advance for your assistance.

Sincerely,

Name: _____

Address: _____

Phone: _____

Email: _____

Request for an IEP Committee Meeting

Date: _____

RE: REQUEST FOR AN IEP COMMITTEE MEETING

Dear _____:

I write to request an IEP committee meeting for my child, _____, to discuss:

- ☐ my child's academic progress
- ☐ my child's social or emotional progress
- ☐ my child's behavioral progress
- ☐ changes to my child's IEP
- ☐ a re-evaluation of my child
- ☐ my child's placement
- ☐ conducting a functional behavioral assessment (FBA) for my child
- ☐ creating a behavioral intervention plan (BIP) for my child
- ☐ changes to my child's BIP
- ☐ other: _____

Specifically, I would like to discuss _____

My contact information is below so that someone may contact me to schedule a date and time for the meeting. Thank you in advance for your assistance.

Sincerely,

Name: _____

Address: _____

Phone: _____

Email: _____

Request for Records

Date: _____

RE: REQUEST FOR RECORDS

Dear _____:

I am the parent of _____.

Pursuant to the Individuals with Disabilities Education Act (IDEA) and the Family Educational Rights and Privacy Act (FERPA), I write to request:

- ☐ A copy of my child's education records. Please waive any applicable charges for the copies because the fees would effectively prevent me from exercising my right to review the records.
- ☐ An opportunity to review my child's education records.

My contact information is below so that someone may contact me to make arrangements.
Thank you in advance for your assistance.

Sincerely,

Name: _____

Address: _____

Phone: _____

Email: _____

Formal State Complaint

Date: _____

Louisiana Department of Education
Attention: Legal Division
P.O. Box 94064
Baton Rouge, Louisiana 70804-9064
DisputeResolution.DOE@la.gov

RE: FORMAL STATE COMPLAINT

Dear Parent Consultant:

I write to file this formal state complaint. I am the parent of _____.

My contact information is below. My child's address is the same as mine.

_____ School,
in the _____ School District,
violated the Individuals with Disabilities Education Act (IDEA) within the last year by:

I propose the following to remedy the violation(s):

Sincerely,

Name: _____

Address: _____

Phone: _____

Email: _____

Functional Behavioral Assessment

Date: _____

Special Education PED Director/Counsel Name and Title:

Address: _____

RE: REQUEST FOR FUNCTIONAL BEHAVIORAL ASSESSMENT

Dear (Special Education Director/Counsel Name),

I am the parent/guardian of _____.

I appreciate the _____ School District for
initiating an evaluation for _____

under the Individuals with Disabilities Education Act (IDEA). I am writing to request, as part of
that evaluation and pursuant to IDEA's requirement that school districts assess students in all
areas related to the disability, that the district fund a board-certified behavior analyst (BCBA) to
conduct a functional behavioral assessment (FBA) of _____.

I am requesting a BCBA in particular in an effort to ensure that the assessment is valid and
reliable.

Sincerely,

Name: _____

Address: _____

Phone: _____

Email: _____

Appendix I

Charter Schools

In most cases, a charter school is its own Local Education Agency (“LEA”). Each LEA is responsible for providing special education services to its students.

If your child attends school in Orleans Parish, they almost certainly attend a charter school. This is because, after Hurricane Katrina struck New Orleans in 2005, the city shifted to an all-charter system of public schools. The organization and structure of the school system changed, transitioning from one LEA to over 50 LEAs, as almost every school became its own school district. The special education laws governing the school district and state, however, did not change.

In New Orleans, like everywhere else in the state, the Louisiana Department of Education and the Orleans Parish School Board still must abide by federal laws regarding students with disabilities.

This means that, if you need to resolve a dispute with your child’s charter school, you can get the school district and the Louisiana Department of Education involved. The same dispute resolution options are available to you, including filing a complaint with the Louisiana Department of Education or the U.S. Department of Education Office for Civil Rights.

If your child goes to school in Orleans Parish, you can also consider seeking relief through the Orleans Parish School Board complaint system at nolapublicschools.com/ecs-disability-discrimination-complaint-procedures/.

If you have any difficulty using the Orleans Parish complaint system, please reach out to the Southern Poverty Law Center (SPLC).



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