

The Handbook



Parental Rights & Special Education Procedures



Parents Reaching Out

Spring 2011

Yesterday's Child

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YESTERDAY'S child was born in the 1800's. As a young boy, he was considered medically fragile. Every respiratory illness known to mankind in that age seemed to seize him. Even though **YESTERDAY'S** Child spent many of his early years ill, this did not stop his insatiable curiosity and boyish escapades. **TODAY'S** child would be described as "just being a boy".

YESTERDAY'S child is often found in risky life and death situations. Around the age of 5, this boy nearly drowned in a canal; then almost smothered as he sank into the depths of a grain elevator. **TODAY'S** child would be described as "having no common sense."

YESTERDAY'S child was found asleep in the barn in a nest he had constructed, lying on top of the chicken and goose eggs he was trying to hatch. "Get off those eggs, you'll crack them!" **TODAY'S** child would be called "weird, eccentric."

YESTERDAY'S child drove his parents to exhaustion by his persistent questioning of the world around him, determined to know the "whys", "what fors", and "what abouts" of his world. **TODAY'S** child is searching for someone to ask the question to.

YESTERDAY'S child, with no malice aforethought but only of the intense curiosity of an inquisitive mind, set his father's barn on fire. For this he was publicly thrashed by his father, who tried to instill in him the serious consequences of his actions. **TODAY'S** child would be called a: juvenile delinquent."

After only three months of formal education, **YESTERDAY'S** child walked out of his school in a fit of rage. Running home, he could hear the thoughts of the school-master echoing in his head: "stupid.... stubborn...difficult." Thus at the tender age of eight, **YESTERDAY'S** mother gave the schoolmaster a piece of her mind and withdrew the boy from school. From that day onward, she became **YESTERDAY'S** teacher. **TODAY'S** child would be called "a problem child, a bad boy, oppositional." And **TODAY'S** mother would be told she was "highly excitable, and coddling her child." She would be encouraged by all the experts to force her child to return to school because "He'll outgrow it. He's got to learn to adjust."

YESTERDAY'S child went swimming with a friend in a nearby creek. When the friend didn't surface for air, **YESTERDAY'S** child waited for what seemed like forever. As darkness fell, in his own unique five-year-old logic, **YESTERDAY** concluded that it was time to go home. As the town was trying to piece together the disappearance and the drowning of his friend, he tried to explain how he waited for what seemed like forever.... **TODAY'S** child would be treated for "Conduct Disorder" and would undoubtedly find himself one step away from the juvenile justice system.

YESTERDAY just could not comprehend the consequences; that much seems true. One day he attached wires to the tails of two cats and energetically rubbed their fur. This experiment in static electricity went astray when he was brutally clawed. One unsuspecting childhood friend suffered an upset stomach after **YESTERDAY** gave him some sort of powder just to see if the resulting gas it produced would send him flying. **TODAY'S** child would be in therapy for Attention Deficit Hyperactivity Disorder Pervasive Development Disorder, or some other behavioral disorder.

YESTERDAY'S mother complained constantly about the life-threatening condition of his bedroom. Fearing for the safety of her family and any others who ventured into the family home, **YESTERDAY'S** mother moved his experiments into the cellar. **YESTERDAY** called it his laboratory and immersed himself in science, to the exclusion of what other "normal" kids were doing at his age. **TODAY'S** child would be spending time in a court-ordered alternative school program, meeting with psychiatrist twice a week for therapy, and be enrolled in a class to learn social skills.

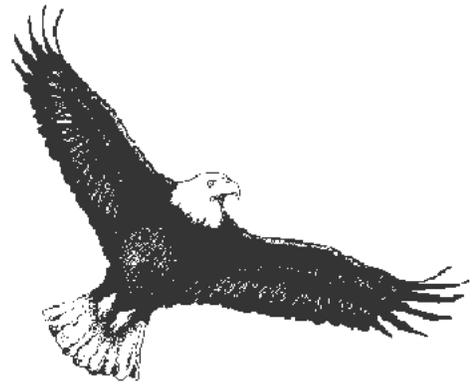
At age twelve **YESTERDAY'S** child insisted on going to work and began successfully earning his own wage. **TODAY'S** child, you are probably wondering how he could have survived and how he could have contributed to society in a positive way. Clearly, **YESTERDAY** had somebody who accepted his uniqueness, changed his environment to meet his needs, was not intimidated by his gifts, and tried sincerely to see the world through his eyes. **YESTERDAY'S** name is *Thomas Alva Edison*. *What is your child's name?*

Welcome to Parents Reaching Out!

This booklet is designed to help parents become full, participating members of their child's Individualized Education Program (IEP) team. We hope this booklet will help parents in a variety of ways. It is designed to help parents:

- Go the extra mile to build a relationship with their education partners,
- Understand the intent of the law,
- Understand each IEP component and the value of a properly written IEP,
- Participate fully in the IEP meeting,
- Gain problem solving strategies,
- **ABOVE ALL, DREAM FOR THEIR CHILDREN!**

Our hope is that this booklet will play a small part in helping the DREAMS come true for families in New Mexico.



No one can predict
To what heights you can soar.

Even you will not know
Until you spread your wings and fly.

NM Parent Training and Information Center Staff

IDEA 2004

The reauthorized Individuals with Disabilities Education Act (IDEA) was signed into law December 3, 2004. The final regulations were published on August 14, 2006.

The Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education prepared a series of documents that cover a variety of high-interest topics that bring together the statutory language related to those topics to support implementation of the new requirements. You may view or download these topical papers by visiting their website:

Building the Legacy IDEA 2004

<http://idea.ed.gov/explore/home>

If you do not have access to the internet, contact Parents Reaching Out. Our staff will provide you with the topical papers that meet your needs. The topical papers include:

- Alignment With the *No Child Left Behind Act*
- Changes in Initial Evaluation and Reevaluation
- Children Enrolled by Their Parents in Private Schools
- Discipline
- Disproportionality
- Early Intervening Services
- Highly Qualified Teachers
- Identification of Specific Learning Disabilities
- Individualized Education Program (IEP) Team Meetings and Changes to the IEP
- Individualized Education Program (IEP)
- Local Funding
- Monitoring, Technical Assistance and Enforcement
- National Instructional Materials Accessibility Standard (NIMAS)
- Part C Amendments in *IDEA 2004*
- Part C Option: Age 3 to Kindergarten Age
- Procedural Safeguards: Surrogates, Notice and Consent
- Procedural Safeguards: Mediation
- Procedural Safeguards: Resolution Meetings and Due Process Hearings
- Secondary Transition
- State Complaint Procedures
- State Funding
- Statewide and Districtwide Assessments



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Each public agency shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate. [34CFR §300.322] Under the IDEA 2004, parents are to be afforded the opportunity to participate in all meetings concerning their child.

Parents Reaching Out has made every attempt to ensure that the information contained in this publication is as timely and accurate as possible. All material is provided for informational and educational purposes. The organization expressly disclaims liability for errors and omissions in the contents contained within.

Dare to Dream

***Follow your dreams;
for as you dream,
so shall you become.***

~James Allen



***A vision begins with a DREAM.
Where will your child be when he or she reaches age 25?
How are we going to get him or her there?***

Attitude

Attitude is more important
than the past, than education, than money,
than circumstances, than what other people
think or say or do. It is more important
than appearance, giftedness or skill.
It will make or break a company,
a church or a home.

The remarkable thing is,
we have a choice,
every day,
regarding the attitude
we will embrace for that day.

We cannot change our past.
We cannot change the fact that
people will act in a certain way.
We cannot change the inevitable.
The only thing we can do
is play on the one string we have,
and that is our
attitude.

The Journey Begins



A Little History: In the 1970's, we (as parents) were happy just to get our severely involved kids into school. In fact, we thought our children needed special schools and special classrooms with special teachers. Once the children with significant disabilities were allowed in school, it didn't take long for someone to decide that other students would benefit from all of that special stuff. Hence, children with milder disabilities were shuffled off to special education, as well. After some pain, heartache and a zillion IEPs, we have figured out that all of that special stuff really did not help our children become productive citizens. The truth is that not much has really changed over the past 27 years.

- *Our children drop out of school at nearly twice the rate of their non-disabled peers.*
- *Our children stay home after their school experience and are unemployed or underemployed.*

When you look at the whole picture, youth with disabilities are still struggling and we don't see good outcomes for people with disabilities. Wouldn't it be nice if we could just point our finger at a single individual or system and blame them or it? It's not that easy! No matter what the actual cause --We all own a little piece of the reasons why the outcomes for children with disabilities fall short of success!

A few key strategies have proven to help create positive outcomes for youth with disabilities. One key to a path for success is a well thought out plan for the future that is developed early and is followed by all. The second key to positive outcomes is highly involved parents and a third is inclusive schools. When youth with disabilities are educated with their non-disabled peers good things happen. Self-esteem is greatly improved and expectations are much higher for all students. When there are high expectations, the outcomes are better and the skills learned become useful tools for the future. We will devote this portion of the book to the "well thought out plan" or Transition.

The Individuals with Disabilities Education Act (IDEA 2004), defines **transition services** as a coordinated set of activities for a child with a disability that—

(1) Is designed to be within a results oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes—instruction; related services; community experiences; the development of employment and other post school adult living objectives; and if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education. 34 CFR 300.43 (Authority: 20 U.S.C. 1401(34))

The Transition Process –The Compass for Your Journey

Transition planning is ongoing throughout a student's education and is guided by goals, objectives and transition activities. It is a process that builds on itself each year and goals evolve and change as the student grows. Transition activities should be discussed and initiated during regularly scheduled annual reviews and IEP meetings. The vision for the future is created and then each year specific goals and objectives are met to work towards the vision. Planning for transition services should be evident in the Present levels of educational performance (PLEP), the annual goals, and short-term objectives and benchmarks for elementary students.



The transition planning process brings together an integrated set of services and agencies to promote a smooth continuum between all educational program phases starting with early intervention, preschool to adulthood. Transition planning provides families with opportunities to access and reevaluate their expectations for the student during each phase in the process.

Beginning in the early years of the life of a child, his/her family must articulate a realistic long term DREAM or vision. (Don't forget to reach for a little extra!) This dream must be revisited at every IFSP and IEP meeting to ensure that subsequent planning is driven by this dream and that the dream is still the optimal one for the student.

The transition process may be broken down as follows:

- A coordinated set of activities,
- Designed and conducted within an results oriented process,
- Based on the students individual needs,
- Taking into account the student's and families preferences and interest,
- That promotes movement from each phase of school to post school activities.

The primary age phases in the transition planning process are the following:

- Early intervention services to preschool
- Preschool to kindergarten
- Elementary to Middle School
- Middle school to High School
- High School to adult life



There are four principals to transition planning:

1. Articulate and clarify the student/family's dream or vision
2. Design and implement an appropriate school or alternative program
3. Write a formal plan for all significant educational phases
4. Identify a variety of appropriate exit options

When you really think about it, transition planning is like preparing for a relay race. Good planning on the part of the IEP team will help insure that the baton is not dropped (no gaps in services) as a child moves through school and on to post school activities.

Values

As adults, we all value certain things. The list is lengthy. In this section we are going to talk about self-determination, making choices, self-advocacy and independence.

Self-determination is about being in charge, making choices and accepting the consequences. It encourages people to make their DREAMS come true. Self-determination means that all of us need to learn to be Risk Takers! When thinking of self-determination, ask these six questions:

- Do I give the person with disabilities choices?
- Do I do things for her that she could do herself? (On a regular basis)
- Do I encourage him to try new things?
- Do I model ways to cope with and learn from mistakes?
- Do I allow more risk as my family member becomes more responsible?
- Do I give her opportunities to learn skills of daily living?



Making choices also means having to live with the consequences of those choices, both good and bad. Adults make choices both important and ordinary, every day. Sometimes you can weigh options when making decisions. Sometimes you wish there were different alternatives or that someone else could take responsibility for making the choice.

Children make choices too. However, children with disabilities make fewer choices for themselves than do their peers without disabilities. A study of high school students with and without disabilities found that although all of the students in the study possessed the same capabilities to reason and problem solve; the students with disabilities did not have the same skills to use in developing independence and making choices. The reason given was that parents and people working with students with disabilities tend to do things for them instead of teaching the how to do things for themselves. Did you ever notice that sometimes it is easier to just do- it-ourselves than it is to wait on our students to do it?

Parents can begin the process of helping their children make choices while their child is very young. The sooner you begin allowing “choices”, the more opportunities your child will have for “life experiences”!

Self-advocacy means standing up for your rights as a person. It means deciding what is best for you and speaking or acting on your own behalf. It often requires tremendous effort to make your voice heard. It also requires taking risks as you challenge rules or customs, acquire needed resources, and getting service providers to respond to your needs.

The skill of self-advocacy equips your son to take control of his life. He can learn from his mistakes and successes, preparing for the day when you, his parents, or school personnel are no longer available to manage his life.

Parents can encourage self-advocacy skills in the following ways:

1. Give your child opportunities to make decisions and experience the consequences.
2. Teach your child about his/her disability and how it impacts their life.
3. Practice role-playing situations in which he can learn to be a self-advocate.
4. Allow and encourage your child's independence.
5. Encourage your child to participate as an active IEP team member. As your child gains confidence, he/she may even want to take the "leading role".

You will be taking some risks as your child develops these skills. By expecting and accepting the consequences of choices, wrong as well as right, he/she will learn from these experiences as you did from yours. *Independence* comes in phases. It is the sum total of all the things we value will determine how independent we become.

The Domains of Adult Life

The major life domains provide a foundation for families and school districts to plan for success. Adult domains are those areas of adult functioning that require minimal degrees of competence and independence. In fact, these domains are so minimal that we, as adults, often take them for granted and forget that our students with disabilities often struggle with these basic life domains. As you review the following, think about what each of them means to you as an adult and then ask yourself these questions: "How is my child going to acquire these skills?" "Do they need to be addressed in the IEP?" The adult domains and sub-domains include:



Employment/Education

- ◆ General Job Skills
- ◆ General Education/Training Considerations
- ◆ Employment Setting
- ◆ Career Refinement/Re-evaluation

Leisure Pursuits

- ◆ Indoor Activities
- ◆ Outdoor Activities
- ◆ Community/Neighborhood Activities
- ◆ Travel
- ◆ Entertainment

Community Involvement

- ◆ Citizenship
- ◆ Community Awareness
- ◆ Service/Resources

Physical/Emotional Health

- ◆ Physical Health
- ◆ Emotional Health

Home and Family

- ◆ Home Management
- ◆ Financial Management
- ◆ Family Life
- ◆ Child Rearing

Personal Responsibility and Relationships

- ◆ Personal Confidence/Self Esteem
- ◆ Goal Setting
- ◆ Self Improvement
- ◆ Relationships
- ◆ Personal Expression

As families, we need to be aware that our children may have difficulty with each of the domains and begin to teach our children about each of them from a very early age. We must consider which areas that we, as families, can take responsibility for and those that need to be included in the IEP goals.



STATE OF NEW MEXICO
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SANTA FE, NEW MEXICO 87501-2786

VISION STATEMENT

“The New Mexico State Department of Education believes the education of all students must become the mission for all New Mexicans. We believe education must challenge all students to reach their potential.”

PART I - CHILDREN WITH DISABILITIES
INTRODUCTION

PHILOSOPHICAL FOUNDATIONS

Foremost to the delivery of service to children with disabilities in New Mexico is the recognition of five philosophical foundation adhered to by the New Mexico State Board of Education (NMSBE) and the New Mexico Department of Education (NMSDE):

- A) Equal Access - THE NMSBE AND THE NMSDE ARE COMMITTED TO THE PRINCIPLE OF EQUAL ACCESS TO A FREE APPROPRIATE PUBLIC EDUCATION FOR ALL CHILDREN, REGARDLESS OF VARIANCE IN THEIR ABILITY TO PARTICIPATE IN EDUCATION EXPERIENCES. CHILDREN WITH DISABILITIES CANNOT BE GUARANTEED EQUAL ACCESS TO AN APPROPRIATE EDUCATION WITHOUT SPECIALLY DESIGNED INSTRUCTION, IN ADDITION TO PROGRAMS AND SERVICES PROVIDED TO ALL CHILDREN;
- B) Right to Service - THIS PRINCIPLE ASSERTS THE RIGHT OF A CHILD WITH A DISABILITY TO RECEIVE THE SERVICES, WHICH PROMOTE GROWTH TOWARDS INCREASED INDEPENDENCE AND COMPETENCE AND ULTIMATE GOAL FOR ALL PERSONS IS TO LIVE AS FULL CONTRIBUTING MEMBERS OF SOCIETY, SERVICES FOR CHILDREN WITH DISABILITIES MUST BE DIRECTED TOWARD THIS GOAL;
- C) Respect for Human Dignity - IT IS THE INTENT OF THE NMSBE AND THE NMSDE THAT CHILDREN WITH DISABILITIES BE AFFORDED THE SAME DEGREE OF DIGNITY AND RESPECT AFFORDED OTHER CHILDREN AND MAY BE PROVIDED THE OPPORTUNITY FOR FULL INCLUSION, AS APPROPRIATE.
- D) Least Restrictive Environment - THIS PRINCIPLE DEMANDS THAT EACH CHILD WITH DISABILITIES RECEIVES APPROPRIATE SERVICES IN ENVIRONMENTS WHICH PROMOTE INTERACTION WITH PEERS WHO ARE NOT DISABLED TO THE MAXIMUM EXTENT APPROPRIATE TO MEET THE NEEDS OF THE CHILD. LEAST RESTRICTIVE ENVIRONMENT IS AN ESSENTIAL PRINCIPLE OF THESE RULES IF EACH CHILD IS TO ACHIEVE SELF-SUFFICIENCY AS A CONTRIBUTING MEMBER OF SOCIETY; AND
- E) Child Focused/Family Centered Decisions - THIS PRINCIPLE IS THE CENTRAL FOCUS OF SPECIAL EDUCATION. THE SPECIAL EDUCATION COMPLIANCE MANUAL REFLECTS THE ESSENTIAL PREMISE THAT ALL DECISIONS RELATED TO A CHILD WITH DISABILITIES ARE MADE BE TEAMS INCLUDING FAMILIES WHICH WORK TOGETHER TO DETERMINE, IMPLEMENT AND EVALUATE SERVICES BASED ON THE NEEDS OF A CHILD AND THE FAMILY.

SBE Regulation 90 – 2

GUIDING PRINCIPLES

The rules which are promulgated herein are consistent with five guiding principles. These guiding principles require that the rules established must:

- A) FOCUS ON THE NEEDS OF A CHILD AND THE FAMILY;
- B) GUARANTEE THAT SPECIAL EDUCATION AND RELATED SERVICES ARE DELIVERED TO APPROPRIATELY IDENTIFIED CHILDREN WITH DISABILITIES AND THAT THOSE SERVICES ARE DELIVERED IN THE LEAST RESTRICTIVE ENVIRONMENT APPROPRIATE TO EACH CHILD'S IDENTIFIED NEEDS;
- C) BE PREDICATED ON THE ULTIMATE GOAL OF PREPARING CHILDREN WITH DISABILITIES FOR THEIR FUTURE ENVIRONMENTS;
- D) COMPLY WITH CURRENT FEDERAL AND STATE LAWS AND IMPLEMENTING REGULATION; AND
- E) PROMOTE THE COOPERATION WITHIN AND ACROSS ALL AGENCIES WITHIN THE STATE WHICH HAVE RESPONSIBILITIES FOR SERVING CHILDREN WITH DISABILITIES AND THEIR FAMILIES.

SBE Regulation 90 – 2
Amendment 2

Learn from the past and let it lead you to the future.

We have included the original Vision, Philosophical Foundations and Guiding Principles to show the initial intent of the State Board of Education in 1990 when the first regulations were formulated.

In September 2004, New Mexico moved from the New Mexico State Department of Education and the State Board of Education to the New Mexico Public Education Department and a Secretary of Education appointed by the Governor. The State Board of Education is now the Public Education Commission with responsibility to advise the Secretary regarding education matters.

The current *Vision* is: *A world-class educational system in which all New Mexico students are prepared to succeed in a diverse and increasingly complex world.*

The current *Mission* is: *To provide leadership, technical assistance and quality assurance to improve student performance and close the achievement gap.*

Everyone who reads regulations has their own interpretation of what they mean. Parents Reaching Out believes that it is very important for families to understand the intent of the people who wrote the law. We encourage families to ask this question, *"Does the IEP reflect what the lawmakers intended? If not, why not?"*

The Law for Children with Disabilities



Least Restrictive Environment

Even though special education provides many safeguards, supports, services, modifications and accommodations for our children, these alone are not enough. The *place* where children are educated is very important. In fact, where they are educated may have more to do with who they are as adults than anything else.

Our state is rich in culture and diversity, how do we learn to maintain our rich heritages? We learn from each other! Children with disabilities are no different. We often think that academics produce productive community members and true academics are an indicator. Research has shown that academics alone do not produce better outcomes for children.

When children with special needs were first allowed to begin to participate in school (in the 70's) we all thought that special schools, special places and special teachers were what our children needed. Research has shown that, even though we provided all this special stuff outcomes for children with disabilities have still been poor. Research has shown that when children are educated with their non-disabled peers in the general education classroom they have better outcomes and a greater chance of becoming a contributing community member. The federal IDEA 2004 regulations even refer to children being educated in natural environments.

Following the IEP process step-by-step should lead to an appropriate program for your child in the Least Restrictive Environment. Only after supports and services have been provided in the regular classroom without success should an alternate placement be considered. Placement refers to a continuum of supports and services to help the child succeed. This decision is made at the IEP meeting by the IEP team. The placement decision is made after the team has shared all available information about your child, his present levels of educational performance, education needs and appropriate goals and objectives. This is one of the last decisions made by the IEP team at the IEP meeting.



The goal of the placement decision is to provide your child with a learning setting that will meet his/her individual needs.

A child can succeed in a regular classroom with appropriate services!

The IDEA 2004 mandates that a variety of placement choices be made available for children with disabilities.

The Laws for Children with Disabilities

As a parent of a child with a disability or suspected disability, it is not only best practice but required by law that you be given the opportunity to participate in all meetings concerning your child, meetings should be held at a mutually agreed upon time and place. Several laws support your child's right to a Free Appropriate Public Education and support your role as an advocate for your child.



The spirit throughout all the laws is truly that parents should be equal partners and team members with professionals. In this section of the book, we will provide information about laws and regulations concerning the rights of parents and children with disabilities.

The Individuals with Disabilities Education Act (IDEA)

Public Law P.L. 108-446

Public law 94-142 was passed by congress in 1975 and was originally called the Education for All Handicapped Children Act. On its 15th anniversary in 1990, the Act was re-authorized by congress and at that time, it received a new name under P.L. 101-476: Individuals with Disabilities Education Act or the IDEA. In 1997, congress reauthorized IDEA and the law became P.L. 105-17 IDEA '97. In 2004 congress reauthorized the law once again and it became P.L. 108-446. IDEA requires that a Free Appropriate Public Education (FAPE) be made available to all children with disabilities regardless of the type or severity of the disability. No child may be excluded from the public schools on the grounds that the child is too severely disabled to benefit from an education.

Every child is able to learn, and it is required by law that educational opportunities be provided for all. IDEA assures specific rights and safeguards to children with disabilities and their parents. In New Mexico, these rights are also assured to students who are gifted. IDEA contains six principals that provide the framework around which special education services are designed and provided to students with disabilities. These six principles are:

- **Free Appropriate Public Education (FAPE),**
- **Appropriate Evaluation,**
- **Individualized Education Program (IEP),**
- **Least Restrictive Environment (LRE),**
- **Parent and Student Participation in Decision Making, and**
- **Procedural Safeguards.**

Alone, and together, these six principles work to guarantee that children with disabilities can go to school every day, learn what other children learn, except perhaps in different ways, and have their individual educational needs determined and addressed.

Six Principles of IDEA

Free Appropriate Public Education (FAPE): IDEA requires that agencies provide special education and related services at no cost to the parent. It requires that an Individualized Education Program (IEP) be developed for each child with a disability. The IEP is based on the child's needs and specifies the child's present levels of educational performance (PLEP), program goals, objectives or benchmarks, and specific services to be delivered to the child.

Appropriate Evaluation: Evaluation is a process that involves obtaining and compiling as much information as possible from a variety of sources. These sources include: parent and teacher information, classroom observation, and a formal assessment of your child's educational abilities. The objective of evaluation is to provide a picture of your child that can be used to determine what programs, supports, services, modifications, and accommodations are needed. *Always remember:* no single person, no single test makes the decision for your child. All decisions are team decisions.

Individualized Education Program (IEP): The IEP is both a *meeting* at which parents and school personnel jointly make decisions about an educational program *and* a *document* that serves as a written record of the issues discussed and the decisions reached at these meetings. The IEP meeting serves as a communication vehicle between parents and school personnel. It enables them, as equal participants, to decide jointly what the student needs, to determine what services will be provided to meet those needs, and to anticipate the outcomes for success. An IEP is a *work in progress*, a product in need of continuous revision. It is created, implemented, monitored, assessed, and modified until students have reached all of their goals. *Creating IEPs is an art, not a science.*

Least Restrictive Environment (LRE): LRE is the presumption that children with disabilities are most appropriately educated with their non-disabled peers. LRE means that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Parent and Student Participation in Decision Making: IDEA, from its earliest days has required schools to involve each child's parents in developing the child's IEP. Parents must be notified, parents must give consent, and parent input must be solicited and considered. Parents must be given the opportunity to participate in all meetings concerning their child. Parents must be allowed to make informed decisions, which means that they understand *all* decisions and options as well as why proposals that were made were accepted or rejected.

Procedural Safeguards: Procedural safeguards are guidelines that schools are required to follow. Schools are required to give parents a statement of parental rights and safeguards at various times and at any time parents request a copy. These safeguards are in place to ensure that 1) the rights of children with disabilities and their parents are protected, 2) students with disabilities and their parents are provided with the information they need to make decisions about the provision of FAPE, and 3) procedures and mechanisms are in place to resolve disagreements between parties.

Special Education

Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. Special education is not a place; special education is a service brought to the child through the IEP. Special education provides supports, services, modifications and accommodations to help the child benefit from their education.

Child Find Activities

Public schools are required to identify all children who may have disabilities. These can include regular screenings of young children, children’s health fairs that include early identification activities or training opportunities for teachers on basic skills for identifying early warning signs of disabilities (Ages 3-21).



Identification

In order for a student to receive special education services the student must be identified as a student with a disability, in one or more of the following categories, and require specialized instruction to benefit from his or her education. This label is used for identification (between the ages of 3 and 21). Once a student is identified as a student with a disability in any category, they are eligible for any service they need.

- Autism
- Deafness
- Emotional Disturbance
- Hearing Impairment
- Multiple Disabilities
- Other Health Impaired
- Speech Language Impairment
- Visual Impairment
- Deaf-Blindness
- Developmental Delay
- Gifted (in New Mexico)
- Intellectual Disability
- Orthopedic Impairment
- Specific Learning Disability
- Traumatic Brain Injury

Technology-Related Assistance for Individuals with Disabilities Act of 1988 (Tech Act) P.L. 100-407 IDEA Regulations 300.6 and 300.308

The term “assistive technology” (AT) means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities. Public schools are required to consider the assistive technology needs of students with disabilities. If you or the IEP team feel the student would benefit from assistive technology, request an assistive technology (AT) evaluation. More information can be found in The Book of Ideas published by Parents Reaching Out.

Vocational Education Act (Carl Perkins) P.L. 98-524

This law provides that a percentage of federal funds that are spent on vocational education must be spent on the cost of special programs, services and activities for individuals with disabilities. In 1990, P.L. 98-524 was amended for the purpose of making the United States more competitive in the world market. This law is closely intertwined with P.L. 105-17 IDEA. If you feel your student would benefit from vocational education, you may request appropriate services through the IEP process.

Other laws such as FERPA and Section 504 are covered later in this book.

If you have more questions about IDEA, the laws and regulations, contact:

US Department of Education
330 C. Street SW, Room 5000
Washington, DC 20202-2500
1-202-205-5507
TDD 1-202-205-5465





Relationships and Communication...

The basis for a true Partnership...

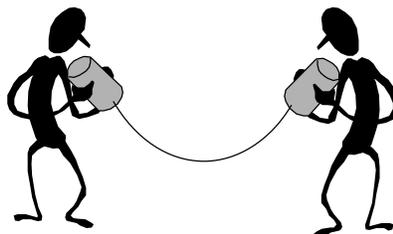
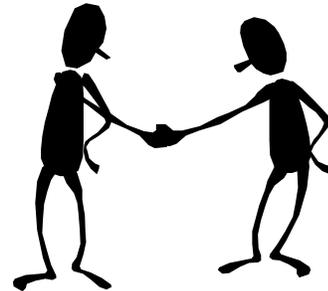
True Partnerships are based on...

* Mutual Trust

* Respect

* Shared Goals

* Shared Success



***Helpful words and phrases
that encourage communication:***

- *Here is where I am having trouble following you...*
- *Did I hear you correctly? Please explain...*
- *Tell me more about it...*
- *Correct me if I am wrong...*
- *Help me get back on track...*
- *Tell me your concerns...*
- *Let's consider this idea...*
- *I understand your concerns ...*
- *What do you think about this ...?*

Relationships and Communication

The keys to your child's success in school are in your hands. These keys include knowing the educators in your child's life, talking with them, and establishing good communication and a friendly relationship with them. These keys will open many doors. They'll help you to work together and problem solve as a team, to trust and rely on one another, and to ensure that your child is supported and receives the services and instruction that will enable her/him to succeed.



The amount of time and energy you put into creating good relationships will pay off. Good relationships will limit the need for a more adversarial, and less desirable, relationship with your child's school. They promote cooperation and useful alliances.

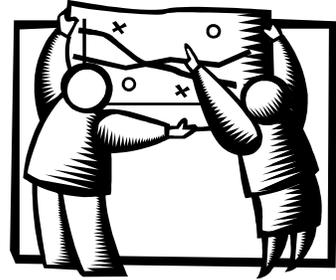
Since building and maintaining relationships is hard work, we as families and educators have a tendency to wait until we see a problem before communicating with each other. However, we must all learn to communicate and partner effectively before the situation becomes difficult. We all need to build relationships long before there are problems. The first day of school is a good time to begin. Parents, who have relationships with the educators in their children's lives before problems arise, are more likely to resolve problems smoothly, quickly and effectively.

There are many ways for parents to establish relationships and be involved in their child's school and education: participate in the classroom; join local parent organizations; attend school board meetings; join school committees such as budget, IDEA, or policy committee, etc. Being involved tells your children that you believe that their education is important. You will also be sending a message to the school that says; "I care."

It should be noted that the drop out rate for students with disabilities is higher than the rate for students who are not disabled. Research indicates that when parents are involved in their child's school and in their education this number is greatly reduced and students achieve more. This happens regardless of socio-economic status, ethnic/racial background or the parent's educational level. Research has shown that everyone benefits when parents are involved in their child's education. Children achieve higher grades, test scores, and increased long-term academic success. Schools develop more successful programs and become more effective. Good relationships help to avoid problems, build successful programming, and support our children's achievements.

A relationship is about trust. In order to begin to trust we have to get to know one another. In order to get to know one another, we have to communicate, to talk and to listen. We at Parents Reaching Out believe in forming good relationships. We encourage families to take the extra time and go the extra mile to build a solid relationship with the educators in your child's life. The relationships we will focus on are the very important ones we form with the professionals and providers who deal with our children and us. A good relationship can ensure that fewer misunderstandings occur, that we are all on the same page, so to speak. We work together as a team.

Relationships are two-way. They can benefit families as well as schools. We, as parents and families are the true experts on our children. Educators and professionals are beginning to understand that we are invaluable consultants because we have a great deal of information and expertise about our children. Knowing the people in our children's educational environments will make us more influential and respected members of the teams that make decisions about our children's education (IEP teams for example) and more effective advocates for our children.



An IEP team is a group of people working together to create an Individualized Education Program (IEP) for a child with special needs. Every child with special needs will have an IEP when they enter public school. The IEP team is composed of the parents, family members, the student, educators and any other people who may be part of your child's education. The team comes together collaboratively.

Collaboration means that:

- we work together;
- each of us has equal voice;
- no one interest group is always right;
- we make decisions by consensus and not a vote.

Collaborating during an IEP meeting also means that we do our work while always considering the student's best interests.

Each team member will come to the table with a different role and a different agenda. Each team member also brings the weight of past experiences and expectations to the table. These will affect how we act, react and interact. It is crucial that we stay positive, remember that we are a team, and keep our goal clear - to create a workable plan that will enable a child to succeed.

We come together as a team to reach a consensus. *Consensus* means reaching general agreement through open communication, understanding opposing views, consideration of alternatives in an open and fair environment with a *shared commitment* to the decision reached. The spotlight is on unanimous commitment instead of unanimous agreement. (SENMS CM 5.1 IV Definitions)

Each member of the team shares the responsibility for the resulting decision or plan. **Always remember that no single person, no single test makes the decision for your child.** This means that your child's evaluation reports or the opinions of any one individual are only a starting place, a guide. They provide the team with information that will then be used to develop a plan collectively. The information you provide as a parent should be considered in developing a plan for your child.

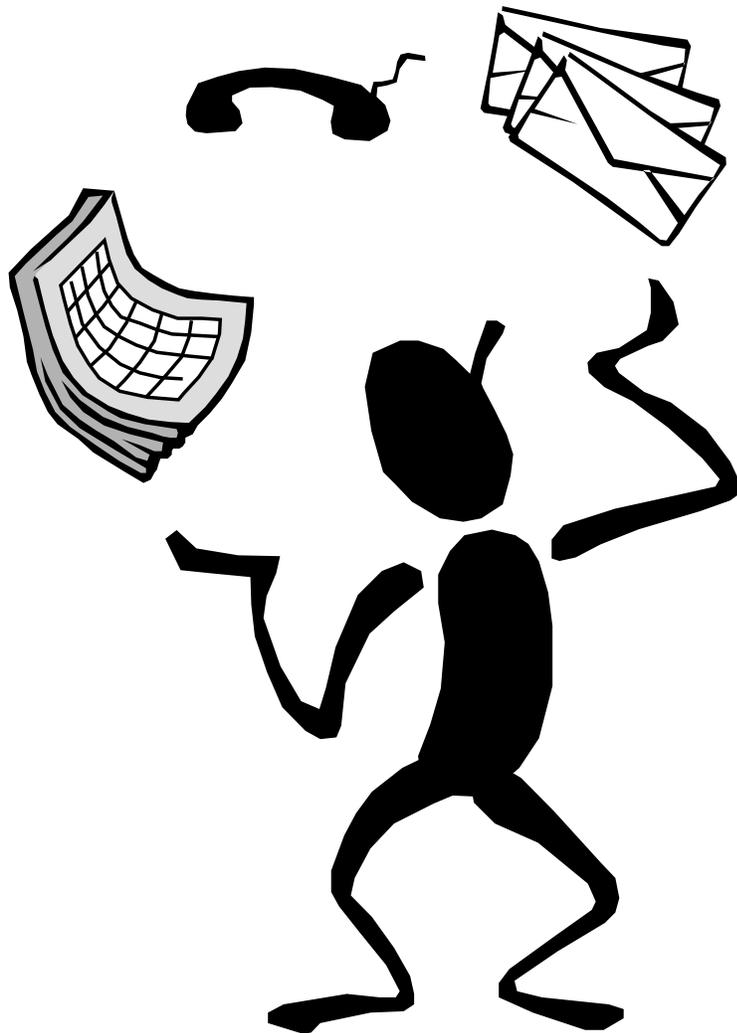
Creating & Maintaining Successful, Working Relationships. . .

Communicating Effectively with School Staff

- Attend all meetings that involve your child's education program.
- Begin meetings and interactions on a positive note, not a negative.
- Remember that you are an equal member of the team. You have important information to offer to the group. Keep in mind your child's needs. Try to work out disagreements through discussion and compromise. *Be flexible. It is easier to form partnerships when we are open to new ideas.*
- During meetings and personal contacts, give your attention to the person that is speaking. Listen carefully to what they are saying. Make comments in a clear and positive manner. Give facts to support your point of view.
- Stay in frequent contact with your child's teachers either by phone, in writing, or in person. Share your ideas and ask them questions when you don't understand something. Strategies that have worked for you and your child may be a building block for planning for success in the classroom.
- Find out what you have in common. Share some of what is going on in your life. Remember that educators are people too; they have struggles just like we do.
- Encourage school staff to contact you regularly to discuss your child's progress. They can be a valuable source of information.
- Let the school staff know that you appreciate them when they are doing a good job. Remember to say, "Thank You." Get to know the people who work with your child. Get involved in the school's parent-teacher organization and/or other school activities.
- Help your child develop a positive attitude towards school.
- Don't be seen only when there is a problem.
- Talk about and validate your child's strengths, interests and abilities.
- Ask for an explanation when you don't understand what someone says.
- If you don't agree with a proposal, speak up and share your concern.
- Understand your rights and responsibilities. Make informed decisions!
- Be PROactive instead of reactive.

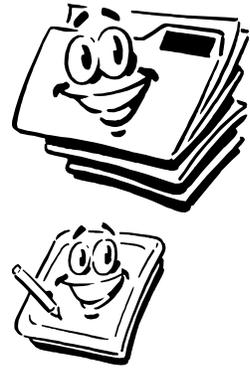


Record Keeping



Record Keeping

Record keeping is one of the most important and empowering ways you can help your child. As you begin to keep records together, you will better understand your child's disability and your child's history. You will also better understand how that history might influence future services and programming and how the system works. The time and effort you give to keeping accurate records will help you secure the services and supports that your child needs to be successful.



The Family Education Rights and Privacy Act

(FERPA or the Buckley Amendment)

- Guarantees you the right to inspect and review your child's file; you may also receive copies of the information contained in the files;
- States that only people who need to see the file can;
- Allows you to challenge information in the file if you feel it is inaccurate or misleading;
- If you disagree with something in the file, you can ask the school to remove it; if the request is denied you have three options:
 1. You may attach a letter to the page telling why you disagree, OR
 2. You may request mediation, OR
 3. You may request a due process hearing
- School districts must have your written permission to release records to any other entity with the exception of another school district. The law requires districts to transfer records to each other.
- You may not have a right to see a teacher's personal notes as long as nobody else has ever seen them, either.

If you have more questions about FERPA, contact:

Family Education Rights and Privacy Act (FERPA) Office

U.S. Department of Education

600 Independence Avenue, SW, Washington, DC 20202-4605

1-202-260-3887 / TDD 1-202-260-8956

<http://www.ed.gov/offices/OM/ferpa.http>

As the guardian of your child's records, it is important to know where your child's records are kept by schools and other agencies. Your child's records may be located in:

- Student Cumulative Files in school office
- Health or nurse's office
- Discipline file with teacher and/or school principal
- District Special Education Office files
- Files maintained by support staff providing services to your child. These may include: school counselor, social worker, psychologist, behavior health professional and therapists (occupational, speech/language, physical) or others.
- Files maintained in the offices of your private doctors and other service providers.

Recommendations for getting started with record keeping:

There are many ways to keep records. To begin getting your child's records in order we recommend keeping records in chronological order. You can use one - 3" ring binder, a package of dividers and sheet protectors or a three-hole punch (cost about \$10.00).

Label the dividers. Here are some suggestions: IEPs, Evaluations, Doctor's Reports, Correspondence, Phone Calls, School Notices, and Samples (of child's work).

- **IEPs.** This will be a chronological record of your child's Individualized Education Programs and should include the team's recommendations. This section should also include any information you receive as an indication of how progress towards goals, objectives and benchmarks will be measured and any reports that address this progress; and a record of reports between home and school.
- **Evaluations.** Keep copies of all evaluations and recommendations. Evaluations describe your child's needs and should include recommendations for meeting those needs. Evaluations are the first place the team will look when trying to determine educational programming.
- **Doctor's Reports.** These reports add yet another piece to the puzzle. You and the IEP team will certainly want to look at any doctor's reports that might have a bearing on your child's success at school. Doctor's reports may provide important information on diagnosis, suggested interventions, processing and supports. Schools do not have to provide medically related therapy as part of the IEP.
- **Correspondence.** Keep copies of all correspondence sent and received.
- **Phone Calls.** Keep a log of phone calls. It is very important to note the date and time of the call, who you spoke with, the subject of the call, and the call's outcome.
- **School Notices.** The district is required to notify you at different times while your child is in school. The district will send you Notices of Meeting, notices of evaluation, Prior Written Notices of Program, and other communications. Keep all correspondence.
- **Child's Work.** Keep both good and bad samples of your child's work. Portfolio assessments (a collection of the student's work and recommendations) are being used more and are often more accurate than a formal assessment.
- **Shot Records.** Keep copies of all shot records.

Good record keeping should provide a complete picture of your child.

Communication Log

It is good practice to keep track of the communication you send and receive. A calendar is a great place to jot down notes. Some parents like to keep a communication log. Here is a sample that might work for you.

Date Time	Topic	Person	Method	Comments
9/12/01 9:15 am	Request IEP	School Principal (Name)	Phone	Sec. took message
9/12/01 3:30 pm	Request IEP	Principal	letter	Hand Carried
9/13/01	IEP Meeting	Special Ed Teacher	e-mail	Talked about dates For IEP Meeting
9/13/01	Natalie's Homework	Teacher (Name)	Note Home	4 pages of reading not finished.
9/23/01	Medication	Nurse	Fax	Information on medication for dx

Individualized Education Program



Project Adobe

NM Parent Training and Information Center (NM PTIC)

Special Factors to Consider from the US Department of Education

Depending on the needs of the child, the IEP team needs to consider what the law calls special factors. These include:

- If the child's behavior interferes with his or her learning or the learning of others, the IEP team will consider strategies and supports to address the child's behavior.
- If the child has limited proficiency in English, the IEP team will consider the child's language needs as these needs relate to his or her IEP.
- If the child is blind or visually impaired, the IEP team must provide for instruction in Braille or the use of Braille, unless it determines after an appropriate evaluation that the child does not need this instruction.
- If the child has communication needs, the IEP team must consider those needs.
- If the child is deaf or hard of hearing, the IEP team will consider his or her language and communication needs. This includes the child's opportunities to communicate directly with classmates and school staff in his or her usual method of communication.
- The IEP team must always consider the child's needs for assistive technology devices or services.

Special Education and Related Services

A child may require any of the following related services in order to benefit from special education. According to the US Department of Education, related services, as listed under IDEA, include but are not limited to:

- Audiology/interpreter services
- Counseling services
- Early identification and assessment of disabilities in children
- Medical services (to determine eligibility and/or need for services)
- Occupational therapy
- Orientation and mobility services
- Speech/language pathology services
- Parent counseling and training
- Physical therapy
- Psychological services
- Recreation
- Rehabilitation counseling services
- School health services
- Social work services in schools
- Transportation

If a child needs a particular related service in order to benefit from special education, the related service professional should be involved in developing the IEP. He or she may be invited to join the IEP team.

What do I need to know about an IEP?

When your child with special needs enters public school, you will continue to be a key part of his/her growth, development and learning. You will be able to help the school plan well for your child by being an active member of the educational team. Remember: The heart of the educational planning process is the individualized education program (IEP).

What is an IEP?

The IEP is at the heart of your child's right to a Free Appropriate Public Education (FAPE). The IEP is a written document that is reviewed each year to determine the services, accommodations and modifications your child will receive. It is designed to ensure that your child's individual needs are met. If a service or accommodation is included in the IEP, your child must receive it.

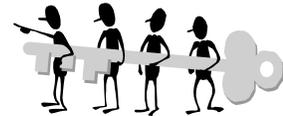
Who needs an IEP?

Every child must have an IEP, if he/she receives special education and/or related services.

Who decides what goes into my child's IEP?

Your child's IEP is developed by a team that includes:

- you, the parents (or guardians or surrogate parents),
- your child. (Yes, that's right. The student should be a part of the team.)
- your child's teacher(s),
- someone from the school district who can commit the district's resources,
- other individuals at the request of the parents or the school,
- a general education teacher.



Note: At least one member of the IEP team should also have been on your child's Evaluation and Planning Team. This person should be able to interpret your child's evaluation reports.

When does my child's IEP team meet?

From the time that the parent gives permission to evaluate, the evaluation must be completed within 60 calendar days. Parents Reaching Out recommends the following time lines:

- Initial evaluations must be completed 60 calendar days from the time that the parent gives permission to evaluate.
- After the initial referral, an IEP meeting should be held within 15 calendar days of completion of testing (evaluation).
- You should receive the invitation to the IEP meeting at least 5 school days before the scheduled date of the meeting.
- Once your child begins receiving Special Education services, all evaluations should be completed within 30 calendar days. An IEP meeting should be held within 10 days after the evaluations have been completed.
- Unless other arrangements are documented in the IEP, the IEP should be implemented upon approval.
- An IEP meeting must be held at least once a year (annual review). However, if you have a concern you can call a meeting at any time.
- Re-evaluations must be conducted every 3 years.

What must be included in my child's IEP?

Although your child's IEP is based on his or her individual needs, every IEP must include certain specific information. The answers to these five questions must be documented in the IEP:



Where are we now? Present Levels of Academic Achievement and Functional Performance (PLEP) describes how well your child is doing in academic areas (such as arithmetic, reading, and writing) and in other areas (such as social and emotional development, behaviors, motor skills, language, vocational, and recreational skills).

Where are we going? *Annual or long-term goals* are specific goals for academic and other skills that the IEP team expects your child to achieve during the year.

How are we going to get there? *Short-term objectives and benchmarks* are measurable, intermediate teaching steps to help your child reach the annual goals. (IDEA 2004: Short term Objectives and Benchmarks are applicable for students eligible for the state approved alternate assessment only.)

What does success look like? *Methods for determining progress* describe how the school will measure your child's progress toward IEP goals, objectives and benchmarks. This should answer the question: How will we know when we have closed the gap between the child's PLEP and expected level of performance (ELP)? Do not just look for closing the gap between the PLEP and ELP, look for mastery of skills.

How will progress be reported to the parents? Progress must be reported to the parents at least as often as the general education student. The team must consider the frequency and method for reporting progress to parents. The team should consider what type of information and how often the parents need reports to stay informed and involved.

Note, with the re-authorization of the IDEA family members and affected IEP team members may get together and change the IEP without the full team. The document developed is generally called an *addendum to the IEP*.

The following information must also be included in the IEP.

- **Special education and related services** include the special instruction and related services (such as physical therapy) your child will receive and includes how often and for how long those services will be provided. It also includes who will provide the services and in what instructional setting they will be provided.
- **Amount of specialized instruction** is the amount of time your child will receive specialized instruction (that is, special education services).

- **Least Restrictive Environment (LRE)** indicates the amount of time your child will be taught in regular and special education settings. It should be assumed that your child will receive supports and services in the Least Restrictive Environment (regular education classroom). If the IEP team determines that your child's educational needs cannot be met in the regular educational setting, a progressively more restrictive placement will be considered. The most restrictive setting is a full-day self-contained special education classroom
- **Reasons for special education setting** should describe the extra help and the services your child will need to be successful in the regular education classroom and should be considered before your child is placed in a special education setting (such as a resource room or special education classroom).
- **Accommodations** are any changes in teaching methods or materials or any physical aids that will help your child get the most out of his or her education program.
- **A start date** will indicate the date when the program and services will begin and how long your child will receive them.
- **A reintegration plan** is a specific plan for returning your child to the regular education setting and should be included if your child receives more than half of his or her instruction in special education settings. Remember: The preferred setting for a child is the general education classroom.
- **The person(s) responsible** for implementing each goal of the IEP.



Each of the following areas must be considered by the IEP team and, if needed, included in your child's IEP:

Assistive Technology must be considered for students with disabilities who need special equipment in order to benefit from their education. In order to receive assistive technology your child will need an assistive technology evaluation. The results may demonstrate a need for the technology such as a touch talker, clipboard or computer.

Functional Behavior Assessment (FBA) helps us identify events in the environment that contribute to a problem behavior (class size, teacher-child interaction, peer relationships, curriculum, etc.). With careful planning, it may be possible to modify those events sufficiently to reduce the problem behavior.

Positive Behavior Intervention Plan (PBIP) should be considered if your child's disability begins to show (manifest) itself in behaviors that are not typical. If these behaviors are of concern, a Functional Behavior Assessment (FBA) should be requested to determine the possible cause of problem behaviors. The team uses the information collected through the FBA to develop a plan that is put in place to help your child learn proper behavior and social skills. The program should be positive, natural, and logical. The program should never be negative or punitive. Parents Reaching Out provides more information about this topic in [Positive Directions for Student Behavior](#).



Discipline Plan should be considered if your child has a behavior management plan and has difficulty following the same rules as a typical student. This plan may be different from regular school board policy affecting typical students. Bring to the team examples of how you have successfully resolved conflicts at home. Think of strategies for addressing discipline at school in a positive, constructive way that your child will learn from and understand. This plan should include the supports necessary for your child's success.

Extended School Year (ESY) ESY must be considered and may be recommended for students who have difficulty retaining knowledge or skills over vacations (regression/ recoupment). The information that is needed by an IEP team to determine a student's need for ESY services is gathered through ongoing measurement of the student's progress toward the current IEP goals. Schools should use regression/recoupment criteria in determining the need for ESY services, but a broad range of relevant factors must be considered.



More information about this service is available in a guide from Parents Reaching Out (PRO), *What IEP Teams Should Know About Extended School Year Services*. The NMPED provides a technical assistance document for schools and families: *Primer on the Provision of Extended School Year Services for Parents and Educators*. Download these booklets from the Parents Reaching Out web site: www.parentsreachingout.org

Extra-curricular Activities and Non-Academics should be addressed in the IEP to determine modifications and accommodations your child might need to be able to participate in activities such as sports, field trips, clubs, etc.

Gifted Services should be included in the IEP, if applicable, and should state the enrichment programs/activities and/or accelerated courses that will be provided to the student.

Graduation Planning should begin when your child enters high school. In New Mexico, there are three programs of study that lead to a diploma: the Standard Program of Study, the Career Readiness Program, and the Ability Program. The IEP team should consider which of these programs your child will follow. The IEP should be specific and indicate how your child will complete the requirements for the options you (and your child) choose.

Transition Services must be considered beginning at age 14, or younger if appropriate. The transition plan should drive the IEP and must be in place when your child turns 16.

Transportation must be addressed in the IEP, if your child needs any type of special busing or accommodation (behavior) on the bus.

Vocational Education for students who need and want vocational training should be considered.



Odds and ends

- **Meeting times should be held at a mutually agreed upon time and place.**
- **Parents are members of ALL committees and must be invited to attend ALL meetings concerning their children.**
- Parent requests for evaluation of their children should be in writing.
- You may tape record any meeting if you think it will help you understand the meeting better. If the school records the meeting or asks for a copy of the tape, the recording becomes an official part of your child's records and the parent is entitled to a copy.
- *Notice:* The term notice is used for various activities. The district is required to give you notice of the following:
 - Notice of meeting (Invitation to attend a meeting)
 - Notice of Evaluation
 - Notice of change of placement
 - Prior Written Notice of Proposal (any time a change is proposed)
 - Others
- The IEP must be conducted and written in a **language** you can understand and speak. If an interpreter is needed, this should be requested in writing before the meeting. The person doing the interpretation should be a qualified interpreter and should be at the meeting to interpret only. He or she should not be a teacher trying to do two jobs.

The New Mexico Open Enrollment Act

During the 1998 legislative session, the New Mexico State Legislature passed the Open Enrollment Act (OEA). Under the OEA parents may choose to send their children to another school other than the child's home school provided that there is space at that school. Schools must have a policy in place that outlines how open enrollment will be handled. Parents that take advantage of the OEA and send their children to a school other than the home school are responsible for providing transportation.



Parents Reaching Out recommends that parents of children with disabilities who feel that their child's home school is not the appropriate placement go through the IEP process to identify the appropriate placement and seek a transfer. If the IEP team determines that an alternative placement would be appropriate, the district must facilitate that placement and provide transportation to and from school.

Plan for Success

Present Levels of Educational Performance (PLEP)

IDEA 2004 defines PLEP as present levels of academic achievement and functional performance

Goals

Goals should be pass the SMART test.

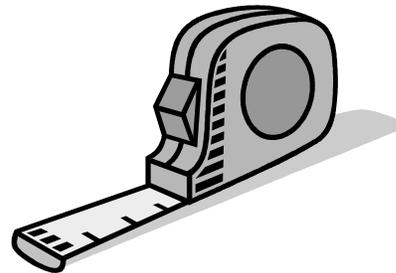
S: Specific

M: Measurable

A: Attainable

R: Realistic

T: Timed



Goal Setting

Think About This...

The Dead Man's Test

The question posed by the dead man's test is this: Can a dead man do it? If the answer is yes, it does not pass the dead man's test and it is not a fair pair; if the answer is no, you have a fair pair. For example, suppose that you wanted a fair pair target behavior for "swears at peers." Does this pass the dead man's test? No. A dead man could refrain from swearing at peers. What would be better? How about "speaks to peers without swearing"? This passes the dead man's test because a dead man does not have the power to speak.

The following questions should be considered when writing goals:

1. Is the goal clear and understandable?

Not vague?

Avoids educational jargon?

Not too specific?

2. Is the goal positively stated?
3. Is there at least one goal for each area of need stated in the Present Level of Educational Performance (PLEP)?
4. Can the goal be justified based on the information in the PLEP?
5. Is the goal practical and relevant to the student's academic, social, and vocational needs?
6. Is the goal practical and relevant when the student's age and remaining years in school are considered?
7. Does the goal reflect appropriate growth within the instructional area?
8. Can the goal be accomplished within one year?
9. Can a stranger who is unfamiliar with the student read the description of the goal and understand it?

A goal that can't be measured is just a slogan!

Goals, Benchmarks, and Objectives

IDEA 2004 requires that goals be set for all students with disabilities through the IEP process and further requires that *benchmarks* and *objectives* be determined only for students who are eligible to receive the state approved alternate assessment. The following process and questions are good for *all* students that receive services through an IEP regardless of the assessment used for high stakes testing.

IEP Goals Should Focus on the Dream!

As parents, one of the most important responsibilities we have during an IEP meeting is to make sure that the IEP goals are aimed toward the dream! All goals should be aimed at the same "big picture" and should be designed to fit the student, not the program. For students eligible for alternative assessment, every member of the team must be "in sync" as they set the short-term objectives to reach the goal. Best practice for quality instruction to improve student achievement requires teachers and related service providers to continually assess student progress and plan future instruction that will help the child continue to learn. Good instructional planning for any child requires setting the small, sequential steps (short-term objectives) that will take the child on the best path to reach the goal.

Goals should be measurable and attainable in a reasonable time frame.

They should be designed to close the gap between the student's Present Levels of Educational Performance and Expected Level of Performance. Benchmarks are the mile markers along the path to tell us if progress is being made toward the goals. Once a goal or objective is achieved, it becomes a part of the Present Level of Educational Performance used to set new goals or objectives that continue to aim toward the dream. Remember: The IEP is a work in progress!

Goals should focus on skills and attitudes that are necessary for learning to occur.

Some typical goal areas include: Thinking/problem solving (math, science, etc.), Communication (listening, speaking, reading and writing), Sensory-Motor, Physical, Social, Emotional, Life Skills (daily living, careers, employment, finances) and much more.

Annually reviewed goals provide the means to determine that:

- The anticipated outcomes for the student are being met (i.e., "is the student making progress toward goals?");
- The delivery of services is appropriate to the student's special learning needs;
- The reading programs are meeting reading needs. (Identified skill deficits in reading must be addressed under goals, with specific special education and related services to support the student).

Remember: Special Education is a service brought to the student through the IEP in order to close the gap between the student's Present Level of Performance and Expected Level of Performance for your child.
--

Present Levels of Academic Achievement and Functional Performance (PLEP)

IDEA 2004 changed present levels of educational performance to present levels of academic and functional performance. These levels are the heart of the Individualized Education Program (IEP) and should reflect the strengths, needs and unique learning characteristics of the student. Without PLEPs there are no IEPs. This information also helps the IEP team and others who work closely with the student to measure “gains” from year to year. They are the foundation for building the IEP and they should provide a clear picture of where the student is NOW!

- Who the student is as a whole human being
- What academic, self-help and or social skills does the student currently have or need to develop.

Every IEP must contain a written statement describing the student’s Present Level of Educational Performance in all areas.

This statement is determined by the information collected and shared during the evaluation process. It is important for parents to be actively involved with the team during this fact-finding stage of the IEP meeting to give current and accurate information about their child.



PLEP statements should be included in the Parent Report. Samples are provided in the Section titled Preparing for the IEP. *Remember: Present Levels of Educational Performance are not just reading levels or test scores and should include:*

- special talents such as art or music
- balance, fine motor skills
- behavior, temperament
- daily living skills, eating/sleeping habits
- social skills;
- interest in reading, math, writing
- your child’s disability
- your child’s best and worst work.

When the PLEP accurately describes the student, you are ready to proceed with the rest of the IEP! Since an IEP is based on individual need, the present levels of educational performance will be different for each student. As the child makes progress, the PLEP will change to show the gains. There must be a direct link between the PLEP and other parts of the student’s Individual Educational Program (IEP).

Example: We see Expected Level of Performance (ELP) when a student in the 6th grade who is with her same age peers, does the same work as her peers and is in the “normal” range of intelligence.

If this student in the 6th grade is performing at the 3rd grade level in one of the skill areas, her Present Level of Educational Performance (PELP) would be 3 years below Expected Level of Performance. The goal would be to close the gap between the present and expected levels of performance.

Food for Thought: If the same present level of educational performance appear year after year, is the IEP focused on the student? Are goals appropriate? Remember: IEPs are based on individual need, not program needs. They are not "one size fits all". If performance levels do not show progress, request an IEP meeting to address this.

Key questions to ask about goals:

Are goals student centered? Do they explain "what will the student do?" and under what conditions will the student perform the task? Examples: in group settings, independently, with teacher assistance (specify), during a specific class, etc.

Do the goals reflect the use of scientific research based practices? No Child Left Behind (NCLB) requires programs and practices that have been proven by rigorous evidence. The reauthorization of IDEA 2004 is aligned with NCLB to provide consistent assurances that students with disabilities will be provided with scientifically based instruction that meets their identified needs. (Read pages 28 and 29 of this handbook for more information on this topic.)

What criteria will be used to measure the progress? The IEP should include documented methods for evaluating progress as well as scheduled intervals for evaluation to occur. In addition, the IEP should specify the method for reporting progress to parents and how often this will occur. (Examples: teacher checklist, test scores, teacher evaluation, behavior log, pre/post testing, task analysis, etc.)

How will we know when we get there? What does mastery look like? If we are not looking for mastery, then what are we doing? We can't afford to play "catch up". The student may regress. Focus on the "dream"! Team members should bring documentation to verify progress to IEP meetings, not just use a "grade". They should provide copies of this information to parents and special education file as part of evaluation documentation. This will be extremely critical in the future. Goals should be: realistic, functional and meaningful. They should reach for a little "extra"! Remember that most students of average ability can learn at or near their ability level with appropriate supports, services, goals and objectives. Set high expectations! Your child's future is at stake!

Why is Mastery so Important?

Just "catching up" is not enough for children and young adults with disabilities. Often, when a student does not achieve mastery, he or she will lack a solid foundation for learning new skills. Without mastery, frustrations increase as higher level skills are presented and problem behaviors may appear. There is a high probability that additional special education services may be required in future years to address these behavior problems. Mastery paves the way for success.

A special note from the staff of Parents Reaching Out

As you read this handbook you will find that we have stressed the importance on the need to address behavior. When the IDEA was reauthorized in 2004, the law placed emphasis on being proactive instead of reactive. Regardless of the disability category, behaviors are often manifested as part of the disabling condition. Behavior is often the first indicator that a program is working or not.

Taking time to identify problem behaviors and how to address them through positive supports will give our children a much better chance of future success.

Scientifically Based Instruction



Request instruction with a proven track record. Our children need instruction that is effective. No Child Left Behind (NCLB) provides Federal money for programs and practices that have been proven by rigorous evidence. The reauthorization of IDEA 2004 is aligned with NCLB to provide consistent assurances that students with disabilities will be provided with scientifically based instruction that meets their identified needs. It is time to discard educational fads and move on to programs that have a proven record of success!

Now, more than ever before, it is important for parents to ask questions and get answers that will help them be informed about the instructional approaches that will be used to meet the goals in their child's Individualized Education Program (IEP). Although the final regulations have not been written for IDEA 2004, the law emphasizes the need for scientifically based instruction. Section 601(c)(5)(E). As you prepare for your child's IEP, review any progress reports that you have received and write down questions to ask during the IEP meeting that will give you a true picture about your child's progress to develop an effective IEP for your child.

What is scientifically based research? Simply put, there must be reliable evidence that a program or practice works. NCLB and IDEA 2004 require schools to use instruction that are based on experimental studies that are similar to the medical model of research used by scientists. Schools should be able to provide information to parents about the reasons a program was selected. The information should be provided in terms families understand. As a parent, *ask questions and expect answers* about the instructional programs selected for your child and the training staff members receive to implement these programs. *Scientifically research based programs should have results for the questions below:*

- Were there well designed trials that use random samples of the population?
- Was this instructional program tested using trials that included a random “control group” (for comparison)?
- Did the program show valid and reliable outcome measures and long term outcomes?
- Was the program and materials tested and implemented in more than one site?
- Has the program and materials been reviewed and approved by experts in the field? (Do the experts believe the practice will work?)

How can parents learn more about programs that are research based? Ask your school to plan a parent meeting about researched based programs. We have web sites and sources for information in the Resources section of this book. Please contact Parents Reaching Out for information or workshops on Scientific Researched Based programs.

How can parents be involved in curriculum decisions? Visit with your child's teacher and other members of your child's IEP team. Ask if your child is receiving research-based instruction. Find out how your school and district selects materials for the classroom. Educators should consider scientifically based research before choosing educational programs. Regarding special education students, parents can propose a methodology to the IEP team if the school's methodology has lacked reasonable benefit for their child. For students with a learning disability, IDEA 2004 includes provisions that allow the use a process called Response to Intervention (RTI) as a part of the evaluation procedure to determine if the child responds to scientific, research-based intervention.

IDEA 2004

The reauthorization of IDEA 2004 made changes regarding the use of Goals and Objectives. The new language aligns the Individuals with Disabilities Education Act (IDEA) with No Child Left Behind (NCLB) which became law in 2002 with the reauthorization of the Elementary and Secondary Education Act (ESEA). Under IDEA 2004, Benchmarks and Objectives will be written in the IEPs of only those students with disabilities who meet the eligibility criteria for the state approved alternate assessment. At Parents Reaching Out, we believe these changes to the law should help us all pull together to improve outcomes for our children.

IDEA 2004 emphasizes the need for the student's IEP to include clear statements of both academic achievement and functional performance including:

- How the child's disability effects the child's involvement and progress in the general education curriculum
- A statement of measurable annual goals for both academic and functional goals designed to:
 - Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum
 - Meet each of the child's other educational needs that result from the child's disability.
- A description of how the child's progress toward meeting the annual goals described will be measured and when periodic reports on the progress towards meeting the annual goals will be provided not longer than when periodic report cards are issued.

We have identified a few Key Questions that parents should consider for their child's IEP. The answers to these questions should be described in writing in the IEP document or in the Prior Written Notice.

- Q. What kind of progress should we expect towards goals?
- A. There should be a description of what progress towards each goal should look like and how progress will be measured.
- Q. How will progress be measured?
- A. At least as often as report cards are issued. Progress may be measured more often if the IEP team decides it is warranted.
- Q. What if my child does not meet expected progress either more or less?
- A. Meet to see if the strategies are being implemented correctly or if the goals need to be modified.
- Q. *For students who have identified needs in the area of reading:* What scientific research-based program will be used to teach reading to my child? What criteria did you use in selecting this program to meet my child's needs? Ask for a description of the program and an explanation in words you understand.

PRO Note: for the purpose of clarification Parents Reaching Out use the term Present Levels of Education Performance (PLEP) to describe both Academic Achievement and Functional Performance.

Steps to Success



Preparing for the IEP Meeting

Thoughts on Evaluations

One of the most important ways that you (and other members of the IEP team) can prepare for your child's IEP is to make sure that appropriate evaluations have been completed before the IEP meeting. Evaluations are one essential part of gathering information to give a total picture of your child.

Each child with a disability has unique needs. In order to determine the specialized instruction needed for a child, it is important to tailor the evaluation(s) to the child. Just like the Individualized Educational Program, *evaluations should not be completed on a one size fits all basis.*

What areas should be covered in an evaluation?

An evaluation should cover all areas of suspected disability. Identifying a child with a disability is a complex task and requires gathering information from family, teachers, and medical /mental health professionals in addition to a range of required diagnostic tests to determine eligibility.

To identify a child's disability, it is important to get an overall picture of the child and not overlook other considerations. For example: A child may show signs that behavior is significantly interfering with learning. The evaluation for this child should not only focus on the behavior, but also include factors that might be causing the behavior such as academic performance especially in the area of reading. Always make sure that when students are evaluated for behavior concerns that appropriate reading instruction is considered. Sometimes, with appropriate scientific researched based reading instruction, behaviors may decrease.

The same approach holds true for a child that behavior is not an apparent factor such as a child being evaluated for Specific Learning Disability. Too often, behavior is overlooked. However, when a student is frustrated by not keeping up with their peers, continued frustration may show up in the form of undesirable behavior. With appropriate evaluation, supports to address behavior with learning strategies (including scientifically based reading instruction) and accommodations can be identified for student success.

There is nothing in the law that says a child has to have a certain label (eligibility) in order to receive a particular set of services. No matter what the disability, all identified areas of concern need to be addressed through the IEP. Parents Reaching Out recommends that each initial evaluation as well as each subsequent re-evaluation include a Functional Behavior Assessment (FBA). The eligibility label provides the child access to services and is used for reporting purposes to the Federal government to generate IDEA funds.

Preparing for the IEP Meeting

First, understand that your role as a parent is unique. No one knows and loves your child the way that you do. You are the expert on your child. And, while you may not have all the answers, you want your child to be successful in school and in life. Your passion, as a parent, can help you communicate brilliantly, and sometimes, it can overtake you.

Be mindful of your emotional pressure gauge as you work with your child's school.

If you expect to have difficulty when meeting with school personnel, your mind and body will be primed for battle. How can you communicate successfully if you are on the verge of overflowing in anguish and outrage? Don't let your mind go there. Keep thoughts of past (or present) problems at school, worst fears, and other negatives from creeping into your mind. Focus positively on your goals and the view that the school wants to do their best for your child. Keep telling yourself that you and your child will succeed.



A properly written IEP becomes the law for your child. The IEP cannot be overruled by local policy or state regulations. As your child's advocate, it is important to be well-prepared for every IEP meeting.

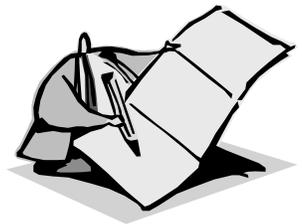
Prioritize and Plan.

What's the most important thing that needs to be accomplished for your child? Make a list of the issues, questions, and possible solutions. Rank them. Decide if there are any you can pass on and which one(s) must be addressed. Plan how you are willing to give and take in order to achieve the higher goal. Map out what you need to say and practice, if that helps:

"What is most important for Jordan right now is . . ."

"We really need to focus on . . ."

Know what you want in the IEP and why you want it. Jot down key words or phrases you want to use to get your point across to other members of the team. Referring to your notes will help you stay focused and keep the meeting on track.



Organize and bring documentation to the meeting that supports your request or position. The *record keeping* section (page 15) of this Handbook will help you gather and organize your information.

Use the checklists, parent report examples, forms and worksheets in this section to prepare for your meeting. They will help you build a path that is focused on successful results.

What should I know about requesting an IEP meeting?

- You may request an IEP meeting at any time.** Make your request in writing. (See the Section on Letter writing for a sample letter to request an IEP meeting.) The meeting should be held within 5 school days after the district receives your request. When you request an IEP, make sure to ask the district to respond to your request by a specified date.
- Schedule the meeting at a time when you will not feel rushed. Let the school know how much time you think the meeting will take. Remember: *Meetings should be scheduled at a mutually agreed upon time and place.*
- If you have requested an evaluation or if an evaluation was to be completed as the result of a previous IEP, contact the district to make sure that the evaluation will be completed before the IEP meeting. It is important to request that a person who is knowledgeable about the testing results be available to attend the IEP. (Request to have the results and recommendations explained to you prior to the meeting.)
- Request an agenda for the meeting. Request your items be added to the agenda.
- Request that all school and/or district personnel who work with your child (or will work with your child) be invited to the meeting. It is important to list individuals by name, if possible. Consider the reason you are requesting this meeting and plan this list according to the information and/or experience the person would bring to the meeting.
- If your child will be attending the IEP, be sure to make necessary arrangements to excuse him/her from classes, if necessary.
- Tell the school who will attend the meeting with you. (No one likes surprises).



When should I request an IEP meeting?

Before requesting an IEP meeting decide if it is the IEP that needs to be changed or are you concerned about the implementation of the IEP. If it is implementation then you need to request a meeting with the appropriate administrator and express concerns about implementation rather than call an IEP meeting. You have the right to disagree with the services described in your child's IEP. If you want to make changes in the IEP, you can:

- Request an IEP meeting to discuss your concerns and the changes you want to make in your child's education program.
- Request that the school re-evaluate your child, looking at the areas where you want improvement. *If you request it, your child's school must give you a copy of the evaluation results so that you can review them before the IEP meeting.*
- Request an independent or outside evaluation of your child, at public expense, if you disagree with the school's evaluation.

How Do I Prepare for the Meeting?

This check list will help you prepare for your child's IEP meeting to insure that your input is organized and easily understood by the rest of the team.

- Make sure your records are organized and that you have the most current information on your child. You may need to gather reports and notes from private providers and from school personnel who work with your child. Review Record Keeping on page 15.
- Review your records to make sure that you have identified your child's needs and all recommendations for services and or supports.
- Write a Parent Report about your child. Your Parent Report is a way to share information about your child's strengths and areas of concern. It creates a picture of that helps your child's IEP team focus on planning for successful outcomes. (Review the examples on pages 36-37.)
- Involve your child as you write your Parent Report. Your child has valuable information to contribute. Encourage your young adult to prepare a Student Report. This helps your child take ownership of his or her educational program.
- Take time to learn more about the importance of *scientific based instruction*. Your child's education is important. Your child deserves the best possible instruction to meet his/her identified needs. Review the information on page 28 of this handbook so that you can prepare questions to ask during the meeting.
- Make a separate list of questions and proposals you would like answered during the IEP meeting. Attach this list to your Parent Report. When you attend the IEP meeting, provide a copy of your Parent Report with Concerns/Proposals attached and request that they be added to your child's records. (See example on page 39.)
- Use the list of concerns and proposals to fill out the "Family Proposal/Discussion Worksheet. (See example on page 40.) This worksheet is a great way to help keep you on track during the meeting and use as your own personal tool to record the outcomes of your proposals. Each concern or proposal should be addressed through the written IEP document or the Prior Written Notice of Proposal document that is discussed on page 57.
- Identify a person (family member or friend) who knows your child to attend the IEP meeting with you and to take notes for you during the meeting. This person can use Family Proposal/Discussion worksheet to take notes.
- Review and obtain copies of any school district policy that may effect your child's full participation in school activities.

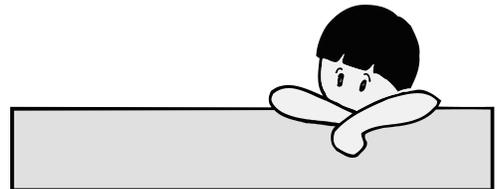
When you are well prepared you are able to relax and participate as a full partner in your child's IEP. You will be able to listen and ask questions about answers to your proposals rather than worrying about how to get your information on the record.

What reports or notes should I gather before the IEP meeting?

- Be informed about your child's disability.
 - Read about your child's disability so that you can better understand your child's unique way of learning and behavior traits.
 - Find information about your child's disability and highlight the characteristics that describe your child. You may want to bring copies of key information to the meeting to share with the team.
- Choose supporting documentation that will help the team make good programming decisions. Do this before the IEP meeting so you will have all the information you need to prepare your own parent report.
- Visit the classroom/teacher to observe what the school is currently providing. Share information with the teacher and ask questions.
- Bring copies of progress notes from others in the community who know your child (church school teachers, 4-H leaders, tutors, private therapists, doctors or others).
- Before the meeting, meet with the teachers and service providers. Share your information with them and ask about their reports and recommendations. Ask for copies if you want to study them at home. Make sure you understand all the reports and recommendations before the meeting. Try to avoid surprises.

Tools to insure that your input will be documented during the IEP Meeting

Parent Report, Concerns and Proposals, Family Proposals Worksheet



Your Parent Report

Preparing a **parent report** can be a very powerful tool: As you write the Parent Report, you will better understand your child and his/her needs. Writing your **Parent Report** (your child's "portrait") will help prepare you to share your child's strengths, positive points and areas of concern with the other members of the IEP team. This activity can actually empower you to better advocate for your child. Your report will give the team an overall view of your child and your assessment of the present levels of educational performance. It should also include your dream for your child's future!

Near the beginning of the meeting, the first report to be considered by the IEP team should be the **Parent Report**. The best time to do this is usually after the introductions. It is important for the parents to have their report treated in the same manor as teachers or therapist and have it added to the students file. The Parent Report should be used as part of the Student Profile or Present levels of educational performance in the IEP.

Always remember your dreams for your child.

The parent report is your opportunity to advise the team of how you view your child. Be specific and provide details that will help the team. Don't assume the team knows your child like you do. The areas you might want to consider in your assessment are his/her:

Bring your dreams to the meeting. They are the North Star.

They should guide the decisions you are making now!



Things to consider for your report:

- Future dreams, hopes, and goals for your child—
 - That he/she receives an education and graduates;
 - That he/she finds fulfilling employment
 - Goes to college or vocational training of their choice; and
 - That some day your child lives on his/her own.

- Social skills that will provide essential tools for your child to:
 - become a contributing member of society;
 - make friends and develop lasting relationships; and
 - participate in family events, school activities and social gatherings.

- Share your child's strengths and abilities, including:
 - Learning style;
 - Likes and dislikes;
 - Sensory issues.

- Your child's feelings about school.

- Your child's interests and/or involvement in extra-curricular activities.

- Positive supports for success;

- Discipline approaches that work and what hasn't worked in the past.

- Communication between home and school

The next two pages of this section include a sample parent report and a sample child portrait. Use the one that best fits your family as a guide. We have included blank forms at the end of this section that you may copy for your use.

Being well prepared makes the IEP meeting a positive experience for everyone.

Sample Parent Report #1

Parent Report for _____ Grade: _____ Date: _____

1. Share your hopes, dreams and goals for your child as an adult (employment, independent living, further education, etc.):

- We hope James can find meaningful employment in the computer field.
- Our hope is for James to have a few close and supportive friends
- Our dreams are for James to be able to find a suitable living arrangement.

2. List your child's strengths or positive points:

- James is good at kicking the soccer ball.
- James is very curious.
- James is good with science facts.



3. Share any issues or challenging areas for your child, such as:

- James will only wear one type of clothing—labels bother him. (Sensory)
- He has difficulty with memory—not always able to retrieve information. (Learning)
- He is easily distracted by noises and others around him. (Learning)
- He is afraid of large crowds or open spaces, etc. (Space/Environment)
- He has non compliant behavior, especially in large groups. (Behavior)

4. What does your child like to do at home? What does your child dislike to do?

- James likes to play computer and video games.
- He likes to set up military scenes and play them out in his mind.
- He does not like chores outside and gets angry he's asked to change activities.

5. Does your child play with other children? (at home, neighborhood, other places)

- James will sometimes allow children to play next to him. I think he wants to play with other children but does not appear to know how to play with other children.

6. What kind of positive reinforcement (and rewards) do you use at home?

- At the end of the week, if James has finished his daily chores he earns a pizza. James loves pizza!
- When James has completed his homework satisfactorily for the week, he is given the option of renting a video game or movie.

7. Communication builds partnerships to improve outcomes for your child. What type of home-school communication works best for you?

- I can only receive emergency calls at work. Some teachers have used a notebook that he carries in his backpack and that worked in the past.
- I am just learning how to use e-mail so that might be a way to communicate.

We request that our Parent Report and the attached Concerns with Proposals be placed in our child's file. Thank You.

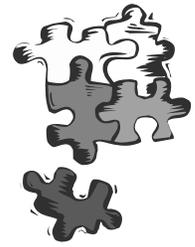
A Portrait of Michael

Sample Parent Report #2

IEP Meeting _____(Date)

Our hopes, dreams and goals for Michael as an adult!

Michael just turned seven years old. We hope Michael will keep his enthusiasm for learning. We want him to be a productive, independent member of society. We wish for him to have a great support network of good friends, and hope that by the time he is an adult, Michael will have the ability to read social situations realistically and problem solve appropriately.



Michael's Strengths

- Ability to detect essential details in visually presented material and to differentiate them from nonessential details. Replicates three dimensional figure from a two dimensional visual cue such as a picture. (Psych ed evaluation...date)
- Creating imaginative stories and expressing them verbally
- Very tender hearted

Michael's Issues and Challenges

- Social skills: He lacks understanding of social cues and tends to engage in one-sided interactions. He gets puzzled or hurt when other children do not want to play with him. He has as difficulty appropriately initiating a conversation and very rigid expectations of what others should do in a social setting.
- Sensory issues: Michael has always been very sensitive to noises, especially "sharp" noises, or loud background noises.
- Learning issues: He has difficulty retrieving specific answers to questions. Recalls large chunks of information efficiently giving the appearance of efficient memory skills. He needs plenty of time to retrieve such information and sometimes needs cuing. He has difficulty in breaking large tasks into manageable chunks—organizational skills.

Michael's Likes and Dislikes:

- He likes to make friends.
- He is very sensitive to maintaining his personal space, which is very obvious when he is stressed out or overwhelmed.

We respectfully request this Portrait of Michael be included in the written record of this meeting as part of our parent input.

Signed,
Michael's Parents

This Parent Report uses excerpts from a report provided to us by Adobe Corp volunteer, Judy Bonnell, with permission from Michael's parents. *This report may be reproduced for reference purposes only.*

Parent Concerns / Proposals and Family Proposal Worksheet

In addition to your Parent Report (child's "portrait"), you will want to make a list of your concerns with your proposals for the IEP team to consider. Your concerns and proposals should be directly related to the items you included in your Parent Report. Taking time to write a list of your concern about your child and his/her educational program helps you prepare for discussions at the meeting. As you make your list, think of ways that you want to the team to address each concern. These are your *proposals* for the meeting.

Preparing your **Concerns/Proposals** list before the meeting allows you to concentrate on what is being said by other team members and still be certain that you will not forget your proposals/recommendations. Parents Reaching Out recommends you also attach a copy of your Concerns with Proposals list to your Parent Report and request that this information be included in your child's file

Each proposal should be addressed in writing, either in the IEP itself and/or in the Prior Written Notice of Proposal (PWN) document. Here are some questions to think about as you make your list of **Concerns with Proposals**:

- How can the school help in the achievement of the goals for your child?
- What positive supports need to be put in place for my child to succeed?
- How the school can help meet the student's needs/address your concerns?
- Be prepared to discuss "the why" of your proposal.

The **Family Proposal Worksheet** is a tool to use during the IEP meeting. Parents Reaching Out recommends that you ask a friend or family member who knows your child to attend the meeting with you. Ask this person to use the Family Proposal Worksheet to document how each of your concerns/proposals were addressed during the IEP meeting.

Plan Ahead

You have invested your time and thought to develop your family report and proposals. Your efforts will benefit your child, if you also plan how you will present them during your child's IEP meeting. It is a good idea to Practice your presentation in front of a mirror or with someone who knows you and your child. *It is also helpful to plan ahead for the "what if" situations that may occur in your meeting.*



If your proposals are not being documented, don't be afraid to stop the meeting and ask that your statements be documented. If you are refused, it is time to interrupt the meeting and ask to speak to the administrator that is responsible for following the "IDEA" law!

It should be noted that the IEP and PWN are separate documents and each of your proposals should be documented and addressed in either the PWN or IEP. These written forms (either the IEP or PWN) make good documentation if, at some later time, there is a dispute over what was said or agreed upon. If a proposal is accepted it should be addressed in the IEP. If the team does not adopt a proposal/recommendation, the reason for rejecting the proposal should be written on the Prior Written Notice (PWN). See Prior Written Notice on page 57.

Sample Parent Concerns with Proposals

Parent Concerns with Proposals for Michael (date of IEP meeting) (To be added to Prior Written Notice at the IEP Meeting)

Social Skills

Concern: Michael wants to have friends. He lacks understanding of social cues. He does not understand why his classmates do not want to play with him. There have also been some unhappy incidents on the playground at school. He's sent to the Principal's office 3-4 times a week.

Proposal: Review the Functional Behavior Assessment completed last May and gather new information that reflects Michael's current experiences. Within one month from today's meeting, reconvene the IEP team to develop a Behavior Improvement Plan that includes Positive Behavior Supports.

Academic Areas

Concern: Michael does not answer questions quickly because he has trouble retrieving specific answers. He can recall large chunks of information on topics that interest him. He may have the answer, but will "freeze" if a quick response is required.

Proposal: Provide "thinking time" for Michael to respond to a question. Repeat and or rephrase the question in calm tones to give Michael an opportunity to respond. Provide cuing as needed (during classroom, playground and other activities).

Behavior

Concern: Michael refuses to comply with requests when there is a change in "the routine". He doesn't respond well to people who enter his "personal space".

Proposal: Provide cues to Michael and time to allow him to transition from one activity to another. Provide teacher/staff training on identifying and addressing behaviors that result from Michael's disability. (We have information and we'd like to find a way to share information and resources with staff.)

Other

Concern: Michael is frustrated by sharp or loud background noises. He tries to block them out and this interferes with his learning.

Proposal: Revise Occupational Therapist's schedule to include regular classroom consult on strategies/environmental changes to improve his tolerance level and reduce effects of excess noise.

Concern: Communication from school is inconsistent. I'm only called when he's in trouble.

Proposal: Weekly two-way communication between home and school that describes progress toward goals and positive encounters with Michael as well as concerns.

Sample Family Proposal Worksheet (Note taking during IEP meeting)

Family Proposal Worksheet

The Family Proposals Worksheet is a tracking tool to use during the IEP meeting

IEP meeting for: **Michael**

Age: _____ Date: _____

Proposals		Action		Outcomes		
Concerns/ Discussion Questions	Proposal and Reason	Accept	Reject	Reason for Action	Start Date	Person Responsible
Michael lacks understanding of social cues.--playground & class incidents—principal's office 3-4 times a week.	Review Functional Behavior Assessment from May. Gather new information. Reconvene IEP in 1 month t develop a Behavior Improvement Plan (BIP) with Positive Behavior Supports (PBS).					
Does not answer questions quickly --trouble retrieving specific answers.	More Speech/Language Therapy to include consult w/teacher to address memory problems.					
Refuses to comply with requests when routine changes. Issues with his "personal space".	Provide teacher/staff training on identifying and addressing behaviors that result from Michael's disability.					
Michael is frustrated by sharp or loud background noises--tries to block them out. Interferes with his learning.	Occupational Therapy to include regular classroom consult on strategies to improve his tolerance level/reduce effects of excess noise.					
Communication is not consistent.	Set up a weekly home-school communication system for progress updates and information sharing					

Parent Concerns with Proposals
(To be added to Prior Written Notice at the IEP Meeting)

Child's Name: _____ **IEP Meeting Date:** _____

Area: _____ (Academic, Social Skills, Behavior, Home-School Communication, etc.)

Concern:

Proposal:

Concern:

Proposal:

Area: _____ (Academic, Social Skills, Behavior, Home-School Communication, etc.)

Concern:

Proposal:

Concern:

Proposal:

Area: _____ (Academic, Social Skills, Behavior, Home-School Communication, etc.)

Concern:

Proposal:

Concern:

Proposal:

Area: _____ (Academic, Social Skills, Behavior, Home-School Communication, etc.)

Concern:

Proposal:

Concern:

Proposal:

Note: Attach to Parent Report and request this information be added to your child's file.

Family Proposal Worksheet (Note taking during IEP meeting)

Family Proposal Worksheet

The Family Proposals Worksheet is a tracking tool to use during the IEP meeting

IEP meeting for: _____ Age: _____ Date: _____

Proposals		Action		Outcomes		
Concerns/ Discussion Questions	Proposal and Reason	Accept	Reject	Reason for Action	Start Date	Person Responsible

We thank Adobe Corp member, Judy Bonnell, for sharing her ideas to spark the creation of this form.

At the IEP Meeting...



**Parents as Full Partners
and Participants
in the IEP Process**

Frequently asked Questions

What is the school districts responsibility in providing services to children with disabilities?

The school district is required by the Individuals with Disabilities Education Act (IDEA) to provide a Free Appropriate Public Education (FAPE) to meet all of the educational needs of a student with disabilities. The needs are based on an appropriate evaluation. (at no cost to the parent). The evaluation should cover all areas of suspected disability.

How are the decisions made as to what and how much services are to be provided to students with disabilities?

- The IEP team makes all decisions; parents are equal members of all teams that meet concerning their children.
- The decisions should be made on the recommendations made by appropriate evaluations, performed by qualified evaluators. Without evaluations to indicate a need for a change in service there should be no significant change in services.

Can money or the school budget be a factor in determining the educational needs of a student with disabilities?

No, however we all know money is a factor in everything. We encourage creativity and flexibility in order to meet the all the needs of a child with a disability in the most economical way possible.

What if a parent disagrees with the evaluation that the school district has provided?

The parent may request in writing an Independent Educational Evaluation (IEE) at public expense. (Cost is paid for by the district.)

What if the district does not want to provide the parent with an IEE?

The district must request a due process hearing in order to prove that their evaluation is appropriate. Most school districts would not request a hearing at the cost of thousands in order to avoid an evaluation that cost hundreds.

Can the district change the services provided to my child without holding an IEP meeting?

No, However, if the family and school agree, the IEP can be changed without an IEP team meeting

Can the district hold an IEP meeting to change the services being provided to my child? If I disagree with the district what should I do?

- Yes
- Sign the IEP I disagree and request in writing that the “stay put” be put into effect. The district is only required by law to honor “stay put” when a due process hearing is requested, however they will generally honor the request as a matter of not escalating the dispute if you do one of the following:
 - Request an Independent Educational Evaluation (IEE)
 - Request mediation of the dispute
 - File a formal letter of complaint with the State Department of Education
 - Request a due process hearing

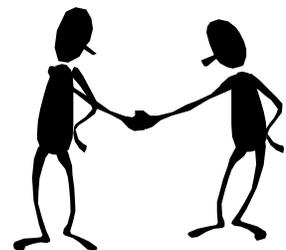
At the IEP Meeting

Up until this point you have worked hard to prepare for the IEP meeting. There are a few things you need to know about having a successful IEP meeting. If you have gone the extra mile to build relationships with team members as part of your preparations, your efforts will certainly pay off during this important meeting.

Here are some "first steps" to a successful meeting.

- Dress so that you feel most competent and confident. Dressing respectfully gives you a better chance of being respected.
- Be sure you arrive on time for the meeting. This sends a message that you are prepared for the meeting. It also sends the message that you follow through on a commitment and value the time of the others who will participate in this meeting.
- If you have copies of information you wish to share with the team, make sure you have made copies before the meeting. Be sure to have enough copies for the entire team.
- Take time to greet those who are in attendance. You don't have to wait for formal introductions. If your child is attending the meeting with you, prepare your child to participate in this "informal greeting time".
- Find out who will be facilitating the meeting and request that the facilitator provide time (right after the introductions) for you to read your Parent Report ("Portrait of Your Child"). Ask that this information be included as part of the Student Profile or Present levels of educational performance portion of the IEP.
- Stay focused on your child. Remind the team that the child's future is what has brought everyone together for this meeting.
- Let the team know that you have prepared a list of proposals for the team to consider at the appropriate time.
(Family Proposal Worksheets)

Remember: You attend IEP meetings to advocate for your child.
You want to be persuasive and effective.



Once parents have shared their Parent Report and Concerns with Proposals, they can relax about getting their information on the record and then be better able to listen to the rest of the team give their information and for the responses to proposals.

Parents—A Child's Best Advocate!

There are certain strategies that might help you better advocate for your child. Here is a list of considerations to keep in mind.

Position Yourself! You will be sitting around a table with a group of people. The more people you know at the meeting, the more comfortable you will feel. Don't hesitate to bring a relative, friend, or advocate with you for support.

Power - Some people on the team will have the authority to grant or withhold whatever it is that you want for your child. Know who they are. Understand what they have the power to give.

Respect - Some people will have special training, knowledge or experience. You do not have to agree with them, but it will help to show respect for their opinions. Respect given is usually returned. Disrespect is also usually returned.

Compromise - is inevitable, a certainty and a necessity. Know your bottom line. What is the least you can live with to provide successful outcomes for your child?

Rights - Know your rights. The law provides mechanisms to protect your rights, but only to the point where other people's rights are not violated.

Politics - It is easier to get something from a friend than from an enemy. Try to find a common ground with the people that you are asking to provide services. Give credit to any person who thinks of a solution to the problems you are discussing. Be polite and always thank those who helped you. A note or letter of thanks can be worth its weight in gold.

Attitude - Assume that you will get what you want. Be positive. Remember that what you are asking for is reasonable and logical. Present it that way. Focus on the issues and the actions needed, not on personalities.

Time - Set firm dates and times for meetings and follow-up. Do not assume any agreement will automatically be followed. Remember, you can request an IEP meeting at any time.

Money - The simple truth is that money is tight and resources are scarce in every school district. Services cost money. Absolutely advocate for the services you believe your child needs. Be careful not to push for services that your child does not need. Ultimately, you and the district must work together.

Dreams - Always remember your dreams for your child. Bring these dreams to the IEP meeting and be prepared to share them with the team.

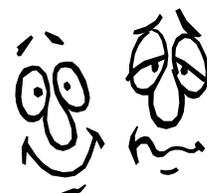
Get Off to a Good Start!

Ideas for Successful Meetings...

- Go to the meeting with an open mind. Be specific and know your options. Be prepared to work collaboratively in your child's best interest.
- Work to avoid the appearance of antagonism or taking sides. Be as collaborative as possible.
- Ask questions. Ask lots of questions. Get lots of answers. Be a Super Sleuth! Don't be embarrassed about asking for an explanation, if there is anything you don't understand.
- When speaking of your child's needs, use "I feel" statements. Nobody can argue with your feelings. "I really feel my son needs occupational therapy because his writing skills need so much improvement."
- Ask for time, if you need it. If the meeting begins to feel out of hand, ask for a break, get a drink of water, and go to the bathroom. A little break can help everybody regroup and refocus on the needs of your child.
- Try not to cloud main issues by raising small ones. Take care of all the little issues after the main issues are covered. Frequently, the little issues will be resolved as you address the big things.
- You can tape record meetings. This way, you don't have to worry about keeping notes. Be aware that tape-recording may be intimidating to your educator partners. Let them know in advance, if you are planning to tape record. NOTE: If the school chooses to record the IEP meeting, the tape becomes part of your child's official record. Your tape does not become part of the record.
- Never threaten. You will lose all credibility. Remember that the regulations have procedures to follow. By following the process, you will get more for your child. The regulations are on the side of your child.
- Use articles, studies or information from others who know your child to support your position. Don't be afraid to challenge the experts by asking questions, seeking other opinions, or requesting independent evaluations.



- If you are going to be asking the district to spend money, make sure the district representative with the authority to make a decision is invited to the meeting.
- Set clear deadlines for when services must begin; when evaluations must be completed; when the next meeting will be held, etc. Make sure that these deadlines are written in the IEP or in the Prior Written Notice. Don't leave any deadline to chance. Get it in writing!
- Make sure that each person involved knows their role, knows what is expected, and when it is expected. Write everything down.
- If the team gets stuck, set a date to reconvene. If you have come to some agreement, implement the programming about which you agree and set a date to meet again to mediate problem areas.



Actively listen to understand the other person's perspective.

Listen more than you talk. Rephrase what you have just heard to make sure you understand it.

Speak up when things important to you are not being addressed. If you don't understand what someone is saying, tell him or her. Be direct:

"I just don't understand what you are saying. Can you explain it in a different way or give me some examples?"

"Is there something you can show me, in writing, so I can fully understand?"

Keep asking and wait for responses until you do fully understand. Resist any temptation to answer your own questions or put words into someone else's mouth.

During the IEP meeting, proposals will be made as to different ways, methods or programs to serve your child. Ask the following questions:

- What does the research say about the proposed program?
- How it will meet my child's specific needs?
- Can you show me the data that proves the proposed program is effective?

These are especially important questions when it comes to reading programs. There are scientifically proven programs available. Our children deserve no less.

Remember: Proposals by any team member during the meeting should be noted and addressed in writing either through the IEP document or PWN.

Read body language.

Do people seem bored? Are they Interested and tuned in to what you are saying? Body language can give clues about the best times to draw people into the conversation. Clarify your statements, if you see a puzzled expression on someone's face and ask for clarification in return. Paraphrase, or restate so that you and others are clear in your understanding.

To be understood:

"I must not be explaining this clearly, what I'm trying to say is . . ."

"Here's a copy of . . . Let's look at this together. It shows that . . ."

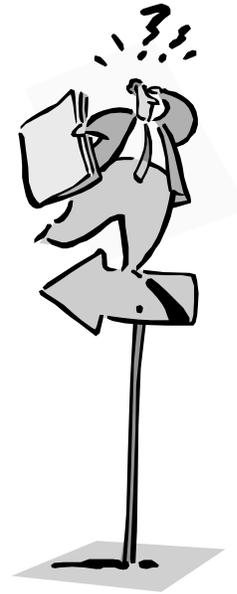
So that you understand:

"It sounds like you're saying . . ."

"If I understand you correctly, you're saying . . . Is that right?"

"Is that written down anywhere so I can read it?"

Often, the process of clarifying what you understand will provide an opportunity to clear up a misconception or correct misinformation that could be critical to finding a satisfactory solution for your child. So, don't overlook the value of this technique.



Have options in mind and offer them for discussion, as needed.

As a parent, you're in a good position to present alternative solutions that might not occur to those who work for the school system. Ask "what if...?" questions. It is always useful to explore the hypothetical. (Along the lines of the old adage, "Sometimes you just can't see the forest for all the trees."):

"Let's do some brainstorming on possibilities to see what we can come up with . . ."

"How about . . . ?"

And, if you've done some research, information gathering, or obtained any formal recommendations:

"Here's a recommendation from . . . that has proven successful. We should seriously consider this for Janey."

"Let's try this for 8 weeks and see how it goes."

It's also important to make sure that the focus stays on your child and meeting his or her needs. Sometimes, words like the following can help tighten everyone's focus:

"Jordan's dad and I just haven't seen the kind of progress that Jordan needs to make. What other options can we consider for him?"

You're only human.

If someone has been particularly helpful, acknowledge their efforts. Sometimes, especially when frustrations rise, acknowledging what has gone well, and how hard everyone has worked, sweetens the air a bit and makes it possible for everyone to feel better and push towards the finish line!



If, by chance, you make a mistake, or cause offense, say you're sorry. Making an apology says that you're only human and helps to humanize what is often a formal process and sends the message that you can be forgiving of others mistakes. "Please and thank you" also go a long way in keeping conversations civil, and not surprisingly, helps everyone say "yes."

In the end, ask for the "yes."

As you communicate and negotiate, you will uncover areas where you and the school are in agreement. You may agree on the issue that must be addressed, but not be in full agreement on how to address it. This is when it can be especially helpful to restate and discuss options in a problem solving way. This means presenting and fully analyzing proposed solutions on their own merits. It also means asking some direct, yet polite, questions such as:

"I'm still puzzled. Why isn't this an option?"

"Jordan needs this. Who has some ideas on how we can make it happen?"

Additionally, words that recognize the desires and the difficulties for schools to meet every child's needs, while refocusing on your child, can lead to a greater willingness to put forth extra effort and think more creatively about ways to say "yes" to and for your child:

"I appreciate the huge responsibility and demands facing our school system. I understand that there's never enough money, nor enough staff to meet all children's needs in the way that we all want. Truly, I do. You are responsible for meeting many children's needs. My number one job is to see to it that my child's needs are met. None of us has an easy job.

"I know that there's a way for us to work this out, together, so that Janey gets the services she needs. How are we going to do this?"

Talking the Talk

So, in a nutshell, when talking with staff and administrators at your child's school, you're likely to be successful if you can:

- Keep your cool.
- Focus on the positives.
- Be clear about your goals.
- Listen. Ask questions. Clarify.
- Keep the focus on meeting your child's needs.
- Present options in a collaborative way. For example, try saying, "we can" instead of "you should."
- Say "yes and. . ." instead of yes, but. . ." ask for the "yes".

Informed Consent and Signing the IEP



As with any other legal document, when you sign school papers your signature is very important. There are three times during the IEP process that your signature is required. Your informed written consent is required:

- When your child is first evaluated;
- When your child is reevaluated; and
- Before the initial provision of special education and related services.

People are often under the impression that if parents do not like an IEP all they have to do is not sign it and it will not take effect. *This is not true.* Schools are required by law to provide FAPE, (Free Appropriate Public Education). When a child is covered by the special education law (IDEA), districts are required to have a legal IEP for that child at all times. If a parent attends a meeting and simply walks out without signing the IEP, schools are required by law to provide FAPE so the new IEP goes into effect. Not signing an IEP does not invalidate that IEP as many people think. (As a matter of best practice, most school districts will try some type of informal mediation to resolve the dispute prior to implementing the IEP.)

However, you do not have to sign the IEP *at the meeting*. You may request a copy of the IEP to take home so that you can review its content and think about it. Best practice in our state recommends giving the parents 10 days to consider their decision. Otherwise, schools are obligated to go ahead with the new IEP under the IDEA requirements.

If you disagree with your child's IEP, you have an obligation to let the district know that you disagree and with what part of the IEP you disagree. Always put your disagreement in writing and be specific. Your written disagreement with the IEP is called a Dissenting Opinion and you should request that it be attached to the IEP record. If the parent has written a Dissenting Opinion, the parts of the IEP that the parent has agreed to should go into effect. The parts that are being disputed should be resolved through a process of dispute resolution.

*We recommend, whenever possible,
that disputes be resolved at the lowest possible level.*

If you disagree with the IEP, you have four options:

1. Do nothing.
2. Try to resolve the dispute informally.
3. File a formal letter of complaint with the State Department of Education.
4. File for a due process hearing.

The school district also has the option of filing for a due process hearing in order to prove that the program they have recommended is appropriate. If due process is selected, you may request that the "stay put" provision be invoked. The "stay put" provision allows the old IEP to stay in effect. Often districts will honor "stay put" during the formal letter of complaint process and the other informal processes as a matter of not escalating a situation, but they are not required to do so.

We recommend parents sign the IEP under the following conditions:

1. The parents understand all of the IEP and all of the options that were proposed and why each option was accepted or rejected.
2. All of their concerns or ideas have been addressed either through the IEP or Prior Written Notice of proposal. (See the Parents Rights chapter.)
3. They agree or are in consensus with the rest of the team.

We recommend that when parents are in disagreement with the IEP that they sign the IEP “I disagree with the IEP” and tell the district in writing why they disagree.

Following this process should lead parents to making an “informed decision”. If you do not make an informed decision and decide to sign the IEP anyway, it is like signing a blank check! Please make out all blank checks to “Parents Reaching Out” and send right away!



Informed Decisions!

One of the more important highlights under IDEA '97 (Section 300.505), is that parents must make **Informed Decisions** about their child's education. Making an informed decision means that you understand ALL of the options before you make your final decision and that you understand why that particular option was chosen. The description of the proposal and why proposals were accepted or rejected should be written in the IEP and/or the Prior Written Notice document. In other words, there must be written reasons in the IEP document and they should make sense.

Placement = Services + Location

When we think of placement, we need to remember that Special Education is a *service* not a place! Placement is a combination of *services* provided in the Least Restrictive Environment and the location where the *services* are provided. A change of placement occurs when either the *services* or the location where *services* are provided is changed.

Parents Rights in Special Education



§ 300.502 Independent Educational Evaluation

(a) *General.*

(1) The parents of a child with a disability have a right under this part to obtain an independent educational evaluation of the child subject to paragraphs (b) through (e) of this section.

(2) Each public agency shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.

(3) For the purposes of this part-

- (i) *Independent educational evaluation* means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and
- (ii) *Public expense* means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at not cost to the parent, consistent with § 300.301.

(b) *Parent right to evaluation at public expense.*

(1) A parent has a right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency.

(2) If a parent request an independent evaluation at public expense, the public agency must without unnecessary delay, either-

- (i) Initiate a hearing under § 300.507 to show that its evaluation is appropriate; or
- (ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency in a hearing under § 300.507 that the evaluation obtained by the parent did not meet agency criteria.

(3) If the public agency initiates a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has a right to an independent evaluation, but not at public expense.

(4) If a parent request an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the public agency may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.

(5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

(c) *Parent-initiated evaluations.* If the parent obtains an independent educational evaluation at private expense, the results of the evaluation-

- (1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and
- (2) May be presented as evidence at a hearing under this subpart regarding the child.

(d) *Request for evaluations by hearing officers.* If a hearing officer request an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(e) *Agency criteria.*

(1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parents right to an independent educational evaluation.

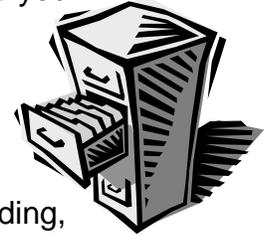
(2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

Parents' Rights in Special Education

Regarding . . .

Your child's **Educational Records**, you have the right:

- To review your child's records "without unreasonable delay" or anytime before a meeting to discuss your child's identification, evaluation, placement in special education, or Individualized Education Program (IEP);
- To have copies of the records. You may be asked to pay for the copies themselves (not the time to make copies) unless the charge would prevent you from having copies;
- To know where the records are kept;
- To know what information the records contain;
- To have information in the records explained to you;
- To request that the records be changed if they are wrong, misleading, or violate your privacy;
- To ask for a hearing if the school refuses to change the records as you have requested;
- To know when the school no longer needs the records to provide education services to your child and so may be destroyed;
- To see information only about your child if records include information about other children as well;
- To add to a written statement to the records that describes any disagreement you have with any of the information.



Confidentiality of Information, you have the right:

- To look through your child's education records;
- To know when the school plans to destroy information in the records;
- To give or deny consent to have the records reviewed by individuals not involved in your child's education;
- To know who has been allowed to see the records, how the information was used, and when the records were reviewed.

Providing your **Written Consent**, you have the right:

- To give your consent in writing before the school conducts its first evaluation to decide whether your child is eligible for special education;
- To give your consent in writing before your child first receives special education or related services;
- To revoke your consent for evaluation before the school completes its first evaluation of your child;



Although you have the right to withhold written consent for your child's first evaluation or provision of special education services, the school has the right to request a due process hearing to find out whether your child should be evaluated and/or receive special education services.



*Your child's **Evaluation**, you have the right:*

- To have a complete evaluation of your child's individual strengths and needs;
- To participate in developing your child's written evaluation plan;
- To a written evaluation plan for your child before the school's evaluation begins;
- To an evaluation using more than one measure to decide whether your child is eligible for special education;
- To an evaluation conducted by qualified individuals;
- an evaluation of all areas related to your child's suspected disability;
- To a re-evaluation of your child every 3 years or more often, if it is warranted;
- To have a supplemental evaluation of your child when you or the school requests a change in your child's eligibility;
- To receive a copy of the evaluation report from the school before your child's IEP meeting;

*Any **Disagreement** you may have with your child's **Evaluation**, you have the right:*



- To an independent evaluation of your child conducted by a qualified evaluator who is not a school employee. Your request for an Independent Educational Evaluation (IEE) must be addressed by the IEP team.
- To have the school pay for the independent evaluation and related expenses, if you disagree with the school's evaluation;
- To an independent evaluation at your own expense, if the school's evaluation is considered appropriate as the result of a due process hearing. (The school has the right to ask for a due process hearing to show that its evaluation is appropriate.);
- To have independent evaluation results considered by the evaluation team when a decision is being made about your child's eligibility for special education or placement in a special education program;
- To have independent evaluation results considered during mediation or a due process hearing;
- To ask a hearing officer to order an independent evaluation at no cost to you as part of a due process hearing;
- To information from the school about where to get an independent evaluation.

Although you have the right to an independent evaluation at public expense, that evaluation must meet the school's guidelines for such an evaluation unless those guidelines make it impossible for you to get an appropriate evaluation.

Your Child's IEP, you have the right:

- To participate in a meeting to develop your child's *Individualized Education Program*;
- To be notified of the IEP meeting early enough to make arrangements to attend;
- To be notified in writing about the time and place of the IEP meeting and who will attend;
- To have the meeting held at a time and place that is convenient for you and for the school;
- To participate in the meeting by other means, such as the telephone, if you cannot attend in person;
- To receive a copy of your child's written evaluation report and to review your child's records before the IEP meeting;
- To bring a friend, advocate, or someone else with you to your child's IEP meeting.

The Least Restrictive Environment (LRE), you have the right:

- To have your child educated to the greatest degree possible with non-disabled classmates in regular classes;
- To a variety of education placements for your child, such as preschool or day care settings, regular classes, and special education classes;
- To a variety of support services to assure that your child will do well in the regular classroom, such as one-to-one tutoring and adjustments in homework assignments and/or grading procedures;
- To an education for your child in the same school he or she would attend if not disabled, unless your child's IEP requires another placement;
- To an equal opportunity for your child to participate in in-school and after-school activities with non-disabled children.

Notification, you have the right:

- To be notified by the school before they begin (or refuse) to provide special education services to your child and before they plan (or refuse) to change your child's identification, evaluation, special education services, or education placement;
- To be notified in writing in your native language or other type of communication, such as sign language, and in a way that can be understood by the general public;
- To notice from the school describing what they are planning to do and why they are planning to do it;
- To be notified of each evaluation procedure, test record, or report the school uses to decide whether your child is eligible for special education services;
- To be notified of your right to request mediation or a due process hearing if you disagree with the school about any aspect of your child's identification, evaluation, education program, or placement.

Don't get stuck behind
the "eight ball"
Know your Rights!!



The Individuals with Disabilities Education Act

...from IDEA to IDEA 97 and beyond to IDEA 2004

In June 1997, the Individuals with Disabilities Education Act was amended by Public Law 105-17. The new amended law was called the Individuals with Disabilities Education Act Amendments of 1997, or IDEA 97. IDEA 97 has brought many important changes to the law. These changes affect a wide range of activities, from personnel preparation (what teachers are taught) to service delivery (how services reach children). Therefore, it is vital that all those involved in the education of children and youth with disabilities are informed about the changes presented in IDEA 97. Although all of the information presented in this manual is consistent with IDEA 97, a few changes deserve special attention.

IDEA '97 says you have the right:

- To provide information about your child during your child's evaluations and to review existing data as part of either an initial evaluation or reevaluation;
- To be a part of the group that makes the decision regarding your child's eligibility for special education services;
- To be part of the group that makes the decision regarding your child's educational placement;
- To deny consent for reevaluation. You now need to provide informed consent in order for your child to be reevaluated;
- To participate in all meetings in which evaluation, identification, the educational placement of your child and the provision of FAPE to you child are discussed;
- To receive regular reports on your child's progress (at least as often as do children without special needs);
- To place your child in private school at public expense. However, in order to do so you must be able to demonstrate that the Local Educational Agency (LEA) cannot meet your child's needs. NOTE: You must notify the LEA if you intend to remove your child from the public school and place him or her in a private school at public expense at least 10 days prior to removing your child from the public school;
- To file a due process complaint.
- To begin transition planning (a plan that prepares your child for life after school) for your child when he or she turns 14.

IDEA 2004

On December 3, 2004 President Bush signed the re-authorization of the Individuals with Disabilities Education Act (IDEA) P.L. 108-446. The name "Individuals with Disabilities Education Act" (IDEA) is preserved. □The title of the Amendments is the "Individuals with Disabilities Education Improvement Act of 2004." Revisions to this edition of The Handbook reflect the final regulations for IDEA 2004 published August 14, 2006. To obtain a complete copy of these regulations, visit:

Building the Legacy IDEA 2004 <http://idea.ed.gov/explore/home>

Prior Written Notice (PWN) § IDEA 300.503



Prior Written Notice may be the most important of all Procedural Safeguards. If we, as parents have done a good job of getting all of our issues in to the Individualized Education Program (IEP) through discussion (and often times through a written report attached to the IEP record) then each point should be addressed in writing either through the IEP itself or PWN. These written forms (either the IEP or PWN) make good documentation if, at some later time, there is a dispute over what was said or agreed upon. NOTE: A PWN form that might be a helpful tool for parents to use for a parent report is included at the end of this section.

Definition

Prior Written Notice must be provided to a parent of a child whenever the district proposes or refuses to initiate or change the identification, evaluation, education placement, or provisions of FAPE (Free Appropriate Public Education) to a student. Some actions also require consent. A single form that meets consent and written notice requirements can be used.

The Prior Written Notice must be in a language understandable to the general public. It must be provided in the native language or other mode of communication used by the parents unless it is clearly not feasible to do so. If the native language or other mode of communication is not a written language, the district must take steps to make sure the following occurs:

- The notice is translated orally or by other means to a parent in the parents' native language or other mode of communication.
- A parent understands the content of the notice.
- There is written evidence that the notice requirements of this section have been met.

When is Prior Written Notice Required?

A district must provide PWN to a parent in a reasonable amount of time before initiating or changing the following:

1. Identification (eligibility for services, need for services, and/or change of disability category)
2. Evaluation (initial evaluation, re-evaluation)
3. The provision of FAPE to the student (IEP changes) or,
4. Educational placement (graduation, program completion, a placement that changes the degree of interaction with non-disabled peers, placement in an Interim Alternative Education Setting (IAES), suspension for more than 10 days, or expulsion)

When is Prior Written Notice Not Required?

Neither PWN nor consent is required in the following situations:

1. Tests, which are, administered to both regular and special education students in a grade or class.
2. Teacher-made tests or criterion-referenced tests, which are used to determine the student's progress toward IEP goals and objectives.

Content of Prior Written Notice

The PWN must include the following:

1. A description of the action proposed or refused by the district
2. An explanation of why the district proposes or refuses the action
3. A description of any other options the district considered and the reasons why those options were rejected.
4. A description of each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action
5. A description of any other factors relevant to the proposal or refusal
6. A statement that the parent has protection under procedural under procedural safeguards, or parental rights, and how they can obtain a copy of Parent Rights.
7. Sources for the parent to contact to obtain assistance in understanding his or her rights.

Parent Objection

If a parent disagrees with an IEP or placement change proposed by the district, he or she may state an objection to all or part of the proposed changes. **The changes to which the parent objects, should not be implemented.** The district and parent may use informal methods to resolve the disagreement such as additional IEP team meetings or voluntary mediation. If these informal attempts fail, review the chapter: "If the Partnership Breaks Down". The stated objection cannot be used to prevent the district from placing a student in an Interim Alternative Education Setting (IAES), if the student carries a weapon or drug to school or a school function.

OSEP response to Questions regarding Prior Written Notice:

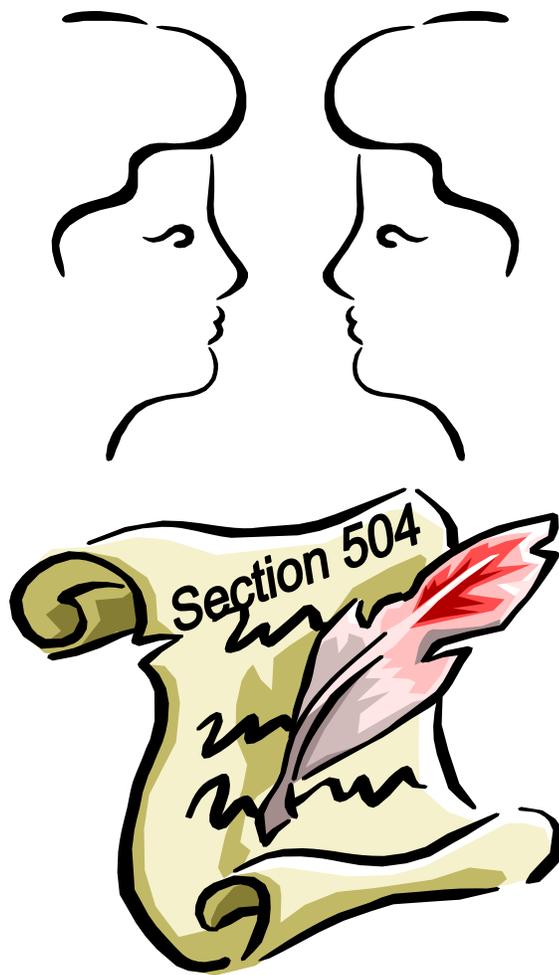
Question: What is a public agency's responsibility if it is not possible to reach consensus on what services should be included in a child's IEP?

Response: The IEP meeting serves as a communication vehicle between parents and school personnel, and enables them, as equal participants, to make joint, informed decisions...the IEP team must consider the parents' concerns and the information that they provide regarding their child in developing, reviewing, and revising Imps. (300.343 (c) (2) (iii) and 300.346 (a) (1) and (b)) The IEP team should work toward consensus. It is not appropriate to make IEP decisions based upon a majority "vote". If the team cannot reach consensus, the public agency must provide the parents with PWN.

Part B of the regulations also provides that the parents of children with disabilities must have their concerns and the information that they provide regarding their child considered in developing and reviewing their child's IEP. There is no requirement that recommendations of the parents, or of other team members, that were not adopted, as part of the child's IEP be included in the IEP. Under Part B, if prior written notice is required, following an IEP meeting, a public agency would explain why any recommendations of the parents or other IEP team members were not adopted. 34 CFR §300.343(c)(2)(iii) and 34 CFR §300.346(a)(1)(I) and (b), and 34 CFR §300.347(a)(3), and 34 CFR §300.503 (a).

PRO Note: Usually, if a district is going to respond to something in writing, they respond with something that makes sense. See "Content of Prior Written Notice at the top of this page. The district must consider written parent reports.

Section 504 of the Rehabilitation Act



Section 504 of the Rehabilitation Act

Congress passed section 504 of the Rehabilitation Act in 1973 to protect people with disabilities from discrimination in programs that receive federal funds. One important feature of Section 504 is that it addresses a much wider population of children than the Individuals with Disabilities Education Act, which is the federal special education law. Because all public schools and many independent schools receive federal dollars, they are required to follow Section 504 guidelines. This means that students with disabilities who qualify for services must have equal access to all academic and nonacademic activities and programs, including after school programs.

Children with disabilities who are not eligible for special education may qualify for extra help and accommodations under Section 504 of the Rehabilitation Act. If your child qualifies for Section 504 services, she or he may receive specialized instruction, related services, classroom accommodations, or adaptations to the education environment.

Listed below are some answers to questions that parents often ask about Section 504 and the education process. The information provided here only covers some parts of Section 504 and is not a complete explanation of the law.



Q. *What is Section 504 of the Rehabilitation Act?*

A. Section 504 of the Rehabilitation Act of 1973 is a federal law that:

- guarantees to education services for students who qualify as having a disability;
- prohibits physical barriers to individuals with disabilities in public buildings;
- does not allow post-secondary and vocational programs receiving federal dollars to discriminate against individuals because of a disability;
- prohibits employers from excluding qualified individuals from employment solely because of a disability;
- provides related services and accommodations to qualified students with disabilities whether or not they are eligible for special education.

Q. *Who can receive Section 504 services?*

A. To qualify for services under 504, a child or adult

- must have a disability that substantially limits one or more major life activities; or
- must have a record of having a disability (a history of a disability); or
- must be regarded as having a disability (person has been treated as though he or she has a disability). Major life activities include self-care, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Q. *What disabilities are covered under Section 504?*

A. Section 504 describes disability as a “physical or mental impairment” including, but not limited to:

- severe allergies, chronic asthma or health impairment;
- cosmetic disfigurement or amputation;
- injuries or broken bones;
- communicable diseases, such as HIV;
- diabetes; and
- eating disorders.

Q. *How does the Section 504 process work in my school district?*

A. Every school district must have written 504 policies and procedures that describe how they will carry out the requirements of the law. This information is public, and you can get a copy to help you understand how things work in your school district. Here are examples of how a school must carry out Section 504 requirements:

- The school must identify and evaluate children in the district, ages three through 21, who may have a disability;
- The school must establish that the child has a disability that substantially limits one or more major life activities;
- The school must develop a written plan to show how they will provide the child with a free appropriate public education (at no cost to parents) including accommodations that enable the child to have equal access to academic and non-academic education programs.

Q. *How do I find out about my school's Section 504 procedures?*

A. Your school district must have a person who oversees its Section 504 program. To find out the name of this person, contact the school principal, superintendent, or special education director. This information should also be contained in any publications put out by the district such as a handbook.

Q. *How do I refer my child for Section 504 services?*

A. Read your school district's policies and procedures to find out what to do. Then make a referral following school guidelines. Talking to the principal, special educators or other parents whose children get 504 services is another way to learn how to make a referral.



Q. *Who decides if my child qualifies for 504 services?*

A. A group of educators called a 504 team will decide if your child qualifies for 504 services. While schools are not required to include parents, some schools welcome parents as part of the team. If you want to participate, ask your 504 coordinator to have you in meetings, or request an opportunity to share information about your child with team members. To determine eligibility, the 504 team must evaluate your child. There are several ways that schools gather information about your child. They can use information from a special education evaluation, get information from a physician, and/or request a separate evaluation.

If the 504 team determines that your child doesn't have a disability, they are not required to conduct a 504 evaluation, but they must provide you with notice of your right to disagree with their decision.

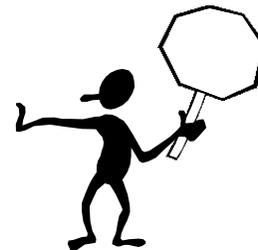
Q. *How can the school make programs accessible to my child?*

A. Some ways in which the school can ensure that your child is able to take advantage of school programs include holding classes or other programs in places that are physically accessible, redesigning equipment and facilities used for academic and nonacademic programs, or providing an individual aide.

Q. Once my child becomes eligible, what services and accommodations will be available to support my child?

A. The services or accommodations your child receives will depend on her individual needs. Some of the services available under Section 504 include:

- transportation,
- speech and language services,
- equal opportunity to participate in non-academic and extra-curricular activities,
- equal access to building and other facilities,
- home-based instruction,
- modified attendance policies,
- giving medication,
- changing grading procedures,
- changing standards for making the honor roll and graduating,
- classroom modifications,
- behavior plans,
- standards of conduct.



Q. What rights do my child and I have under Section 504?

A. As a parent you have the right:

- to examine all relevant records regarding your son or daughter;
- to receive notice (not necessarily in writing) regarding the identification, evaluation and eligibility of your child;
- to receive notice of your parental rights;
- to file a local complaint if your school's 504 policies provide for complaints;
- to challenge school decisions regarding your child's evaluation and eligibility;
- to request mediation;
- to request an impartial due process hearing to resolve differences with the school;
- to be represented by an attorney at the due process hearing;
- to have your attorney's fees paid if you prevail at the hearing;
- to a review of the hearing decision at a higher level;
- to file a complaint with the US Department of Education or Office of Civil Rights.

Q. How can you make a complaint to the Office for Civil Rights?

A. If you feel the school has discriminated against your child because of a disability, you can write to the office that handles New Mexico complaints:

Region VIII Office for Civil Rights
US Department of Education
Federal Building, Suite 310
1244 Speer Boulevard, Denver, CO 80204-3584
1-303-844-5695 TDD 1-303 844-3417 Fax: 1-303 844-4303

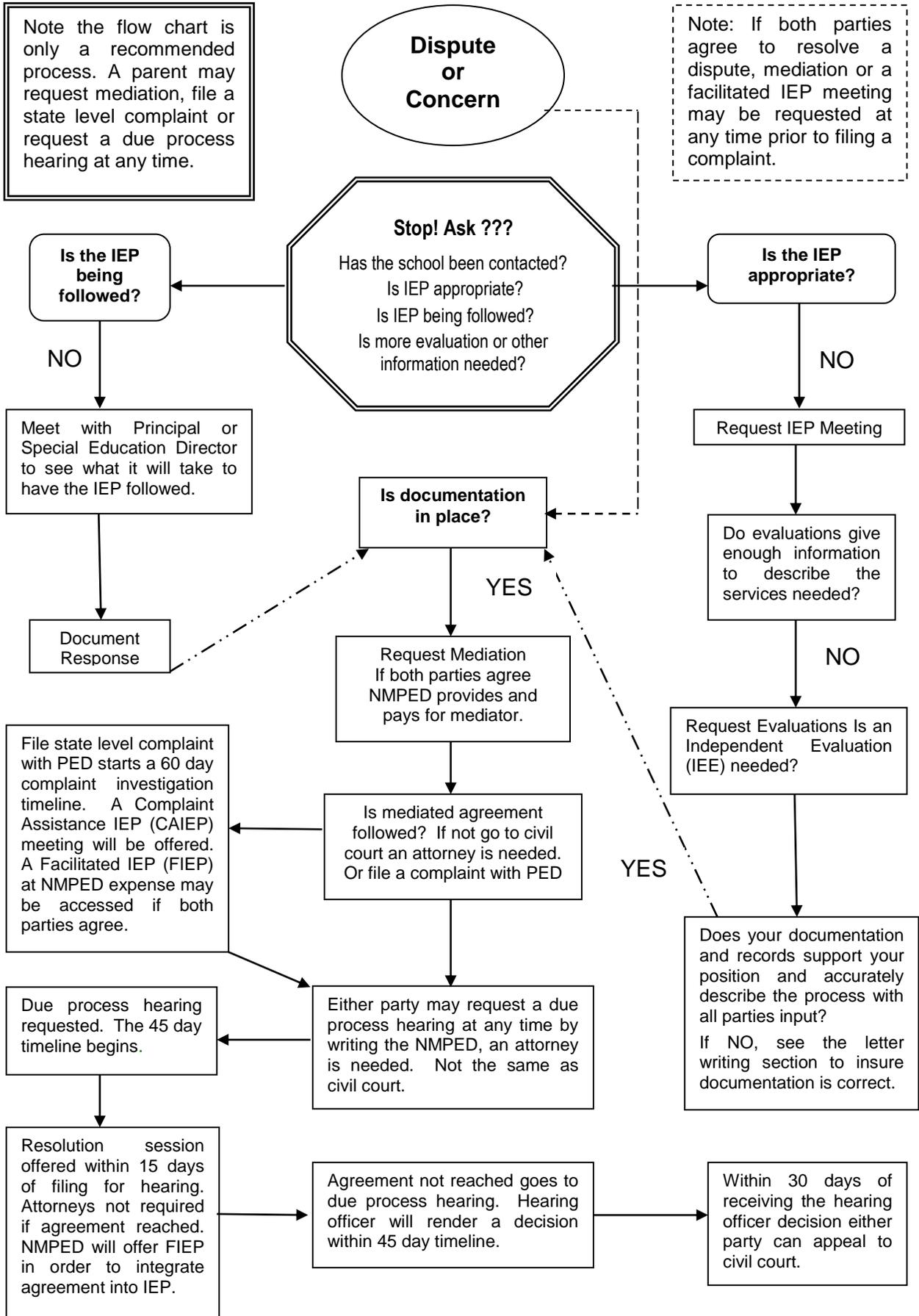


Your complaint generally must be filed within 6 months (180 days) from the date that the discrimination occurred or was discovered. The federal government will investigate your complaint and issue a decision. The decision may be appealed in the courts, by the school, or by you.

If the Partnership Breaks Down



Steps to Problem Solving



If You Disagree With the School

What you can do if the partnership breaks down...

There are many ways to resolve conflict. Ideally, we want to solve problems without destroying relationships. Informal ways of resolving conflict work best. Start at the lowest possible level in the chain of command, moving from the teacher to the principal, your district's Special Education Director, the Public Education Department, etc. We encourage you to use the **Advocacy Tips** below to help you begin resolving problems:

Get Help. Use friends, relatives, and experts to support you and help you think about resolving your conflict. Bring someone with you to meetings. This person can take notes, listen to what others say, ask questions, and provide moral support.

Communicate. Talk with the teacher, principal, and one other person in the chain of command. Let them know what you are thinking and why. These conversations can be very valuable. Often problems can be solved by this step alone. Your situation will certainly be viewed in a more favorable light if you've tried informal communications first.

Identify the Problem. Before you can solve a problem, you need to identify it. Some problems are clear, but sometimes there are several interrelated problems that have no easy solution. Separate and identify each problem and decide which needs to be solved first. Make a list. It often helps to see it on paper.

Identify your Goal. Know exactly what you want and why you want it. Be able to describe the problem and how it can be resolved favorably. If the problem is complex, list the intermediate steps that will move you toward a final solution. Clarifying what you want usually takes some thinking -- brainstorming all possible solutions and the pros and cons of each. Don't be afraid to look outside the system. Ask others for information and suggestions for possible creative solutions.

Identify the cause of the problem. Determine the specific cause of the problem. Decide if you have been denied services because of the interpretation of rules and regulations, lack of money, unavailability of the service in your area, or some other specific reason. Don't be afraid to ask for an outside opinion

Identify a solution to the problem. Most problems have solutions. Money may be needed; someone's mind may need to be changed; regulations may need to be interpreted differently. If possible, ask each person involved for possible solutions. Be creative. Identify who can help solve the problem. Find out who has the power and authority to make the decision you want. Ask what they need to make a favorable decision. If they are unwilling or unable to help you, find out who can help them change their minds.

Know Your Rights. Find out which laws, regulations, standards, policies, or rules apply to your situation. Find out how they have been interpreted in situations like yours in the past. Know the appeals process just in case. Remember that school districts cannot make a policy or rule that supersedes state regulations or standards, and the state cannot make a regulation that supersedes federal law.

Informal Solutions to Problem Solving

As we begin to navigate the education system, when there is a dispute, you will find a very legalistic bureaucratic process that is meant to insure that the bare minimum has been done to meet the minimum requirements of the IDEA. As parents, educators and advocates, this has to be the most frustrating and helpless part of the law. We all need to remember the intent of Congress when they wrote these complex rules was to keep kids in school and insure that they received a Free Appropriate Public Education (FAPE).

What we must all learn to do is take a deep breath and look at disputes as OPPORTUNITIES, not as if we are at the mercy of the system. We suggest that if you follow the suggestions below in the beginning phases of a child's education, then there is a good chance to maintaining a good relationship with the school and the student receiving FAPE.



Opportunity???

Did you say to look at this situation as an opportunity? Yes, we did.

You basically have four choices:

1. Go back to the beginning and make the process work right
2. Request Mediation
3. File a letter of complaint or
4. Request a due process hearing.

We, at Parents Reaching Out, prefer to make the process work like it was intended. If, after you have made a good faith effort, you feel the need to request mediation, file a complaint or request a due process hearing your documentation should be in place. Remember, for either a letter of complaint or a due process hearing documentation and records are everything! Often we find that initially a parent's records are not as organized as needed to make filing a complaint or due process successful. Check out the chapter on "Record Keeping".

Making the Process Work Like It Was Intended. . .

- When reviewing records always know what you want and why you want it. Ask yourself "what records or documents do I have or need to support my position?"
- If after reviewing the records, you find that you need additional evaluations or recommendations to support your position, you may request that information or evaluation from the IEP team.
- Always remember these three little words "Where's the Data?" If somebody is making a recommendation that may be disagreeable to a team member then simply ask, "Where is the data to support your recommendations?"

Be a Problem Solver

- Make a list of solutions. Select one or two agreeable options that you feel would best solve the problem. The best solutions are always the ones that best serve the needs of your child.
- Set a reasonable time limit for the school to act on your recommendations.

If you find you are in a dispute:

1. If you find you are in a dispute or even think you are in a dispute it is important to define the problem prior to requesting a meeting. Ask the following questions:
 - Has the IEP been followed?
 - Is the IEP appropriate?



It is important to answer these questions prior to asking for a meeting as the answers will determine the type of meeting and who you will request a meeting with. With “Has the IEP been followed?” if you are happy with the IEP and don’t want a change then request a meeting with the principal or special education director to find out why the IEP is not being followed and what can be done to have IEP implemented and followed with fidelity. (Fidelity means implemented correctly.) If your concern is that the IEP is not appropriate request an IEP meeting to see if supports are needed for student or teacher to insure success.

2. Make all requests in writing (Please see the letter section.)
 - Consider a letter expressing a concern
 - Or a letter of understanding
 - Or a letter trying to resolve differences at the local level
3. Expect the answers to be in writing with reasons given as to why each of your requests was accepted or rejected. Give time lines.
4. A wonderful tool that we recommend is for parents to prepare their own Parent Report to be added to the students file just like a teacher's or administrator's report would be added. (For samples, see the section: Preparing for the IEP meeting.)

The best way to insure the process works is through an IEP meeting. Through your Parent Report, you may ask for one or all of the following required components at the IEP meeting. The requests that you make will depend on the individual needs of your child and the specific nature of your concerns. Expect each item that you have brought up to be addressed in writing through either the IEP or Prior Written Notice of Proposal (PWN). (Prior Written Notice is described in the Parents Rights section)

- Ask for a description of how the student will receive their education or services? How often and where?
- Request data from district personnel to support the programs they have proposed, remember you are looking for a program that has a proven track record that will meet your child’s needs.
- Consider the need for an Independent Educational Evaluation (IEE)
- How will progress be measured towards the general education curriculum? What progress can we expect and what does it look like?
- How will progress towards the students IEP goals be measured?
- What will success/mastery look like?
- How and when progress will be reported to the parents?

We have found that good things happen for kids once the appropriate evaluations and recommendations are put in to place. Yes, it does take time.

Consider big picture and the long term results for your child. It is better to take a little extra time in the beginning and get a good program in place. However, we do want things to work in a timely manner. We don't want to waste time. It is important to remember that you may request an IEP meeting at any time. Once all of the evaluations and recommendations are in place, the IEP team should develop an appropriate IEP based on the data that will support learning for the student.

If you are not satisfied with the IEP at this point, your documentation will be in place and you may request mediation, exercise either a state level complaint or request a due process hearing. How you sign the IEP is very important (Check out "At the IEP Meeting" page 41). We recommend that the parents sign the IEP under the following conditions:

1. The parents understand all of the IEP and all of the options that were proposed and why each option was accepted or rejected.
2. All of their concerns or ideas have been addressed either through the IEP or Prior Written Notice of proposal. (See Page 57)
3. They agree or are in consensus with the rest of the team.
4. If parents disagree with the IEP put the reasons you disagree in writing as part of the documentation.

Note: Under IDEA 2004 families or schools can request mediation (at state expense) anytime. We find that things generally work out without escalating when the recommended process described above is followed prior to requesting mediation. However if you feel you have made a good faith effort to work things out and having a third party involved is best, make the request to the appropriate school administrator and the NMPED. (See Mediation in this chapter.)

Make Every Effort to Resolve Differences at the Local Level

If you have not been able to resolve your problem through personal contact, you can write a letter to the appropriate person at your child's school district, usually the Special Education Director. Send copies to the Public Education Department, Director of Special Education, Parents Reaching Out and anybody else who might be helpful.

This letter will provide documentation of your dissatisfaction, concerns about issues affecting your child and show your interest in resolving the problem at the local level. The school district and the Public Education Department will see it as a signal that something is not working correctly. The Public Education Department will usually offer technical assistance to both the family and the school district to help resolve the issue. This process is informal and can eliminate the need for a formal letter of complaint.

Addressing the situation at the local level can help preserve good relationships between your family and your school district. We recommend that you review the letter writing section of our Handbook. Letter 8 provides a sample of ways to document your concerns to resolve problems before you decide to write a formal letter of complaint to the state.

Formal Solutions to Problems

- Fact: Parents and schools don't always agree about a child's special education eligibility, evaluation, program or placement.
- Fact: Parents and schools have options when their efforts to solve problems informally have failed. These options include mediation and due process hearings. Parents may also file Administrative and Section 504 complaints.

Independent Educational Evaluation (IEE)

Most often, when there is a disagreement among members of the IEP team, the disagreement is over a diagnosis or the level of services that an evaluator has recommended. The IDEA regulations have provided us with a very useful tool--the IEE, to resolve these disputes. An IEE, may be obtained by the parents at public expense (at no cost to the parent) -- providing that the parents have followed the process as outlined in the regulations.

Make sure all requests for an IEE are in writing and a response received. The school district makes the arrangements for the IEE so as to avoid any confusion over payment etc. The district has to maintain a list of independent evaluators in your area. However, if the parents have a person that meets the district criteria, they may select that person.

When making decisions for a student, the IEP team, must consider the IEE (whether it is obtained at public or private expense) like all other information used to make informed decisions for the child. However, the IEP team is not required to take every recommendation. If the team refuses the information provided by the independent evaluator, they must provide Prior Written Notice of Proposal to the parent with an explanation of why the request was rejected.



In the event that the district feels that their evaluation is correct or they do not want to pay for the IEE, the school district is required to file for a due process hearing. Most school districts will not file for a due process hearing that cost several thousand dollars and consume staff time and energy in order to avoid an evaluation that will cost much less in the long run.

In the event that a parent chooses to find and pay for an independent evaluation at his/her own expense, the IEP team must consider and document that information along with all other information when developing the IEP.

Mediation

The Individuals with Disabilities Education Act (IDEA) requires states to establish and implement procedures for parents and the local education agency to resolve special education disputes through a process known as mediation. In New Mexico, this service is administered by the Special Education Bureau (SEB) of the New Mexico Public Education Department (NMPED).

What is Mediation?

Answer: *NMAC 6.31.2.7 C (3) Definitions*

“**Mediation**” means a meeting or series of meetings that utilizes an independent, state-approved, state-funded, trained mediator to assist parties to reconcile disputed matters related to a student’s Individualized Education Program (IEP) or other educational, non-IEP-related issues.

A mediator is impartial and does not make decisions or take sides, but assists the parties in reaching their own mutually agreeable solution. Mediation can be requested at any time if both parties agree. Discussions that occur during mediation sessions must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding though the mediated agreement itself is enforceable in court.

What are the statutory/legal requirements for mediation?

Answer: The New Mexico Public Education Department refers to mediation three times in the regulations. 1. Third Party Intervention is available in the form of mediation to both parents and the public agency (school district) when there is a disagreement between the parents and the public agency over a student’s IEP or educational program. The SEB will ensure that mediation is available to parents and the public agency who request such third-party assisted intervention before filing a state-level complaint or a request for a due process hearing. 2. *Mediation* will be offered by the SEB – NMPED if a state level complaint is filed against a school district. 3. *Mediation* will be offered to the parties if a due process hearing is requested.

The following are excerpts from the New Mexico administrative code; *NMAC 6.31.2.13. H (3) (c)(i-vi) State complaint procedures*

(c) Mediation requirements. If the parties choose to use mediation, the following requirements apply.

(i) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings.

(ii) Any mediated agreement must state that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. *Any such agreement must also be signed by both the parent and a representative of the agency who has the authority to bind such agency, and shall be enforceable in any state court of competent jurisdiction or in a district court of the United States.*

(iii) If a mediated agreement involves IEP-related issues, the agreement must state that the public agency will subsequently convene an IEP meeting to inform the student’s service providers of their responsibilities under that agreement, and revise the student’s IEP accordingly.

(iv) The mediator shall transmit a copy of the written mediation agreement to each party within 7 days of the meeting at which the agreement was concluded. A mediation agreement involving a claim or issue that later goes to a due process hearing may be received in evidence if the hearing officer rules that part or all of the agreement is relevant to one or more IDEA issues that are properly before the hearing officer for decision.

(v) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.

(vi) Any other requirement provided in 34 CFR 300.506(b) that is not otherwise provided herein.

When should mediation be requested?

Answer: You, as the parent, or the school district can request mediation at any time. Mediation will also be offered by the SEB – NMPED if a state level complaint is filed or a due process hearing is requested.

NMAC 6.31.2.13 G (2) (b) Conflict management and resolution

Third-party assisted intervention. The SEB of the department will ensure that mediation is available to parents and public agencies who request such third-party assisted intervention before filing a state-level complaint or a request for a due process hearing. The SEB will honor a request for mediation that:

- (i) is in writing;
- (ii) is submitted to the SEB;
- (iii) is a mutual request signed by both parties or their designated representatives;
- (iv) includes a statement of the matter(s) in dispute and a description of any previous attempts to resolve these matters at the local level; and

When should a third party assisted intervention be requested?

Answer: Any time there is a dispute or problem, even prior to filing a state level complaint or a request for a due process hearing. The earlier the intervention is used in a dispute the better the chance of not having the dispute escalate to a state level complaint or due process hearing and the better the chance of maintaining relationships that are needed for student success.

What issues can be covered during mediation?

Answer: Any item related to a child's education.

PRO Note: The terms "Third Party Assisted Intervention" and "Mediation" are used interchangeably.

Fast Facts

1. Mediation is voluntary for both parties. As long as both parties agree, mediation can be accessed at any time.
2. Mediation may not be used to delay or deny a parent's right to a due process hearing or to deny other rights guaranteed under the IDEA.
3. Mediation must be conducted by a qualified and impartial mediator trained by the NMPED in effective mediation techniques. The mediator is appointed by NMPED.
4. Either party can withdraw from mediation at anytime (in writing)
5. Discussions that occur during the mediation must be kept confidential by the mediator.
6. The mediation agreement must be signed by both the parent and a representative of the agency who has the authority to bind the agency, and shall be enforceable in any state court of competent jurisdiction or in a district court of the United States.
7. If a mediated agreement involves IEP-related issues, the district will convene an IEP meeting to inform the student's service providers of their responsibilities under that agreement, and revise the student's IEP accordingly.

What can I expect of the mediator?

Answer: A mediator assists parties in working out the problem by keeping communication lines open. The mediator gathers enough additional information from the two parties to be able to identify disputed issues. Communications with each party separately, or both parties together, will be continued until the problem can be resolved to their satisfaction. These communications may be conducted by telephone, e-mail, in writing, and/or face-to-face meetings.

A mediator must be impartial.

A mediator can:

- Talk to either party outside of scheduled meetings.
- Clarify what individuals say in a meeting.
- Help determine a mutually agreeable time and place for any meeting.
- Help generate options to solve issues
- Clarify "common ground" areas between parties before mediation
- Terminate the process if either party violates the terms of this agreement.
- Help build capacity between the district and family to build their relationship

A mediator cannot:

- Represent either party in a due process hearing or court.
- Have their notes/records subpoenaed.
- Play the role of a therapist or attorney.
- Be a decision-making member of the IEP team.
- Advocate for either party
- Conduct an IEP meeting
- Use their influence to inhibit discussion points by parties
- Dictate what can or cannot be discussed during the meeting. It is up to the district and the family to work together

How is Mediation Different from an IEP Meeting?

Answer: Remember, mediation sessions are **not** IEP meetings and it is not likely the student's full IEP team will be at a mediation session. If the local education agency and the parents reach a written agreement through mediation on any IEP-related matters, **it will then be necessary to subsequently convene an IEP meeting to revise the student's IEP or develop an IEP Addendum to inform the student's service providers of their responsibilities under the mediated agreement.** This step is required by the NMPED's rules.

How does the mediation process work?

Answer: Upon receiving a request for mediation (or third party assisted), the NMPED Alternative Dispute Resolution (ADR) Coordinator will contact the parent and the district by telephone to review and explain the mediation process, obtain permission to go forward with the process, determine who will be the district contact person for the process, and inform the parties of the name of the assigned Mediator. If one of the parties has a significant objection to the Mediator, an alternate Mediator may be selected by NMPED. The Mediator may only be selected by the NMPED, not by the parent or the school district.

A Mediator has been assigned. What Happens Next?

Answer:

- The Mediator will then contact the parties and schedule the mediation session to be held in a timely manner and in a location that is convenient for both parties.
- The Mediator will also speak by telephone with both parties prior to the mediation session to clarify the issues, gather necessary information, and explain the mediation process.
- The Mediator will work with the parties to determine who will be present during the mediation. Limiting the number of participants generally to a maximum of three individuals from the family and three from the local education agency usually works best.

What Rights Do We Have If We Choose Mediation to Resolve Our Dispute?

Answer: *The information that you and the school share during mediation is confidential.* What you and the school say cannot be repeated during future administrative or court proceedings and your mediator cannot be called as a witness in future proceedings.

You have certain rights in the mediation process. You may:

- Request mediation if you disagree with the school about your child's special education eligibility, program, placement, related services, evaluation or any other disagreement;

- Receive free services of a state-appointed mediator if the school agrees to mediation;
- Bring a support person or advocate with you to meetings;
- Give information at mediation meetings;
- Use mediation (if the school agrees) either as the sole way of settling an argument or as the first step toward a due process hearing;
- Have a written mediation agreement;
- Have all that is said during mediation and the mediation agreement itself kept confidential;
- End mediation at any time.

What can I do to prepare for mediation?

Answer: Review the Preparing for the IEP meeting chapter of the handbook beginning on page 31. There is no substitute for being well prepared for the meeting to make that sure all the issues as you see them are on the table and shared with the mediator.

Keys to Success

All parties (parent, district representative and mediator) agree:

- **to cooperate,**
- **to be courteous and honest, and**
- **to share relevant information during the mediation process.**

What Happens if We Reach Agreement During Mediation?

Answer: The mediator will draft a legally binding written agreement (not an IEP) that describes the settlement reached by the parties. The parent and the representative of the local education agency who has authority to legally bind the agency will be asked to sign the agreement. The agreement is not imposed by the mediator. An IEP meeting will be scheduled to incorporate the mediated IEP items into the IEP. The parties tend to follow the terms of a mediated agreement because they participated in developing it, but if necessary such an agreement may be examined and enforced in state or U.S. district court.

Is There Another Option To Requesting Mediation?

Answer: Yes. The parties can request another dispute resolution option known as a **Facilitated IEP or (FIEP) meeting**. A FIEP meeting utilizes a professional mediator who is trained to *facilitate* this particular type of IEP meeting.



Facilitated IEP Process

When there is a dispute between the family and the school district, using skilled facilitators to guide IEP meetings in a situation where parties are having difficulty reaching agreement can result in win-win solutions for the child. This process is called a Facilitated IEP (FIEP).

What is a Facilitated IEP Meeting?

Answer: NMAC 6.31.2.7C(2) Definition

“**Facilitated IEP (FIEP) meeting**” means an IEP meeting that utilizes an independent, state-approved, state-funded, trained facilitator as an IEP facilitator to assist the IEP team to communicate openly and effectively, in order to resolve conflicts related to a student's IEP.

What are the statutory/legal requirements for a Facilitated IEP Meeting?

Answer: The following are excerpts from the New Mexico administrative code; NMAC 6.31.2.13(H)(3)(b)

(b) FIEP meeting: Parties to a state-level complaint may choose to convene a FIEP meeting or mediation instead of a CAIEP meeting. To do so, the public agency must (and the parent may) notify the NMPED – SEB in writing within 1 business day of reaching their decision to jointly request one of these ADR options. A FIEP meeting or mediation shall be completed not later than 14 days from the date of the SEB's written acknowledgement of the complaint, unless a brief extension is granted by the SEB based on exceptional circumstances. Each session in the FIEP or mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the complaint.

CAIEP (Complaint Assistance IEP) is a special type of IEP meeting that is intended to provide parents with an opportunity to discuss disputed IEP-related matters, and to provide the public agency with an opportunity to address and resolve their concerns. A CAIEP is requested from the Special Education Director and the school district. The school district may offer a CAIEP to the parents to assist in resolving disputes.

When should a FIEP Meeting be used?

Answer: If you find yourself, either as a family member or a staff member, doing any of the following:

- Spending more time putting out fires than working on activities that promote student achievement and success.
- Sensing that the discussions and/or interactions at an IEP meeting are creating an acrimonious climate that might lead to further formal action.
- Attending multiple IEP Meetings for the same student for repeated issues with little or no resolution or completed quality IEP.
- Concluding that you are not being heard or given the opportunity to give input.
- Dealing with an interest group whose agenda is not student focused.

How Do I Know Which Option to Use - FIEP or Mediation?

Answer: It is the parties' choice, but here are some general guidelines:

- New Mexico rule makes state funded FIEP available to parties of a state level complaint or due process complaint. It may be available at other times if the district chooses to fund it, but according to rule, the state offers FIEP only to parties of a state level complaint or a due process complaint. (If a state level complaint is filed, the NMPED will contact you and offer a FIEP or mediation. The school district may offer the parents/guardians a Complaint Assistance IEP (CAIEP).
- If the concern is about communication or relationship issues between the parent and one or more school staff or IEP team members, then the parties may wish to request mediation.
- If the concern is solely or primarily about IEP-related matters, then the parties may agree that requesting a FIEP meeting would be the best option.
- If the concern involves **both** communication/relationship issues and IEP-related matters, then it might be beneficial for the parties to request a FIEP meeting and then explore with the IEP Facilitator, who is also a trained mediator, the possibility of **conducting a mediation session prior** to the FIEP meeting. In that way, once the parties come to the IEP table, the focus of the meeting remains on the student and his or her education needs.

What is the role of the IEP Facilitator?

Answer: The role of an IEP Facilitator is to ensure that the IEP Team does their best thinking, interacts respectfully, the perspectives of all participants are heard, and the IEP team focuses on future action. Thus, an IEP Facilitator serves the *whole group* rather than an individual, and assists the group with the *process* of the IEP meeting rather than the *content* of the IEP. The agenda for a facilitated IEP meeting is the IEP process, and the focus of the meeting is the student and his or her needs.

An IEP Facilitator also has the opportunity to gather issues from, and then exchange issues between, the key participants prior to the IEP meeting. This process provides the participants some private time to consider possible resolutions and options for discussion before the day of the IEP meeting. The IEP Facilitator then supports the group in collaboratively creating solutions for the student. As a result, all members equally share responsibility for the IEP meeting process and the results. Keep in mind that the IEP Facilitator is not the IEP chair, nor is he or she a decision maker. Rather, the IEP Facilitator supports the **collaborative process** of the meeting and assists the parties to reach *consensus* where possible.

The Facilitator will:

- Maintain focus on the student's needs and his/her future educational program.
- Encourage open communication.
- Ensure all parties are heard.
- Support the IEP Team in collaboratively creating solutions for the student.

Pre-IEP Functions of the Facilitator:

- Contacts both parties prior to the facilitated IEP to clarify the issues, gather and exchange information, and further explain the facilitated IEP process.
- Schedules the facilitated IEP by consulting both parties and makes that decision through mutual consent.
- Discusses the appropriate IEP participants with both parties, exchanges that information and, upon agreement, directs the school to follow the standard IEP Notification procedure and process.

IEP Functions of the Facilitator:

- Ensures that the IEP Team interacts respectfully and that the perspectives of all parties are heard.
- Assists the group with the process of the IEP Meeting rather than the content since their role is not that of a special education expert.
- Supports the IEP Chairperson and IEP Team in making decisions in a collaborative manner.
- Assists the parties to reach consensus where possible.
- Serves the group as a whole rather than any individual.
- Does not act as a representative of the school district.

What are the Benefits of a Facilitated IEP Meeting?

Answer: Here are a few of the benefits of the Facilitated IEP process:

- A facilitated IEP meeting can resolve concerns at the lowest level possible.
- Provides an impartial person, the facilitator, who has no history with the group and will have no future relationship with the group.
- Enables the IEP Team to build and improve working relationships among the members.
- Assists the group in exploring various problem solving techniques.
- Unlike mediation, a FIEP meeting does not require a separate IEP meeting to formalize the agreements that are reached.
- The facilitator helps with the challenges of communication during an IEP meeting. When parties are encountering continued difficulty, it may best be handled by an impartial facilitator not affiliated with the school or family—that is, someone who has no past experience with the group members and will not have any continued relationship with those members.

- The facilitator enables the IEP team to build and improve strong relationships among its individual members, problem solve as a group, reach true consensus, focus on the student's needs, and experience an efficient and productive meeting where effective communication skills are practiced.
- The presence of an IEP Facilitator eliminates the need to have someone at the table play the dual role of participant and facilitator.
- The tool box of mediation skills that a trained IEP Facilitator brings to the IEP meeting can assist not only in preventing the IEP meeting from getting off track with respect to either content or process, but also in intervening during the IEP meeting to help get people back on track with respect to either content or process.
- Past experiences between the group members can at times hinder any future possibilities of working together in a productive fashion. Having an IEP Facilitator involved in the meeting can sometimes change the whole environment and outcome of an IEP meeting by helping the family and the school team find effective ways to problem solve and interact.
- Evaluates and monitors the effectiveness of the facilitated IEP process.

How Will We Know When and When Not to Use a Facilitated IEP?

Answer: The facilitated IEP process is designed to work best when the dispute is child or situation centered. *If you find that you are facing a dispute that raises systemic concerns or a situation where the parties do not appear to be solution oriented, then this process is **not a viable option in these situations, and you should consider mediation.***

How Do We Use the Facilitated IEP Process?

Answer: If both the district and the family agree that they need assistance with working out their differences with the help of a third party, contact the NMPED's SEB. Ask to speak to the ADR Coordinator/Parent Liaison to find out more about a facilitated IEP meeting that will work towards positive interactions, improved relationships, and an improved education program for the student.

We Have Agreed to Use the Facilitated IEP Process and Agreed on a Facilitator. What Will Happen Next?

Answer:

- The IEP Facilitator will then contact the parties and schedule the FIEP meeting to be held in a timely manner and in a location that is convenient for both parties.
- The IEP Facilitator will also speak by telephone with the parents and the IEP chairperson prior to the meeting to clarify the issues, gather necessary information, and explain the FIEP process.

What can I do to prepare for the Facilitated IEP meeting?

Answer: Review the Preparing for the IEP meeting chapter of the handbook beginning on page 31. There is no substitute for being well prepared for the meeting to make that sure all the issues as you see them are on the table and shared with the facilitator.

Questions

If you have questions about mediation or the Facilitated IEP process, please feel free to contact a liaison at Parents Reaching Out 1-505-247-0192 or 1-800-524-5176 (Toll Free in NM) or the NMPED - SEB at 1-505-827-1457. Ask to speak to the Parent Liaison, or the ADR Coordinator. The NMPED - SEB web site has fact sheets about resolving disputes.

Note: Any time that a mediator or facilitator is requested, the NMPED/SEB will utilize a round robin method to select a qualified person from the mediator/facilitator pool and assign that person to work with the parties. If the parties decline to use the assigned mediator/facilitator, then the district may contract with and pay for the agreed upon person.

Formal Letter of Complaint



If you have not been able to resolve your concerns informally, at the local level, you may wish to send a formal letter of complaint to the NMPED. Once the complaint has been received (acknowledge receipt) then it goes to the investigator for review.

Once a formal state level complaint is filed with the New Mexico Public Education Department Special Education Bureau, *IDEA 2004 and New Mexico State Regulations [6.32.2.12 H(3)(a)]* require that the school district offer a Complaint Assistance IEP meeting (CAIEP) This meeting is conducted by the school district and is intended provide an opportunity address and resolve the dispute. For more information on this topic, please contact NMPED Special Education Bureau at 505-827-1457 or visit their web site:

<http://www.ped.state.nm.us/seo/index.htm>

This meeting must take place within fourteen (14) days of the date of the State's written acknowledgement of the formal complaint. The school district must offer (in writing) to convene a CAIEP meeting to address IEP-related issues raised in the complaint. The family may accept this offer or decline and choose not to participate in the meeting.

If the family chooses not to attend this meeting Parents Reaching Out highly recommends using either mediation or the FIEP process to resolve the dispute. If the dispute is resolved to the families satisfaction, Parents Reaching Out recommends that families withdraw the complaint.

The Public Education Department is required to complete their investigation of your complaint and mail you a copy of their report within 60 days (beginning on the day the PED receives your letter). *We encourage families to read our letter writing section for information and examples that are designed to help you as you prepare your letter.*

To send a formal letter of complaint or request a Due Process Hearing, clearly state your concerns and send your letter to:

State Director
NM PED Special Education Bureau
120 South Federal Place, Room 206
Santa Fe, NM 87501

A copy of your letter should be sent to:

Secretary of Education
NM Public Education Department
300 Don Gaspar
Santa Fe, NM 87501-2786

Be sure and send copies of the letters to the appropriate district staff example, the district superintendent and district special education director.

Due Process Hearing

If informal advocacy, negotiation and mediation fail to resolve your disagreement, the family or the schools have the right to request a due process hearing. Make no mistake about it, this is an adversarial process with a win/lose resolution.



According to New Mexico law, if you believe the school has denied your rights, you must request a due process hearing within two years of the date on which the problem occurred. If you were not informed of your rights, however, you have two years from the date you became aware that you could request a due process hearing. The two-year time period is called a statute of limitations. *School districts are required to not only inform families of the procedural safe guards but to insure families understand them.*

Due process considerations:

- The state appointed Hearing Officer acts as judge and will render a written decision within 45 days of when the timeline for the hearing process began, unless an extension is granted by the hearing officer.
- Once you have filed for due process, the PED will offer a resolution session, formal mediation or a FIEP in an effort to provide a less adversarial means of resolving your conflict. You are not obligated to go to mediation. Families are obligated to participate in a resolution session or one of the other processes unless both parties agree to go directly to hearing.
- The decision of the hearing officer is final unless either party files a civil action in a state or federal district court.
- A civil action must be filed no later than 30 days from receipt of the hearing decision.
- The findings and decisions of a hearing may be made public.
- Except for disputes over disciplinary placements and manifestation determinations, the child remains in his or her current placement during due process proceedings until a final decision is reached, unless you and the school agree otherwise or other interim placement is directed by the hearing officer. Except in the case of short-term suspension (up to 10 days in a school year), the child will continue to receive special education and related services as directed by his or her IEP.

You have certain rights related to due process hearings, including the right:

- To request information about free or low-cost legal or expert services;
- You have the right to a fair and impartial hearing before a state-appointed hearing officer who is knowledgeable about the laws governing special education and administrative hearing procedures.
- At any point during the proceedings you may have a mediation conference and/or the party requesting the hearing may withdraw its request.
- To have the hearing open to the public;
- To have the hearing scheduled at a convenient time and place;
- To ask the Hearing Officer for more time to prepare for the hearing;

- At least 5 business days in advance, both parties shall share all evidence that will be presented;
- To have your child, lawyer, advocate or others present information during the hearing;
- To present evidence, ask questions and have certain witnesses present;
- To ask the Hearing Officer to order an independent evaluation of your child at no cost to you;
- To ask the state or federal court for reimbursement of attorney's fees and costs, if the Hearing Officer's decision is in your favor;
- You should expect to receive, at no cost to you, your choice of a written or electronic word-for-word record of the hearing and the hearing officer's findings and decision.

Due process is a very formal legal proceeding and legal representation is recommended. If you are considering this option, please call Parents Reaching Out for information about the NMPED procedures.

Resolution Session

The Individuals with Disabilities Education Act (IDEA) of 2004 and New Mexico state special education rules create a new dispute resolution option as a step to encourage parents and the local education agency to reach a mutual agreement in an informal setting prior to a due process hearing. This option is called a **resolution session**.

Overview

Whenever a parent requests a due process hearing, then the school district must provide an opportunity for a resolution session meeting. The intent of this meeting is to allow the parents to discuss the concerns and the facts that form the basis of their due process hearing request with the school district, and then to provide the agency with an opportunity to resolve these concerns. This dispute resolution option allows the school district time to work with the family to resolve the due process matter quickly, thus allowing both parties to control the outcome and avoid the cost of a hearing. It is important to keep in mind that a resolution session is not an Individualized Education Program (IEP) meeting.

What are the Requirements?

1. The resolution session must take place within 15 days from the time the school district receives notice of the parents' request for a due process hearing.
2. The parents and *relevant* member or members of the student's IEP team who have specific knowledge of the facts identified in the due process request must attend the resolution session.
3. A representative of the local school district who has decision-making authority on behalf of the agency must also attend the resolution session. In the context of a due process hearing request, this representative will likely need to be someone from a district-level position.
4. The meeting **may not** include an attorney of the agency unless the parents are accompanied by an attorney.

What Happens If We Reach Agreement?



- In the event that issues raised in the due process hearing request are resolved at the resolution session, then the parties shall develop a legally binding written agreement that is signed by both the parents and a representative of the agency who has the authority to bind that agency. The agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States.
- Under New Mexico state special education rules, if the resolution session participants reach agreement on any IEP-related matters, then the binding written agreement must also state that the local education agency **will subsequently convene an IEP meeting** to inform the student's service providers of their responsibilities under that agreement, as well as revise the student's IEP accordingly or develop an IEP Addendum, as appropriate. The Individuals with Disabilities Education Act (IDEA) of 2004 and New Mexico state special education rules create a new dispute resolution option as a step to encourage parents and the local education agency to reach a mutual agreement in an informal setting prior to a due process hearing. This option is called a **resolution session**.
- If the parties execute an agreement pursuant to a resolution session, either party may void this agreement within three (3) business days of the agreement's execution.
- The IDEA provides that a resolution session is not an action that can result in reimbursement of attorney's fees.

***Note:** If the parties participate in a resolution session, we assume that somewhere along the line they have consulted with an attorney. Though the resolution session process does not encourage attorney participation, we recommend that before a family signs an agreement they consult with their attorney.*

Are There Other Options?

Yes. The resolution session is not required if the parents and the agency **jointly** agree in writing and notify the assigned due process hearing officer that they wish to waive the resolution session. Parties to a due process hearing may also choose to convene a **Facilitated IEP (FIEP) meeting** or **mediation** instead of a resolution session.

To request one of these alternative options, the party filing the request for the due process hearing must (and the other party may) notify the due process hearing officer in writing within one (1) business day of the parties decision and to **jointly** request one of these other dispute resolution options. The hearing officer will notify the State who will then assign a state-funded IEP facilitator or mediator to the case. A FIEP meeting or mediation must be completed no later than 14 days after the assignment unless, upon joint request by the parties, an extension is granted by the hearing officer. Each session in the FIEP or mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the hearing.

What if None of These Options Work?

If the local education agency has not been able to resolve the due process hearing issue to the parents' satisfaction within 30 days after receiving it, or if the parties jointly waive the available alternative dispute resolution options, then a due process hearing can occur. The IDEA and state special education rules at Subsection (I) of 6.31.2.13 NMAC set forth the applicable procedures and timelines for a due process hearing.

Civil Action

At the conclusion of the hearing, (within 30 days) either party has the right to bring a civil action in a court of law with respect to the complaint. The laws governing jurisdiction and procedures will apply to any action brought before the court. If the parent prevails in the court's decision, the court may, at its discretion, award reasonable attorney's fees.

If Due Process or Civil Action is considered, a lawyer's services are strongly recommended.



Free or Low Cost Legal Services

Albuquerque Bar Association Volunteer Lawyers	505-256-0417
Native American Disability Law Center	800-862-7271
Indian Pueblo Legal Services, Inc	505-867-3391
Legal Aid Society of Albuquerque	505-243-7871
Statewide Lawyer Referral	800-357-0777

New Mexico Advocacy Organizations & Resources

<i>Disability Rights New Mexico (DRNM)</i> Formerly NM Protection and Advocacy http://www.nmpanda.org	800-432-4682	505-256-3100
<i>Native American Disability Law Center</i> (Farmington) http://www.nativedisabilitylaw.org/	800-862-7271 (Gallup) 877-283-3208	505-566-5880 505-863-7455
<i>New Mexico Family Network (formerly PBDC)</i> http://newmexicofamilynetwork.org	800-273-7232	505-265-0430
<i>Parents Reaching Out</i> http://www.parentsreachingout.org	800-524-5176	505-247-0192
<i>The Arc of New Mexico</i> http://www.arcnm.com/	800-58-6493	505-883-4630

For more information on informal and formal dispute resolution or strategies for resolving conflicts with the school, call

NM Public Education Department Bureau of Special Education: 505-827-1457 or visit their web site <http://www.ped.state.nm.us/seo/index.htm>

We also encourage you to contact Parents Reaching Out or any advocacy resources that serve families in New Mexico that are listed above.

A Parent's Guide to Letter Writing



Communicating Through Letter Writing

As long as your child is in school, there is always a need to communicate with your child's school, teachers, administrators, and others concerned with your child's education. There will also be times when the school will need to communicate with you, as the parent. Some of this communication will be informal, such as phone calls, comments in your child's notebook, a chat at the bus stop or at a school function. Other forms of communication will be more formal and will need to be written.

Letters provide both you and the school staff with a record of ideas, concerns, and suggestions. Putting your thoughts on paper gives you the opportunity to take as long as you need to state your concerns specifically, to think over what you've written, to make changes, and perhaps to have someone else read over the letter and make suggestions. Letters also give people the opportunity to go over what's already been said. A lot of confusion and misunderstanding can be avoided by writing down thoughts and ideas. Letter writing is a skill. Each letter will differ according to the situation, the person to whom you are writing, and the issues you are discussing. This section will help you write to professionals involved in your child's education.

Requesting Services: A guide to letter writing

Q. What do I do to request services?

A. Each state and school district has its own guidelines for special education. Ask your Director of Special Education or your school principal to explain them to you. They should also provide you with written guidelines. The guidelines will tell you exactly what you have to do to request services. It's a good idea to put all your requests in writing, even if it's not required by your school district. A letter will avoid confusion and provide everyone with a record of your request. Always keep a copy of each letter you send.

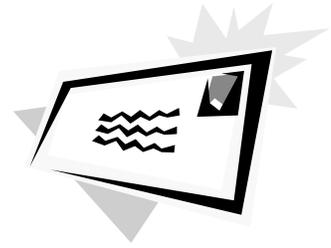
Q. How long does it take to get an answer to my letter?

A. Several people may handle your letter before it gets to the person to whom it is addressed. Mail is often opened by someone who sorts letters and puts them in the appropriate mail slots at the school or in the office. Obviously, smaller offices will have fewer steps and very large offices may have more. Often state or school district guidelines will specify the amount of time a school has to respond to your request. The **federal law states that schools must respond in a "timely manner" or within a "reasonable" period of time.** *If you have not heard from the school within 10 working days of sending your letter, phone the office to make sure your letter was received and ask when you can expect an answer.* If you have asked for a meeting or other services, which may require coordinating with several other people, the response to your request may take more time.

If you need a letter answered in fewer than 10 working days (for instance if you are moving or if your child's health suddenly changes), it might be useful to call and let them know that you have sent a letter **and would like a response as soon as possible (or by a specific date.** That way, the staff can speed up the process. Include in your letter the date by which you would like a response.

Q. To whom do I address my letter?

- A.** This will depend on the type of request you are making in your letter. Call your child's teacher or school principal, explain the type of request you are making (e.g., request for an initial evaluation, request to review your child's IEP), and ask who should get the letter.



The principal is responsible for activities in his or her school, and you can address letters to your child's school principal. In some instances, you might find that the letter should be sent to the local Director of Special Education.

Q. In general, what do I say in my letter?

- A.** It is important to keep your letter short and to the point. Ask yourself these questions, answer them for yourself, and state them in your letter.
- Why am I writing this?
 - Specifically, what are my concerns?
 - What would I like the person to whom I'm writing to do about this situation?
 - What are my questions?
 - What sort of response do I want. Do I want a reply by a letter, a meeting, a phone call or something else?

Q. What else do I need to say in my letter?

- A.** Each letter you write should have certain basic information included.
- Be sure there is a DATE on your letter.
 - Be sure to give your child's full name and current class placement.
 - Be sure to give an address and/or a daytime phone number where you can be reached. You may also want to give "best times" to contact you.
 - Be sure there is a question or request in the letter, so that the person can respond with a specific answer.
 - Say what you want, rather than what you don't want.

The remainder of this section includes sample letters to help you with letter writing.

Food for Thought

A valuable step in maintaining a good relationship is positive feedback. Be sure to write to your school district when things are going well! If a program, teacher, therapist, or other school staff member has provided an excellent opportunity for your child, take the time to write a letter or thank you note. We all like compliments and encouragement. Positive feedback supports, encourages and will keep good programs on target. Just as you want to know "how it's going" so does the school staff.

Good communication, good team work, effective school programs, and policies take work. There's an old saying that states, "Things can go wrong all by themselves, but you have to work to make things go right." Be sure your teacher(s), principal, and superintendent hear from you when things are going right too!

Sample Letter 1: Positive Feedback Letter

<p>YOUR NAME Street Address City, State, Zip Code Daytime telephone number</p>
<p>Today's Date (Include month, day, year)</p>
<p>Full name of Teacher, Principal, or Superintendent Name of School/Organization Street Address City, State Zip Code</p>
<p>Dear (Name of person; use title and last name),</p> <p>I am writing to let you know that I am very pleased with (full name of your child's) special education program.</p> <p>(First name of your child) has had great success with (briefly say what went right and name the professionals working with your child).</p> <p>We look forward to continuing progress. Thank you for all your efforts on behalf of my child. My daytime telephone number is (000) 000-0000.</p>
<p>Sincerely yours,</p>
<p>Your full name</p>
<p>cc: Be sure the Principal of the school and/or Director of Special Education receives a copy.</p>

Sample Letter 2: General letter format for discussing a problem

Your Name
Street Address
City, State, Zip Code
Daytime telephone number

Today's Date (Include month, day, year)

Full name of Person to whom you're writing
Title
Name of School/Organization
Street Address
City, State, Zip Code

Dear (Name of person; use title and last name),

In this paragraph explain who you are, give the full name of your child and his or her current class placement, and, VERY BRIEFLY, explain the reason you are writing.

In this paragraph explain what you would like to have happen or what you would like to see changed. You may BRIEFLY say what you would not like, but spend most of this paragraph saying what you want.

Say what type of response you want. For instance, do you need to meet with anyone, do you want a return letter, or a phone call?

Finally, give your daytime telephone number and let them know that you expect to hear from them soon (or give a date such as, "by the 15th").

Sincerely yours,

Your full name

cc: Send copies of this letter to anyone that you feel need to be kept in the loop!

Sample Letter 3: Request for an Initial Evaluation for Special Education Services

Your Full Return Address

Today's Date (Include month, day, year)

Name of Principal
Street Address
City, State Zip Code

Dear (Name of Principal),

I am writing to request that my son/daughter, (full name), be evaluated for all suspected areas of disability. I understand that I have to give written permission in order to have (name of child) tested. This letter should be considered as the written consent to evaluate my child as required by the Individuals with Disabilities Education Act (IDEA) and state regulations.

I have been worried lately that he/she is not doing very well in school and that he/she may need some special help in order to learn. He/she is in the (grade level and name of the teacher) at (name of the school).

(Write a short paragraph that describes one or two specific reasons for your concern about your child and the conferences you have had with your child's teacher.)

Example: Specifically, I am worried because (name of your child) struggles with every reading assignment. He/she is reading below grade level and this affects all of his/her school work.

I would like to know more about the tests, the testing process, and when my child will be scheduled for the testing that I am requesting. I would be happy to talk with you or another school official about my child.

You can send the information to me through the mail or call me at (daytime phone number). The best times to reach me during the day are (times). I hope to hear from you within the coming week.

Sincerely,

Your full name

cc: Director of Special Education (local school district)

Sample Letter 4: Request for a Meeting to Review the Individualized Education Program (IEP)

(Note: The Individualized Education Program defines your child's program. As you know, each year there is a regularly scheduled IEP review; **however you can request a review whenever you feel changes need to be made in your child's program.**)

Q. What might be some reasons to request an IEP review?

A. You may want to request a review if:

- Your child has met one, or several, of the goals written in the IEP;
- Your child does not seem to be making any progress of one, or several of the goals written in the IEP;
- You feel additional services should be added in order for your child to progress;
- You feel a service is no longer necessary in order for your child to succeed;
- Your child has experienced major changes, such as illness, surgery, or injury.



Sample Letter 4: Request for a Meeting to Review the Individualized Education Program (IEP)

Your Name
Street Address
City, State Zip Code
(daytime telephone number)

Today's Date (Include month, day, year)

Name of Principal
Street Address
City, State Zip Code

Dear (Name of Principal),

I am writing to request an IEP review meeting. I would like to discuss making some possible changes in (child's name, grade level, and teacher) IEP as I feel that...

I would also like to have the following people (name each teacher or specialist) attend. I think his/her ideas about the changes we may make will be valuable.

I (or my husband/wife and I) can arrange to meet with you on (days) between (give a range of time, such as between 3:00 and 5:00pm). Please let me know what time would be best for you.

I look forward to hearing from you soon. My daytime telephone number is (000) 000-0000.

Sincerely,

Your full name

cc: (Special Education Director)
(Individuals that you want to attend the IEP meeting)

Sample Letter 5: Request for Records

Q. What might be some reasons to request copies of records?

A. School records contain valuable information about your child's strengths and areas of need. These records can provide a formal system of communication between the professionals at your child's school and other professionals who need this information.

Here are some reasons that may motivate you to request copies of the records:

- It's always a good idea to review your child's school records to be sure they are correct and contain all necessary information.
- When your family is moving to a new school district, records may need to be sent.
- When you're taking your child for an independent evaluation, copies of past records may be useful.
- Services or other programs your child attends, like camp, tutors, or in-hospital schools, may find these useful in designing their activities
- Post-secondary programs may need to see copies of your child's records.
- For your home files, especially if your child is finishing school.



Sample Letter 5: Request for Records

Your Name
Street Address
City, State Zip Code
(Daytime telephone number)

Today's Date (include month, day, and year)

Name of Principal
Street Address
City, State Zip Code

Dear (Name of Principal),

I am writing to schedule a time to review all of my child's records, both cumulative and confidential.

My child's name is ..., his/her grade is ..., and his/her teacher is..., I am planning to be at the district office on (specific date, and time) at which time I would like to review my child's records. If this time is inconvenient, please call me at (home or work phone) to reschedule.

I will also need copies of all records (if only needing specific records please note) and would like to pick up these records at the time of my visit. (If you are not planning on viewing records ask that they be mailed to you at the school's earliest convenience.)

Sincerely,

Your full name

cc: Special Education Director

Sample Letter 6: Request for an Independent Educational Evaluation at Public Expense

Q. What might be some reasons for requesting an Independent Educational Evaluation (IEE) at public expense?

A. It is not uncommon for families to feel that their child may need additional tests or feel that the school's testing results did not accurately describe their child. Parents may want additional medical examinations or may be interested in areas the school staff did not test. You can, therefore, always have your child tested outside the school system.

However, if you expect the school to pay for the IEE, then you will need to request this (In writing) BEFORE any independent testing is done. Some reasons the school may accept financial responsibility for an independent evaluation include:

- The original evaluation was incorrect;
- The original evaluation was not done in your child's native language;
- The original evaluation was incomplete and additional tests are needed;
- The evaluation could not be done with the needed accommodations, for example in Braille or administered by someone who signs.
- The district should make arrangements with an agreed upon evaluator. Do not get an evaluation without making these arrangements.

You may want to indicate that you are willing to have an IEP in order to document your request through the IEP. The school may disagree with your reasons for wanting additional testing. They may feel they have conducted the necessary tests in a proper manner. If the school district disagrees with your request for an Independent Educational Evaluation at public expense, the district may request a due process hearing to prove their evaluation is correct. However, most districts would rather bare the cost of an evaluation, than the cost of a hearing. You may also file a formal complaint, request mediation or a due process hearing.

Q. What else might I consider if I am requesting an IEE?

A. If you would like the evaluator to attend the follow-up IEP meeting to explain the evaluation and recommendations to the team, be sure and make the request and receive approval in writing during the initial communication.



Sample Letter 6: Request for an Independent Educational Evaluation at Public Expense

Your Name
Street Address
City, State Zip Code
(Daytime telephone number)

Name of Director of Special Education
Your School District
Full Address

Dear (name of Director),

My son/daughter, (give full name), who is currently attending (name of school, grade, teacher) was evaluated for special education services (give month and year of this evaluation). I am writing to inform you that I disagree with the testing, and I would like to have my child re-evaluated.

I am requesting an Independent Educational Evaluation at public expense, for the following reasons:

1. (Briefly list your reason(s), being very specific).
2. (Area of concern, for example: neuro-psych, learning styles, P/T, O/T, Speech etc.)

I would like to have a list of independent evaluators, the district's criteria for IEEs; and a copy of the evaluation and eligibility requirements set forth for Independent Educational Evaluation.

I look forward to hearing from you soon. Thank you for your consideration.

Sincerely,

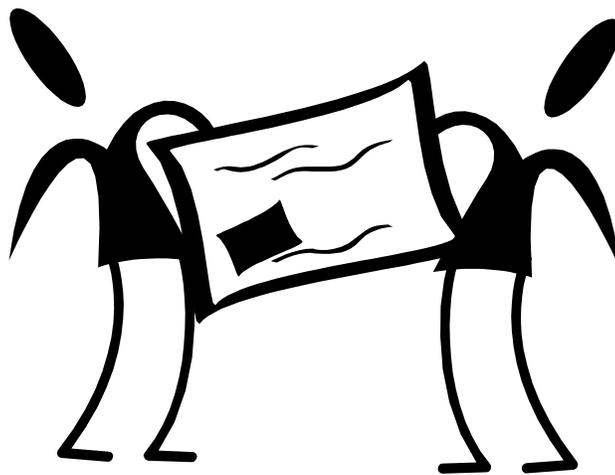
Your full name

cc: School Principal

Sample Letter 7: Letter of Understanding

What is the purpose of a *letter of understanding*?

- Allows for true misunderstandings to be resolved quickly;
- Keeps a reasonable timeline, or if necessary, sets a deadline for a response to resolve misunderstandings;
- Allows for clarification of the issues as you see them;
- Invites clarification of issues from the other person's standpoint;
- Can keep the issues focused, not generalized;
- Shows you are keeping the lines of communication open for all participants;
- Gives you an excellent documentation record for your file;
- Calls for accountability of verbal conversations in person or on the phone;
- Lays out the problems as you see them, and places on record the date of your concern;
- Provides an excellent record laying the basis for more formal complaints if you should need to go on to the New Mexico Public Education Department, Office for Civil Rights, or U.S. Department of Education;
- Demonstrates that you have tried to resolve issues at the local level, and with whom you spoke.



Sample Letter 7: Letter of Understanding

Your Name
Street Address
City, State Zip Code
(Daytime telephone number)

Today's Date (include month, day, and year)

Name of Director of Special Education
Your School District
Full Address

Dear (name of Director)

I appreciated your visiting with me on (date). It is my understanding of our phone conversation (or meeting) that: *(Be specific and # each statement. Example: You believe it is not possible for my child to change teachers because if she does, others will want to do the same thing.)*

1. That even though my child is eleven years old and struggles to read her sister's second grade books, her reading comprehension tests show she is on grade level.
2. That although other children laugh at her and isolate her socially, we cannot institute a mentorship or give her a designated school job because then everyone would want the same thing.
3. That it is appropriate for my child to spend three hours on homework each night because she needs to "learn responsibility."
4. That while my child has Attention Deficit Disorder, her real problem is that "she doesn't pay enough attention."

If this is not your understanding of our conversation, I would really appreciate it if you would clarify your position on these points. Please let me hear from you soon, say by Wednesday (DATE), if I have misunderstood you. Again, thank you for the phone call (or meeting) and we look forward to working with you on my children's behalf as members of the IEP team.

We can be reached at (phone number) and our address is _____.

Sincerely,

(Your Full Name)

cc: School Principal
Superintendent of your school district

Sample Letter 8: Working Out Concerns or Differences at the Local Level

This particular letter has proven to be one of the best tools in resolving disputes before they escalate out of the local school district. It has also proven to be very effective in helping to maintain the relationship between the family and district.

This letter serves to advise the Public Education Department (PED) that something is not working correctly between the family and the local district. The PED will then offer technical assistance to both the family and district. The letter also provides documentation of your dissatisfaction at an early stage as well as your attempt to clarify the issues and work with the district.

Consider the following when you write your letter:

- Why am I writing this?
- Specifically, what are my concerns?
- What would I like the person to whom I'm writing to do about the situation?
- What are my questions?
- What sort of response do I want: a letter, a meeting, a phone call or other?
- By when do I want a response?
- Send a copy of your letter to Parents Reaching Out. (This lets all parties involved know that you have connected with our organization for technical assistance from a Family Liaison and/or that you have received our materials or other information.)

This approach still keeps everything at the local.



Sample Letter 8: Working Out Concerns or Differences at the Local Level

Your Name
Street Address
City, State Zip Code
(Daytime telephone number)

Today's Date (include month, day, and year)

Full name of Person to whom you're writing (Local level begins with principal)
Title
Name of School
Street Address
City, State, Zip Code

Dear (Name of person, use title and last name),

In this paragraph explain who you are, give the full name of your child and his or her current class placement. VERY BRIEFLY, explain the reason that you are writing this letter.

In this paragraph explain what you would like to have happen or what concern or difference you are experiencing. You may BRIEFLY say what you would not like, but spend most of this paragraph saying what you need for your child.

Say what type of response you want. For instance, do you need to meet with anyone, do you want a return letter, or a phone call?

Finally, give your daytime telephone number and address and let them know you expect to hear from them soon (or give a date, "by the 00th").

Sincerely,

Your full name

cc: Special Education Director (local school district)
Superintendent (local school district)

New Mexico Public Education Department
Director of Special Education Bureau
120 South Federal Place, Room 206
Santa Fe, NM 87501-2786

Parents Reaching Out
1920 B Columbia Dr. SE
Albuquerque, NM 87106

Sample Letter 9: Requesting Mediation

The Individuals with Disabilities Education Act (IDEA) requires states to establish and implement procedures for parents and the school district to resolve special education disputes through a process known as **mediation**. In New Mexico, this service is administered by the Special Education Bureau of the New Mexico Public Education Department (NMPED).

What are the Requirements?

1. Mediation is voluntary for both parties.
2. As long as both parties agree mediation can be accessed at any time.
3. Mediation may not be used to delay or deny a parent's right to a due process hearing or to deny other rights guaranteed under the IDEA.
4. Mediation must be conducted by a qualified and impartial mediator trained in effective mediation techniques
5. The mediator is appointed by the Public Education Department

What Happens if We Reach Agreement During Mediation?

The mediator will draft a legally binding written agreement (not an IEP) that describes the settlement reached by the parties. The parent and the representative of the local education agency who has authority to legally bind the agency will be asked to sign the agreement. The agreement is not imposed by the mediator. The parties tend to follow the terms of a mediated agreement because they participated in developing it, but if necessary such an agreement may be examined and enforced in state or U.S. district court.

If the school district and family reach a written agreement through mediation on any IEP-related matters, it will then be necessary to convene an IEP meeting to revise the student's IEP or develop an IEP Addendum to insure the agreement is included in the student's IEP as appropriate and to inform the student's service providers of their responsibilities under the mediated agreement.

For more information on mediation, see "If the Partnership Breaks Down" page 61



Sample Letter 9: Requesting Mediation ...

Your Name
Street Address
City, State Zip Code
(Daytime telephone number)

Today's Date (include month, day, and year)

Full name of Person to whom you're writing (usually the Special Education Director)
Title
Name of School
Street Address
City, State, Zip Code

Dear (Name of person, use title and last name),

This letter is in reference to my son/daughter, (give full name), who is currently attending (name of school, grade, teacher). We have been in a dispute at the school regarding (give name of child) services. I am requesting mediation with a state sponsored mediator. I understand that this process is voluntary on my part and is at no cost, and that any discussions in the mediation sessions are strictly confidential.

In this paragraph say what type of response you want. For instance, give the times and dates that are most convenient for you to meet. Say what type of response you want, a written letter stating time and date of mediation.

Finally, give your daytime telephone number and let them know you expect to hear from them soon.

Sincerely,

Your Full Name

cc: Superintendent of District
State Director of Special Education Bureau
NM Public Education Department,
120 South Federal Place, Room 206 Santa Fe, NM 87501

Parents Reaching Out

Sample Letter 10: Formal Letter of Complaint

Before proceeding with a formal letter of complaint, you may want to review the information in the chapter: "If the Partnership Breaks Down".

Q. What might be some reasons to write a formal letter of complaint?

A. If a family has tried to resolve differences at the local level with no resolution, a state level complaint could be a next step.

Q. What happens with a complaint?

A. Allegations of violations of the federal and state special education laws will be investigated by the NMPED within 60 days, unless the State Superintendent of Public Instruction gives an extension. If you want the NMPED to investigate your concerns, your complaint must: be in writing and signed by you or your representative. PRO recommends that you send your letter by registered mail with a return receipt.

Q. What could help the complaint process go smoother?

A. There are actually two things:

1. When writing a letter of complaint, be sure to include copies any documentation or information to support your position(s), IEPs, evaluations, outside reports, etc.
2. Indicate if you are willing to participate in the mediation/facilitation process described in the chapter "If The Partnership Breaks Down".

Q. What should be included in the complaint?

A. Be sure to state all your concerns to the PED. For example: If you are concerned about the amount of OT services, write a brief paragraph describing the OT issue along with a written statement supporting your position and what you expect as the outcome. Follow this same process for each concern. If possible, attach documentation to support your reasons for the complaint.

Q. What could slow down the process?

A. The process could slow down if agencies do not have the ability to share important information to help resolve these differences (i.e., Parents Reaching Out, Public Education Department, U.S. Department of Education, Office for Civil Rights, etc.). A parent will need to provide their permission so that each of these agencies can talk to one another. This permission should be included in your letter. Remember you may revoke your permission at any time!

Example: Please feel free to contact my advocate _____ at Parents Reaching Out, or _____ (agency) to discuss and help resolve these issues. Please send a copy of all correspondence to _____ as well.

Anyone can call or send questions, concerns or complaints about the education of a child to:

A copy of your letter should be sent to:

State Director
NM PED Special Education Bureau
120 South Federal Place, Room 206
Santa Fe, NM 87501

Secretary of Education
NM Public Education Department
300 Don Gaspar
Santa Fe, NM 87501-2786

Sample Letter 10: Formal Letter of Complaint

Your Name
Your Address
(Daytime telephone number)

Today's Date (include month, day, and year)

Denise Koscielniak, State Director
NNMPED Special Education Bureau
120 South Federal Place, Room 206
Santa Fe, NM 87501

Dear Ms. Koscielniak:

This is our formal letter of complaint against (name of school district/agency). Our son/daughter (child's name) is a (grade level) at (name of school child attends). His/her disability is (list disability). We have been trying to work with the school district since (list dates, and include letters from sample letter 6 resolving differences at the local level).

Let me explain our concerns. (Briefly tell your story. Talk about what your child needs, and know why he needs it. Make it clear what your expected outcome is.)

Write about the things you have tried (IEP meetings, mediation, informal discussions, written correspondence, visits to the school/classroom). Indicate whom you have talked to regarding the matter and the outcome of discussions.

(Optional Statement) *If offered at public expense, we would consider a mediation/facilitation IEP process with a neutral third party to resolve this complaint.*

Please feel free to contact my advocate _____ at Parents Reaching Out, or _____ (agency) to discuss and help resolve these issues. Please send a copy of all correspondence to _____ as well.

We look forward to hearing from you soon. We can be reached at _____ (daytime phone).

Sincerely,

Your Full Name

cc: Superintendent of District
Veronica Garcia, Secretary of Education
NM Public Education Department,
300 Don Gaspar, Santa Fe, NM 87501-2786
NM Legislative Education Study Committee
325 Don Gaspar, Suite 200 - Santa Fe, NM 87501
Parents Reaching Out
(Any other person you feel should be included)

Resources



Resources and Key Connections

Beach Center on Families and Disability

University of Kansas
3111 Haworth Hall, Room 3136
Lawrence KS 66045
Voice: 785-864-7600 Web Address: www.beachcenter.org

Center for Development and Disability

2300 Menaul Blvd. NE
Albuquerque, NM 87107
Voice: 505-272-3000 or 1-800-472-3235
Web Address: www.cdd.unm.edu

Council for Exceptional Children

1110 North Glebe Road #300
Arlington VA 22201
Voice: 800-224-6830 Web Address: www.cec.sped.org

Disability Rights New Mexico (DRNM) formerly: New Mexico Protection and Advocacy

1720 Louisiana Blvd. NE Suite 204
Albuquerque, NM 87110
505-256-3100 or toll free in NM 1-800-432-4682 Web address: <http://www.nmpanda.org/>

Families and Advocates Partnership for Education (FAPE)

FAPE Office - PACER Center, Inc.
8161 Normandale Boulevard, Minneapolis MN 55437
Voice: 952-838-9000, 888-248-0822 TTY: 952-838-0190 Web Address: www.fape.org

Family Voices, Inc.

2340 Alamo SE, Suite 102
Albuquerque, NM 87106
Voice: 505-872-4774 or 888-835-5669 Fax: 505-872-4780 Web Address: www.familyvoices.org

National Dissemination Center for Children with Disabilities (NICHY)

1825 Connecticut Ave NW Suite 700
Washington DC 20009
Voice: 800-695-0285 TTY: 202-884-8200 Web Address: www.nichcy.org

Native American Disability Law Center

3535 E. 30th Street Suite 201 Farmington, NM 87042 Voice: 505-566-5880 / 800-862-7271
207 South 2nd Street Gallup, NM 87301 Voice: 505-863-7455 / 877-283-3208
Web Address: <http://www.nativedisabilitylaw.org/>

New Mexico Family Network (formerly PBDC)

1101 Cardenas Road NE, # 202
Albuquerque, NM 87110
Voice: 505-265-0430 or 1-800-273-7232 Web Address: <http://newmexicofamilynetwork.org>

New Mexico Public Education Department

300 Don Gaspar
Santa Fe, NM 87501-2786
Voice: 505-827-5800 Web Address: <http://www.ped.state.nm.us/index.htm>

New Mexico Public Education Department –Special Education Bureau

120 South Federal Place—Room 206
Santa Fe, NM 87501
Voice: 505-827-1457 FAX: 505-954-0001
Web Address: <http://www.ped.state.nm.us/seo/index.ht>

New Mexico Government

Governor Susana Martinez
490 Old Santa Fe Trail, Room 400
Santa Fe, NM 87501
Voice: 505-476-2200 Web Address: www.newmexico.gov

New Mexico Legislature
Voice: 505-986-4600 Web Address: <http://legis.state.nm.us/lcs/>

PACER Center, Inc.

8161 Normandale Boulevard
Minneapolis MN 55437
Voice: 952-838-9000 TTY: 952-838-0190 Web Address: www.pacer.org

Technical Assistance Alliance for Parent Centers

8161 Normandale Blvd
Minneapolis, MN 55437-1044
Voice: 952-838-9000 TTY: 952-838-0190 Nationwide Toll Free: 1-888-248-0822 Web
Address: <http://www.taalliance.org/>

The Arc of New Mexico

3655 Carlisle NE
Albuquerque, NM 87102-1715
Voice: 505-883-4630 or 1-800-358-6493
Web Address: <http://www.arcnm.org/index.php>

U.S. Department of Education

400 Maryland Avenue, SW
Washington, DC 20202
Voice: 1-800-USA-LEARN (1-800-872-5327) TTY: 1-800-437-0833 Web Address:
www.ed.gov

U.S. Department of Education – Office for Civil Rights

1244 Speer Blvd. Suite 310
Denver, CO 80204-3582
Voice: 303-844-5695 TDD 844-3417 Web Address: www.ed.gov/office/OCR

U.S. Department of Education – Office of Special Education Programs

400 Maryland Ave, SW, PCP, Room 4091
Washington DC 20202-2600
Voice: 202-245-7468
Web Address: <http://www.ed.gov/about/offices/list/osers/osep/index.html>

U.S. Congress – New Mexico Delegation

Parents Reaching Out recommends that you first contact the New Mexico office(s) of our Congressional Representatives, especially if you are writing letters. Their staff will assist you and make sure that your Senator or Representative gets information in a timely manner.

House of Representatives:: <http://www.house.gov/>

Senate: <http://www.senate.gov/>

Congressman, Martin Heinrich

<http://heinrich.house.gov/>

Washington, DC Office
1505 Longworth HOB
Washington, D.C. 20515
202-225-6316 / Fax: 202-225-4975

New Mexico District Office (1st District)
20 First Plaza NW Suite 603
Albuquerque, NM 87102
505-346-6781 / Fax: 505-346-6723

Congressman, Ben R. Lujan

<http://lujan.house.gov/>

Washington, DC Office
502 Cannon HOB
Washington, D.C. 20515
202-225-6190 / Fax: 202-226-1528

New Mexico District Office (3rd District)
811 St. Michael's Drive Suite 104
Santa Fe, NM 87505
505-984-8950 / Fax: 505-986-5047

Congressman, Steve Pearce

<https://pearce.house.gov/contact-me>

Washington, DC
2432 Rayburn House Office Building
Washington, DC 20515
Phone: (202) 225-2365 or 855-4-PEARCE (732723)
– for all offices

Alamogordo

1101 New York Avenue, Room 115
Alamogordo, NM 88310

Hobbs

200 East Broadway, Suite 200
Hobbs, NM 88240

Las Cruces

570 N Telshor Blvd
Las Cruces, NM 88011

Los Lunas

3445 Lambros Loop NE
Los Lunas, NM 87031

Roswell

1717 W 2nd Street, Suite 100
Roswell, NM 88201

Socorro

111 School of Mines Road
Socorro, NM 87801

Senator Jeff Bingaman

<http://bingaman.senate.gov/>

Washington Office
703 Hart Senate Office Building
Washington, DC 20510
202-224-5521 / Fax: 202-224-2852
Toll Free (from NM only) 1-800-443-8658

New Mexico Offices

- 625 Silver Avenue, SW Suite 130
Albuquerque, NM 87102
505-346-6601
- 106 B West Main
Farmington, NM 87401
505-325-5030
- 148 Loretto Towne Centre
505 South Main, Las Cruces, NM 88001
505-523-6561
- 200 East Fourth Street, Suite 300
Roswell, NM 88201
505-622-7113
- 119 East Marcy, Suite 101
Santa Fe, NM 87501
505-988-6647

Senator, Tom Udall

<http://tomudall.senate.gov>

Washington Office
110 Hart Senate Office Building
Washington, D.C. 20510
202-224-6621 / Fax: 202-228-3261

New Mexico Offices

- 120 South Federal Place, Suite 302
Santa Fe, NM 87501
505-988-6511 / Fax: 505-988-6514
- Albuquerque Plaza, Suite 710
201 3rd Street NW
Albuquerque, NM 87102
505-346-6791 / Fax: 505-346-6720
- Loretto Town Center, Suite 118
505 South Main
Las Cruces, NM 88001
575-526-5475 / Fax: 575-523-6589

Useful Websites

Abrazos Family Support Services, <http://www.swcr.org/>

Assistive Technology, KIDS TOGETHER, INC., www.kidstogether.org/

Building the Legacy IDEA 2004, <http://idea.ed.gov/explore/home>

Center for Effective Collaboration and Practice, <http://cecp.air.org/>

Center on Positive Behavioral Interventions and Support, www.pbis.org/

Council for Exceptional Children, www.cec.sped.org

Education for Parents of Indian Children with Special Needs (EPICS), www.epicsproject.org

Family Center on Technology and Disability (FCTC), <http://www.fctd.info/>

Learning Disabilities Association, www.ldonline.org

Raising Resilient Kids, www.raisingresilientkids.com

Richard A. Villa, Bayridge Consortium, <http://www.ravillabayridge.com/>

Southwest Autism Network, <http://www.cdd.unm.edu/autism/>

Wright's Law, www.wrightslaw.com

Parents Reaching Out

The Handbook of Parental Rights & Special Education Procedures has been developed with information from the following sources:

Consortium for Appropriate Dispute Resolution in Special Education (Cadre)
Mountain Plains Regional Resource Center (MPRRC)
National Information Center for Children and Youth with Disabilities (NICHCY)
New Mexico Public Education Department
PACER Center, Inc.
Region 5 Technical Assistance: PEAK Parent Center, Inc.
Technical Assistance Alliance for Parent Centers
U.S. Department of Education
U.S. Department of Education - Office for Civil Rights (OCR)
U.S. Department of Education - Office of Special Education Programs (OSERS)



Parents Reaching Out

We are a statewide non-profit 501(c)(3) organization that works with parents, caregivers, educators, and other professionals to promote healthy, positive, and caring experiences for New Mexico families and children. Founded in 1981, we have served families for 30 years.

Our Mission

The mission of Parents Reaching Out is to enhance positive outcomes for families and children in New Mexico through informed decision making, advocacy, education, and resources. Parents Reaching Out provides the networking opportunities for families to connect with and support each other. This mission supports *all families* including those who have children with disabilities, and others who are disenfranchised. Parents Reaching Out achieves this by:

- Developing family leadership
- Connecting families to each other
- Building collaborative partnerships
- Providing families knowledge and tools to enhance their power

Parents Reaching Out offers free:

- **Support and Guidance.** We offer individual help for parents who have concerns about their children's special education programs or need help navigating the health care system. Our parent-to-parent matches provide peer support for families going through similar situations.

"Thank you for providing support and a caring attitude to families like ours. We can't tell you how much this means to us." – parent

- **Information and Resources.** We provide publications and workshops on early intervention, special education, education, and health care topics for parents and professionals.

"All the information you provide is priceless to parents." - parent

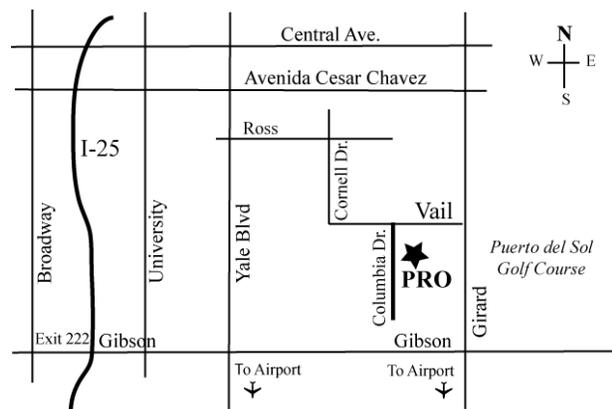
- **Leadership Opportunities for Parents.** We mentor parents as they share their family stories with policymakers and future teachers, doctors, and health care professionals. Our parent leaders make a difference in communities throughout the state.

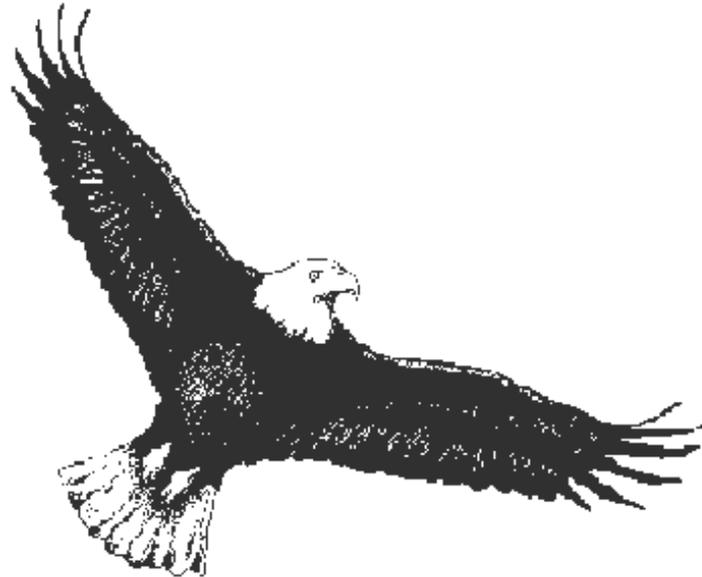
"Thank you for all you do for our community to advocate for our families and students with special needs." - professional

Parents Reaching Out

1920 B Columbia Drive, SE
Albuquerque, NM 87106
1-505-247-0192 ♦ 1-800-524-5176
www.parentsreachingout.org

From I-25—take the Gibson Blvd Exit 222 and go East on Gibson. Turn left at the third stop light (Girard). Turn left on Vail. Go one block to Columbia. Turn left on Columbia. Parents Reaching Out is on the east side of the street. Welcome!





*Let Your Dreams
Take Flight!*



Parents Reaching Out