

## PART 2

### Sample Letters for Parents

#### General Guidelines for Letters:

1. Always include your identifying information:
  - Your Name(s) Mr. and Mrs. ..
  - Your Address
  - Your Phone Number
  - Date your are writing the letter
2. Always try to type your letter and always keep a copy of it in your records
3. Hand deliver the letter to insure it is delivered or send it with a return receipt post card to insure that the letter was delivered.
4. Always identify your child

#### Letter 1: Asking For An Evaluation

(Today's Date)

Principal's Name

- (School Name)
- (School Address)

Dear \_\_\_\_\_,

I am the parent of \_\_\_\_\_, \_\_\_\_ years old, who is a student in grade at (School). I have a concern that my child has special needs that cannot be met by a regular school program. I am requesting that my child be evaluated as quickly as possible, so appropriate programming can be provided. Please advise me when this evaluation will take place.

Thank you.

Sincerely,

(Your Name)

cc: Director, Exceptional Education

#### Letter 2: Asking For An IEP Review

(Today's Date)

Director, Exceptional Student Education

- Name of School Board
- Address of School Board Office

Dear \_\_\_\_\_ ,

I am the parent of \_\_\_\_\_, \_\_\_\_ years old, who is a student in grade \_\_\_\_\_ at (School).

I am requesting a meeting to discuss changes in my child's Individual Education Plan and to possibly write up a new IEP.

The following days would be good for me ,\_\_\_\_ , or\_\_\_\_\_. Please get back with me when we can schedule this IEP review.

Thank you.

Sincerely,

(Your Name)

cc: Principal of the School

### **Letter 3: Asking the School to Change a Decision**

(Today's Date)

Director, Exceptional Student Education

- Name of School Board
- Address of School Board Office

Dear \_\_\_\_\_ ,

I am the parent of \_\_\_\_\_, \_\_\_\_ years old, who is a student in grade \_\_\_\_ at (School) I received a notice from the school on\_(date) regarding \_\_\_\_\_. I am not in agreement with this. I have talked with the people at the school. I am asking for a meeting to talk about this problem and to change the decisions that have been made.

Thank you.

Sincerely,

(Your Name)

cc: Principal of the School

### **Letter 4: Asking For An Independent Evaluation**

(Today's Date)

Director, Exceptional Student Education

- Name of School Board
- Address of School Board Office

Dear \_\_\_\_\_ ,

I am the parent of \_\_\_\_\_, \_\_\_\_ years old, who is a student in grade \_\_\_\_ at (School )

I think that my child needs an Independent Evaluation because\_ \_\_\_\_\_

I am asking that you help me find someone to do this evaluation and that the school system pay for it.

Please notify me of your answer to this request.

Thank you.

Sincerely,

(Your Name)

cc: Principal of the School

**Letter 5: Revoking Consent**

(Today's Date)

Director, Exceptional Student Education

- Name of School Board
- Address of School Board Office

Dear \_\_\_\_\_ ,

I am the parent of \_\_\_\_\_ , \_\_\_\_\_ years old, who is a student in grade \_\_\_\_\_ at (School)

On (date), I signed a form giving my consent for (fill in) I no longer think that this is best for my child. I wish to revoke my consent. Please let me know what action you are taking to respond to my request.

Thank you.

Sincerely,

(Your Name)

cc: Principal of the School

**Letter 6: Asking School To Change or Destroy Records**

(Today's Date)

Principal's Name

- School Name
- School Address

Dear \_\_\_\_\_ ,

I am the parent of \_\_\_\_\_ , \_\_\_\_\_ years old, who is a student in grade \_\_\_\_\_ at (School.)

I have read the school records about my child. These records were explained to me by (name of person) \_\_\_\_\_ on (date). I have reason to believe that parts of the school records are not fair to my child. Therefore I am asking that you change: and/ or destroy: Please let me know what action you will take in answer to this request .

Thank you.

Sincerely,

(Your Name)

cc: Director, Exceptional Student Education

**Letter 7: Asking For A Due Process Hearing**

(Today's Date)

Superintendent of Schools

- Name of School Board
- Address of School Board Office

Dear \_\_\_\_\_ ,

I am the parent of \_\_\_\_\_ , \_\_\_\_\_ years old, who is a student in grade at (School) I have talked with the school staff and we do not agree about I am asking for a Hearing before an impartial Hearing Officer so that I can present my point of view. Please let me know as soon as possible when the Hearing will be held. I would also like to schedule an appointment to examine and copy my child's school records before the Hearing.

Thank you.

Sincerely,

(Your Name)

cc: Director, Exceptional Student Education

### **Letter 8: Asking for a Copy of Your Child's School Records**

(Today's Date)

Principal's Name

- School Name
- School Address

Dear \_\_\_\_\_ ,

I am the parent of \_\_\_\_\_ , \_\_\_\_\_ years old, who is a student in grade \_\_\_\_ at (School). I have a need for a copy of my child's complete school record. Could you please make me this copy and let me know at your earliest convenience when it is ready.

Thank you.

Sincerely,

(Your Name)

cc: Director, Exceptional Education

### **Classroom Strategies for Inclusion of Students with Communications and Learning Disorders**

#### **Introduction**

Teachers in typical classrooms who are faced with students in their classroom who have ADHD (Attention Deficit/Hyperactivity Disorder), SLD (Specific Learning Disability) and/or High Functioning Autistic Spectrum often experience the following feelings.

- at a loss for what to do
- wanting to pull hair out
- overwhelmed
- befuddled, confused and dismayed.

Every trick of the academic trade teacher have used in the past to contain and direct typical students seem not to work with these students with Communications and Learning Disorders.

- What to do?
- What is wrong with their teaching style?
- What is wrong with the school administration which says: "Hang in there. Summer is coming."
- There must be some answer out to help them include these students in their classrooms.

### **About Communications & Learning Disorders**

What we know about Communications and Learning Disorders is that:

- they are neurological conditions which keep people off track
- either from having no self control (ADHD) of attention and/or impulsivity
- or impairs their perceptions and processing of information (SLD) either visual, auditory or kinesthetic.
- or impairs their social relatedness (Autistic Spectrum)
- these conditions often prevent students from being organized, on target, attentive or focused on school work

We know that there has been a great deal of coverage on ADHD, Learning Disabilities and Autistic Spectrum on TV, in newspapers, in professional journals and elsewhere in the public eye. Yet there does not seem to be a simple answer to help deal with these students with Communications and Learning Disorders in the classroom.

Students with Communications and Learning Disorders often look to their teachers as being :

- distracted
- disorganized
- fidgety
- impulsive.

These students are frequently

- socially immature
- temperamental
- with short attention spans
- suffering from low self-esteem.

Students with Communications and Learning Disorders may display one or all of the following behaviors which tend to drive teachers crazy:

- fidget with hands and feet
- have difficulty remaining seated
- are easily distracted by visual or auditory stimuli in and outside of classroom
- have difficulty waiting for turns in classroom situations
- blurt out answers to questions before being called on

- have difficulty following directions and instructions
- have difficulty in sustaining attention on class work or lecture
- have difficulty in doing class work quietly
- talk excessively to fellow classmates
- interrupt or intrude when others are speaking
- do not seem to be listening when being spoken to
- cannot stay focused on a single task and shift from one task to another
- lose things like homework assignments or completed homework
- disrupt classroom environment
- disorganized and lack focused concentration to get a task completed.

Students with Communications and Learning Disorders are frequently under the care of their pediatricians and/or pediatric neurologists. If they have ADHD they are often on medications such as Ritalin, Cylert, Dexadrine or Adderol. But use of medication alone to treat ADHD is insufficient as you can witness in your classroom. There is a need for consistent behavioral programming in the classroom and at home to assist these children to get better organized and to cope with their neurological condition. As the person on the front lines working with children with Communications and Learning Disorders, the teacher is in an important pivotal position to assist children to control their targeted Communications and Learning Disorders behaviors which are disruptive to the classroom and to their personal learning. The teacher is able to marshal and monitor resources to address the needs of the children with Communications and Learning Disorders in ways no one else in these children's lives can.

### **Parental Suggestions to Give to Teachers**

What follows are some suggestions to help parents to help teachers cope more effectively with and to help students with Communications and Learning Disorders.

#### **1. Get teachers and parents involved on the team to help these students**

First : Teachers need to form a team with the parents of students with Communications and Learning Disorders. Teachers and parents need to engage one another by using the IEP format of the *Individuals with Education Act*, for students with SLD. Or engage the parents by using the IEP format of the Section 504 of the *Anti-discrimination against the Handicapped Act*, for the students with ADHD to have "504 plans" in school.

Second: Create open lines of communication between these students' parents and teachers, by having frequent telephone or face to face conferences so as to help accomplish the following tasks concerning students with Communications and Learning Disorders:

- keep the line communication open as a collaborative effort
- share information about the children with one another
- identify strengths of children which can be rewarded or reinforced in the classroom and at home
- monitor medication management and identify when changes occur
- mutual problem solving about Communications and Learning Disorders issues impacting the school performance of the students
- develop a self-esteem enhancing model of managing the behavioral concerns related to Communications and Learning Disorders

- develop means for daily or weekly monitoring of target Communications and Learning Disorders related behaviors.

## **2. Accept personal limitations in addressing students with Communications and Learning Disorders**

Once teachers have accepted that they need to involve the parents of students with Communications and Learning Disorders in the academic process, they are then ready to address the classroom behaviors which are disruptive and disconcerting. What is presented here are only suggestions which will help teachers to feel like they have done all that they can do to create an environment in which students with Communications and Learning Disorders can learn at an optimal level.

- teachers need to accept that even after they attempt all of the following steps they still might not be able to help some students with Communications and Learning Disorders to settle down and learn because these neurological problems are out of control in some students.
- teachers need to accept their limitations in dealing with Communications and Learning Disorders. They are neurological problems with multiple social and emotional components which cannot be completely eradicated so that students are magically transformed into "normal compliant students."

## **3. Accept the students with Communications and Learning Disorders as people and not as a diagnosis**

After being assigned students with Communications and Learning Disorders teachers need to refer to them as people and not as: "that hyper kid, the slow student, that SLD student, the impulsive one." The preferable terminology is: "students with ADHD, students with Communications and Learning Disorders, or students with SLD. Teachers in the typical classrooms need to:

- work hard to relate to these students and not to their set of behaviors only
- remember that students have feelings and emotions and that they primarily need unconditional acceptance as people from teachers
- remember that these students' behaviors are part of complex disorders which have impacted the way they define themselves and has impacted how others accept and relate to them
- try hard to set aside their own personal emotional response to these students' behaviors and not take their actions personally.

## **4. Teachers need not hold onto the belief that medicine should cure ADHD**

Putting students with ADHD on medication is only the first step to handling the problems resulting from this neurological disorder. As a teacher, professional helper and motivator of change teachers need to remember that:

- social and emotional concerns have come together to make these students label and define themselves as: "losers, dumb, unacceptable, misfits, boom booms, never will amount to anything, not as good as others, and not good enough."
- medication helps these students to get some of the ADHD related behaviors under control, but there is a good possibility that many of the ADHD related behaviors have become habits which need to be changed
- children with negative or low self-esteem will act like the "not good enough" persons they believe themselves to be, as fulfillment of self-defeating and self-negating prophecies about their potential, worth and value as people.

## **5. Teachers need to monitor the effectiveness of the medication on students with ADHD**

There is no real assurance that just because children with ADHD are on a medication that the dosage, timing and type of medication is adequate to help them contain their targeted behaviors related to ADHD which are disruptive to them learning. Teachers need to:

- work with the parents and children's physicians to monitor the effectiveness of the medications used
- develop a daily log, if they feel that the medications are not working "the way they are supposed to work"

- give their daily log as proof of their observations to the parents and physicians as evidence of the effectiveness or ineffective nature of the current dosage, timing and type of medication
- in their daily log teachers need to record the following information:
- if children are on medications and what dosages at what times are they taken
- quantitative totals for target behaviors exhibited
- duration and intensity of exhibited behaviors
- time of day behaviors are exhibited
- what activity in classroom or the students' day preceded the exhibited behaviors
- what exceptional event was happening in school or classroom when behaviors occurred.
- with their daily behavioral log teachers need to watch for:
- trends or patterns: e.g., do these children, on a regular basis, exhibit more of the target behaviors in the morning, before lunch, after lunch hour, just before dismissal or some other portion of the day
- do these children exhibit more of the targeted behaviors on the first day of the school week or on the last day of the school week or on a specific day of the week
- do these children exhibit more of these targeted behaviors on special days in the school setting or when the schedule in school has been varied
- recognize that this log and description of trends or patterns will assist the parents and physicians to determine if there is a need to increase dosage or decrease dosage or change time medication is administered or change the type of medication given
- remember that for pre-adolescent and adolescent students who have been on medications for a few years, that the effectiveness of these medications may wear down so it is important to monitor them more closely which could result in them being removed from these medications altogether.
- at the beginning of each school year, all students on medication must be monitored closely because if there is a weight gain or increase in body size, the dosage used in the previous school year might not be sufficient to accommodate for the physiological changes in the child
- teachers can never afford to assume that just because students are on medications that it is sufficient or appropriate for them
- use these log as an effective tool to clarify the effectiveness of medication as just one of the components in the comprehensive service delivery to students with ADHD.

## **6. Organize classroom to address the auditory and visual distracting stimuli**

When teachers have students with Communications and Learning Disorders in their classroom, they need to recognize that there are visual and auditory stimuli which may draw away the attention of these students. Teachers might do one or all of the following to make their classrooms less distracting:

- do not have any sound producing machines in classroom
- insure that no music or sounds are audible when lecturing or when students are to be working quietly
- do not have large multi-colored posters with many images or small writing on them, limit decorations to single objects with large lettering and do not put many of them in the classroom
- do not have animals in the classroom
- seat students with Communications and Learning Disorders in front of classroom or in study carrels



- try not to do any distracting behaviors like switching topics suddenly or talking too rapidly, try to slow the pace of spoken delivery to these children
- when making transitions in classroom activities do them orderly and calmly, try not to alter the tempo of the environment too drastically at these transition points
- use multi-sensory approach to teaching a topic by which the students can : "see it, hear about it and touch it."
- control the lighting in the classroom so that it is bright enough for the students to see the graphs, charts, maps, models and other visual cues being used in teaching
- insure that the volume level is appropriate for all students to hear the auditory cues being used in teaching
- encourage students to take notes when listening to a lecture so that they can write down what they are hearing and get the information through their tactile senses
- allow students to tape all lectures and classroom presentations so as to assist them to capture what is being presented
- insure that the teacher's clothes and accessories (jewelry) worn, do not provide additional distracting stimuli for students with Communications and Learning Disorders.

#### **7. Involve the students with Communications and Learning Disorders in steps to address the target behaviors in the classroom**

It is important for teachers to engage the students as members of the team to deal and cope with their target Communications and Learning Disorders related behaviors by:

- letting these children understand the nature of the problem both physiologically and educationally and how it impacts the other students in the classroom
- involving students in conferences with the parents to help accomplish the task of expanding the parent-teacher team to include students themselves
- making students feel important and needed in addressing their disorder, which is negatively impacting their academic future
- developing a set of auditory or visual cues which the teacher can use with students to remind them when the identified target behaviors are becoming a problem in the classroom
- insuring that the students do not lose eye contact with the person making a presentation in the classroom
- problem solving with students to determine what learning styles they learn best with, e.g.,
- auditory?
- visual? or
- kinesthetic
- make an effort to provide class work and presentations with these modalities to let the students see that their input into the learning environment is welcomed and wanted by the teacher.
- help children recognize the behaviors which indicate an overcompensation for not feeling: "good enough or different or not fitting in" which causes them even greater problems in the classroom and with their fellow classmates
- point out that the following compensation behaviors are unacceptable and cause greater problems for them:
- acting the clown
- acting helpless

- chip on the shoulder
- anti-authority behaviors
- braggart or big man on campus

## **Inflated sense of The Federal Laws Governing Education for Exceptional Students**

### **Background:**

Federal laws are usually designated like PL 94-142. PL means public law, the first two numbers (94) indicate the number of the Congress during which the law was passed. The last three numbers indicate the piece of legislation passed during that Congress. For example: PL 94-142 was the 142nd piece of legislation passed by the 94th Congress. PL 98-199 was the 199th piece of legislation passed by the 98th Congress. The Congressional number lasts for a two year period and changes every even year. For example: the 98th Congress was 1983-84.

### **The IDEA and other Amendments to Public Law 94-142**

Public Law 94-142 was enacted by Congress in 1975. The regulations implementing this law were published in 1977. The law and the regulations stated that a free appropriate public education would be available for all handicapped children aged 3-21, no later than September 1, 1980. (An exception was made for children ages 3, 4, and 5 if it was inconsistent with state law.)

In 1983, the programs under the Education of the Handicapped Act (EHA) were amended by PL 98-199 to encourage expanding the services to preschool aged children.

In 1986, EHA was amended through PL 99-457. The age of eligibility for all children with disabilities was lowered to 3 years of age. This law established the Handicapped Infants and Toddlers Program (Part H). This program was directed to the needs of children, from birth to their third birthday.

In 1990, Education of the Handicapped Act Amendments of 1990 (PL 100-476) which changed the name of the EHA laws to Individuals with Disabilities Education Act (IDEA). New program to improve the services to children called transition services and assistive technology services were now required to be included in an IEP. Rehabilitation counseling and social work were included as related services under the law. The rights under the law were expanded to more fully include children with autism and traumatic brain injury.

### **KEY Provisions of the IDEA:**

- 1. Identification-** the state and local education agencies must actively seek out and identify children who have special education needs (Child Find)
- 2. Evaluation** - A child must be evaluated appropriately prior to placement. All methods used for testing and evaluation must be in the primary language or "mode of communication" of the child. No one test may be the determining factor for placement.
- 3. Individualized Education Plan (IEP)** - An IEP must be prepared for each child based on their individual educational needs.
- 4. Parents** are equal participants in the decision-making process and students may be participants in their IEP development.
- 5. Related Services** - shall be provided on an individualized basis to assist the child to benefit from special education.
- 6. Least Restrictive Environment (LRE)** - Each child shall be educated to the maximum extent appropriate with children who are non-handicapped and children should be educated in more restrictive (different) settings only when less restrictive alternatives are not appropriate.
- 7. Private School** - When children are placed in private schools by state or local education agencies in order to receive an appropriate education, this must be done at no cost to parents; private school programs must meet standards set by law.
- 8. Early Intervention and Preschools** - The IDEA now makes early intervention services available to children ages 0-5 years.

**9. Due Process** - rights of parents and children must be guaranteed by states and localities; including notice, right to hearing, and appeal procedures.

**10. Advisory Board** - Each state must set up an advisory board, including handicapped individuals, teachers and parents of handicapped children.

**11. Funds** - IDEA/ PL. 94-142 provides flow through funds per child per year to supplement state and local program efforts. Funds may be withheld for non-compliance. Payments by the state to local school districts may also be suspended for non-compliance.

**12. Records** - Parents have access to their child's educational records and can request that they be amended.

### **Section 504 of Public Law 93-122 - The Rehabilitation Act of 1973**

The law was created to insure affirmative action in employment and non-discrimination because of handicapping conditions and was amended in 1974, 1978, and 1984. It is usually referred to by specific sections which address different issues:

Section 501 - Employment of Handicapped Individuals

Section 502 - Architectural and Transportation Board Compliance

Section 503 - Employment under Federal Contract

Section 504 - Non-discrimination under Federal Grants **Section 504:**

This section reads as follows: "No otherwise qualified handicapped individual . . . shall, solely by reason of his handicap; be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

### **Major Differences in IDEA/PL 94-142 and Section 504:**

**1. Enforcement** As an education statute, enforcement of IDEA/PL 94142 is administered by the Office of Special Education of the U.S. Department of Education and each state department of education that subscribes to PL 94142. Section 504 enforcement, because Section 504 is a civil statute, is the responsibility of the Office for Civil Rights of the U.S. Department of Education.

**2. Financial Assistance** IDEA/PL 94142 provides federal financial assistance in the form of grants to assist in education of handicapped children and to assist in monitoring these programs. Section 504, as a civil rights law, is concerned with a broader range of issues, including employment discrimination, education at all levels and accessibility. Section 504 does not furnish federal funds for implementation of its requirements.

However, because Section 504 covers recipients of federal funds and IDEA/PL 94142 subscribers are recipients of federal funds, all recipients of IDEA/PL 94142 funds are required to meet the mandates of Section 504. Even though New Mexico is the only State that has ever elected not to receive PL 94-142 funds, it was mandated to meet the requirements of Section 504 because it received other federal funds.

**3. Definition of Handicap** Section 504 deals with a very broad definition of handicapped persons which includes both actual and perceived handicaps, as well as some conditions that are not normally considered to be handicapping conditions (in educational terms), such as drug addiction and alcoholism. This definition includes persons who may be amputees, temporarily handicapped, wheelchair-bound, or have cancer or other serious physical diseases that do not need special education services. In contrast, the definition of a "handicapped child" in IDEA/ PL. 94-142 is much more specific and focuses on educational and medical conditions that have been appropriately identified and evaluated. Section 504 has been found to cover the diagnosis of Attention Deficit Hyperactivity Disorder (ADHD) and children with ADHD are able to have a 504 Plan which is an IEP for this condition.

**4. Age Requirements** One of the specific criteria of Section 504 is that services be provided to handicapped persons to "whom state is required to provide a 'free appropriate education' under Section 612 of the Education of the Handicapped Act." IDEA/ PL 94142 is more specific than Section 504 in that it specified the ages when services must be provided.

### **Family Educational Rights and Privacy Act of 1974 PL 93-380 FERPA**

(Also known as the Buckley Amendment)

Provides for confidentiality of all school records. Your child's records are private. The Buckley Amendment allows access to information that is part of public records.

**Public Law 98-524** (Carl D. Perkins Vocational Education Act)

The Vocational Educational Act (94482) was passed in 1963, but a new law governing federally funded vocational education programs was enacted on October 19, 1984.

The key provisions of this act are:

1. Insures that students gain both broader academic skills and experience in all aspects of an entire industry or enterprise, i.e., the skills needed to participate actively in running a business, not just to fit into one narrow production slot.

2. States must assess the:

- quality of vocational education programs
- the current and projected occupational needs and the current and projected demand for general occupational skills
- the needs of students, including adults, to determine how to best improve students skill level in light of the State's occupational and skill requirements
- the special needs of handicapped students, disadvantaged, adults needing training or retraining, single parents or homemakers, individuals who participate in programs designed to eliminate sex bias and stereotype and criminal offenders who are serving in correctional institutions. The special needs must be assessed in terms of access to vocational education and vocational services in terms of labor market needs
- The relationship between programs offered and the jobs available and to new and emerging technologies

3. The state board shall, with respect to vocational education services and activities for handicapped individuals and disadvantaged individuals, provide assurances that:

- equal access will be provided to handicapped and disadvantaged individuals in recruitment, enrollment, and placement activities
- equal access will be provided to handicapped and disadvantaged individuals to the full range of vocational programs available to non-handicapped and non-disadvantaged individuals, including occupationally specific courses of study, cooperative education, and apprenticeship programs
- vocational education programs and activities for handicapped individuals will be provided in the least restrictive environment in accordance with IDEA and will, whenever appropriate, be involved as a component IEP of the individualized education plan.
- vocational education planning for handicapped individuals will be coordinated between appropriate representatives of vocational education and special education.
- each local educational agency shall, with respect to that portion of the allotment distributed in accordance with section 203(a) for vocational education services and activities for handicapped individuals and disadvantaged individuals, provide information to handicapped and disadvantaged students and parents of such students concerning the opportunities available in vocational education at least one year before the students enter the grade level in which vocational education programs are first generally available in the State, but in no event later than the beginning of the ninth grade, together with the requirements for eligibility for enrollment in such vocational education programs

#### **PL 99-457 (Amendments to 94-142)**

99-457 authorized a new preschool program for children three through five years old; and an early intervention program for handicapped infants and toddlers from birth through age two.

#### **What the law provided**

Preschool age (3 - 5)

Expanded coverage of 94-142 to mandate a preschool program to serve children three through five years old.

- Children in this age group will not need to be labeled with a specific disability.
- Programs can range from part-day, home-based, or full-day, center-based, depending on child's unique needs.

- Though administered through state and local agencies, may be contracted out to other public and private programs.

#### Early Intervention (0-2)

Established new Early Intervention Grant program to serve handicapped infants and toddlers from birth through two years old.

Handicapped infants and toddlers means children from birth through two year who need early intervention because they are:

- experiencing developmental delays in one or more of the following areas: cognitive, physical, language and speech, psycho-social, or self-help skill development, or
- have a diagnosed physical or mental condition which has a high probability of resulting in a developmental delay, or

Early Intervention Services include:

- Family training, counseling, and home visits
- Special instruction
- Speech pathology and audiology
- Occupational therapy
- Physical therapy
- Psychological services
- Case management
- Medical Services only for diagnosis/evaluation
- Early identification, screening, and assessment
- Health services

### **EXCERPTS FROM the IDEA and PL 94.142 STATUTES AND REGULATIONS**

#### **Definition - Handicapped Children**

(Reg.)121a.5(a) As used in this part, the term "handicapped children" means those children evaluated in accordance with 121a.530 121a.534 as being mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or as having specific learning disabilities, who because of those impairments need special education and related services.

#### **Free Appropriate Public Education**

(Statute)601c It is the purpose of this Act to assure that all handicapped children have available to them, within the time periods specified in section 612(2)(B), a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.

## **Evaluation**

(Statute)612(5)(c) Procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(Reg.)121a.531 Before any action is taken with respect to the initial placement of a handicapped child in a special education program, a full and individual evaluation of the child's education needs must be conducted in accordance with the requirements of 121a.532.

## **Eligibility/Placement**

(Reg.)121a.533(a) In interpreting evaluation data and in making placement decisions, each public agency shall:

(3) Insure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

(Reg.)121a.552 Placements. Each public agency shall insure that:

(a) Each handicapped child's educational placement:

(1) Is determined at least annually.

(2) Is based on his or her individualized education program, and

(3) Is as close as possible to the child's home.

## **Re-Evaluation**

(Reg. 121a.534(b) Each State and local educational agency shall insure:

(b) That an evaluation of the child, based on procedures which meet the requirements under 121a.532, is conducted every three years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation.

## **Least Restrictive Environment**

(Reg)121a.550(b) Each public agency shall insure:

(1) That to the maximum extent appropriate handicapped children, including children in public or private institutions or other care facilities are educated with children who are not handicapped, and (2) That special classes, separate schooling or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

## **Kinds of Exceptional Student Education Programs**

(Statute)602(16) The term "special education" means specifically designed instruction at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

(Reg.)121a.551(a) Each public agency shall insure that a continuum of alternative placements is available to meet the needs of handicapped children for special education and related services.

(b) The continuum required under paragraph (a) of this section must:

(1) Include the alternative placements listed in the definition of special education under

121a.13 of Subpart A (instruction in regular classes, special classes, special schools, home

instruction, and instruction in hospitals and institutions) and

(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

## **Individualized Education Program (I.E.P.)**

(Statute)602(19) The term "individualized education program" means a written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children, the teacher, the parents or guardian of such a child, and whenever appropriate, such child, which statement shall include: a statement of the present levels of educational performance of such child, a statement of annual goals, including short-term instructional objectives, a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, the projected date for initiation and anticipated duration of such services, and appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

(Reg.)121a.343(d) Review. Each public agency shall initiate and conduct meetings to periodically review each child's individualized education program and if appropriate revise its provisions. A meeting must be held for this purpose at least once a year.

(Reg.121a.344(a) General. The public agency shall insure that each meeting includes the following participants:

- (1) A representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of special education.
- (2) The child's teacher.
- (3) One or both of the child's parents, subject to 121a.345.
- (4) The child, where appropriate.
- (5) Other individuals at the discretion of the parent or agency.

(Reg.121a.345 (a) Each public agency shall take steps to insure that one or both of the parents of the handicapped child are present at each meeting or are afforded the opportunity to participate, including:

- (1) Notifying parents of the meeting early enough to insure that they will have an opportunity to attend; and
- (2) Scheduling the meeting at a mutually agreed on time and place.

(b) The notice under paragraph (a)(1) of this section must indicate the purpose, time, and location of the meeting, and who will be in attendance. If neither parent can attend, the public agency shall use other methods to insure parent participation, including individual conference telephone calls.

## **Parent Participation, Notice and Consent**

(Reg.)121a.504 (a) Notice. Written notice which meets the requirements under 121a.505 must be given to the parents of a handicapped child a reasonable time before the public agency: (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, or (2) Refuses to initiate or change the identification, evaluation or educational placement of the child or the provision of a free appropriate public education to the child.

(b) Consent. (1) Parental consent must be obtained before: (i) Conducting a pre-placement evaluation; and (ii) Initial placement of a handicapped child in a program providing special education and related services. (2) Except for pre-placement evaluation and initial placement, consent may not be required as a condition of any benefit to the parent or child.

c. Procedures where parent refuses consent. (1) Where State law requires parental consent before a handicapped child is evaluated or initially provided special education and related services, State procedures govern the public agency in overriding a parent's refusal to consent.

## **Due Process Hearing**

(Statute)615(b)(2) Whenever a complaint has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State educational agency or by the local educational agency or intermediate educational unit, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency or unit involved in the education or care of the child.

(Statute)615(d) Any party to any hearing conducted pursuant to subsections (b) and © shall be accorded (1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children, (2) the right to present evidence and confront cross-examine, and compel the attendance of witnesses, (3) the right to a written or electronic verbatim record of such hearing, and (4) the right to written

findings of fact and decisions . . . (c)(1) A decision made in hearing conducted pursuant to paragraph (2) of subsection (b) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection c. and paragraph (2) of this subsection. A decision made under subsection c. shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

### **Independent Evaluation**

(Reg.)121a.503(a)(1) General. (1) The parents of a handicapped child have the right under this part to obtain an independent educational evaluation of the child subject to paragraphs (b) through (e) of this section.

(Reg.)121a503(a)(3)(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 questions.

(Reg.)121a503(b) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. However, the public agency may initiate a hearing under 121a.503 of this subpart to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

### **School Records**

(Statute)617c. The Secretary shall take appropriate action, in accordance with the provisions of Section 438 of the General Education Provisions Act, to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Commissioner and by the State and local educational agencies pursuant to the provisions of this part.

(Reg.)121a.562(b) The right to inspect and review educational records under this section includes:

(1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

(2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records, and

(3) The right to have a representative of the parent inspect and review the records.

(Reg.)121a.571(a) Parental consent must be obtained before personally identifiable information is:

(1) Disclosed to anyone other than officials of participating agencies collecting or using the information under this part, subject to paragraph (h) of this section;

(Reg.)121a.573(a) The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.

(b) The information must be destroyed at the request of the parents . . .

(Reg.)121a.567(a) A parent who believes that information in education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child, may request the participating agency which maintains the information to amend the information.

## **Your Rights as the Parent of a Child with an Educational Exceptionality**

### **YOUR RIGHTS SUMMARIZED**

The IDEA and Public Law 94-142, the Education for All Handicapped Children Act, includes numerous rights to which you, as a parent, are entitled. Those rights are set forth in this book. Read it carefully and keep it somewhere where you can easily refer to it.

In this explanation of rights we have used the word "school" to mean the place where your child is being educated. This may be your neighborhood public school or the educational part of a hospital or some other institution. Wherever your child is, he or she has a right to what the Act refers to as "a free appropriate public education," and the persons responsible for your child's education must see that this is available. If there is an issue regarding who is responsible for your child's education, authority to resolve it rests with your state education agency in the state capitol.

Your rights and those of your handicapped child may be summed up in the following key terms:

- **Notice** - Before your child is tested or placed in a special educational program, you have a right to be notified of what the school plans to do.



- **Consent** - You must give your consent before special tests are conducted and before your child is placed in a special educational program.
- **Evaluation** - You have a right to have a full evaluation of your child's individual educational needs.
- **Records** - You have a right to know what records are kept on your child and a right to see them.
- **Confidentiality of Information** - With the exception of certain individuals (school officials, for example, and teachers with legitimate educational interests,) no one may see your child's records unless you give your written permission .
- **Least Restrictive Environment** - You have a right to have your child educated with non-handicapped children to the maximum extent appropriate.
- **Hearings** - If at any point along the way you do not agree with the way the school is dealing with your child, you have the right to request a hearing. This means that you may seek a formal review if you and the school cannot reach an agreement concerning the identification, evaluation, or placement, or educational program of your child.

An IEP is an individualized educational program which must include a statement of your child's present levels of educational performance, a statement of annual goals and short term objectives for your child, a statement of the specific special education and related services to be provided, the extent to which your child will be able to participate in regular education programs, and the projected dates for beginning the special education and how long it is expected to continue. It must also include an objective way of determining, at least annually, whether your child is achieving the short term objectives that were set. This IEP must be decided upon in a meeting which includes a representative of the school your child attends (this must be someone who is qualified to provide or supervise special education,) your child's teacher, you as the child's parent or parents, and your child if that is appropriate. Either you or the school