

SPECIAL EDUCATION IN NEW JERSEY

A PARENT'S GUIDE

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Special Education In New Jersey A Parent's Guide

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1.0. Introduction

In New Jersey, the laws pertaining to students with special needs, ensures that all such students and school districts are governed by the applicable State and Federal laws.

1.1. Who Is Eligible?

To be eligible for the IDEA rights, protections, services, and accommodations discussed in this book, your child must be between the ages of three and twenty-one, and meet the definition of “a child with a disability.” This would also include any such student who has been suspended or expelled. This would include a child with physical, emotional, learning, and cognitive disabilities who needs these services because of the child’s condition. In New Jersey, as per N.J.A.C.6A:14-3,5, a student qualifies if that student has one or more of the following disabilities that adversely affects that student’s educational performance.

- A. “Auditory impaired” corresponds to the Federal categories of deafness and hearing impaired.
- B. “Autism” is a developmental disability which significantly impacts verbal and non-verbal communication and social interaction that adversely affects the your child’s educational performance.
- C. “Cognitively impaired” is a disability that is characterized by significantly below average general cognitive functioning existing concurrently with deficits in adaptive behavior. This is exhibited during the developmental period. It adversely affects your child’s educational performance.
- D. “Communications impaired” is a language disorder. It adversely affects a student’s educational performance, and is not due to a primarily to an auditory impairment.
- E. “Emotionally disturbed” is a condition which exhibits one or more of the following: (a) an inability to learn that cannot be explained by intellectual sensory or health factors, (b) an inability to build or maintain interpersonal relationships with others, (c) inappropriate

behaviors or feelings under normal circumstances, (d) general moods of unhappiness or depression, (e) developing physical symptoms or fears relating to school or personal problems.

- F. “Multiply disabled” means the presence of two or more disabling conditions. In combination, they cause severe educational needs that they cannot be accommodated in a program designed solely to address one of the disabilities.
- G. “Deaf-Blindness is the presence of hearing and visual impairments. The combination of the two causes severe communication and other developmental and educational problems that they cannot be accommodated in a program designed solely to address one one of the disabilities, deafness or blindness.
- H. “Orthopedically impaired” is a disability that is caused by the malformation or loss of bones, muscle, or tissue. It adversely affects a student’s educational performance.
- I. “Other health impaired” is a disability characterized by having limited strength, vitality, or alertness in an educational environment. This is due to chronic or acute health problems, such as attention deficit disorder, attention deficit hyperactivity disorder, heart problems, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, Tourette Syndrome, or any other condition that adversely affects your child’s educational performance.
- J. “Preschool child with a disability” refers to a child between the ages of three and five experiencing developmental delay.
- K. “Social maladjustment” is the inability to conform to the behavioral standards established by the school.
- L. “Specific learning disability” is a disorder in one or more basic psychological processes involved in understanding and using

spoken or written language. This often presents an imperfect ability to listen, think, speak, read, write, or do mathematical

calculations. It includes conditions such as: dyslexia, developmental aphasia, perceptual disability, brain injury, and brain dis function.

- M. “Traumatic brain injury” is a disorder caused by either: an external physical force to the brain or psychosocial impairment.
- N. “Visually impaired is an impairment in vision, even with correction, adversely affects your child’s educational performance.

1.2. F.A.P.E.

A free appropriate public education must be available to all children residing in the State between the ages of three and twenty-one. This also includes all children with disabilities who have been suspended or expelled from school.

§300?530(d). Further, F.A.P.E. applies to any individual child, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade. The determination of a child’s eligibility described herein will be made on an individual basis by the Child Study Team of the school.

1.3. Appropriate Public Education

Federal and State laws require that public schools provide each special needs student an education that meets that student’s unique educational needs, and addresses his/her academic and functional needs. The school must give the student access to the general curriculum to meet to challenging expectations established for all children. That is, your child must meet the approximate grade-level standards of the State, to the extent that this is appropriate. Further, the school must ensure that the student’s curriculum is reasonably structured to meet the foals and objectives of his/her Individualized Education Program (IEP), and to enable him or her to receive all educational benefits.

The free appropriate education offered in the IEP does not have to be the best one possible, nor one that offers to maximize your child’s educational potential. It need only

be one that meets his/her specific needs, supported by such services that enable him or her to benefit from the placement. The law cannot be read as imposing any substantive educational standard upon the State.

1.4. Identification, Child Find, and Referrals

Identification of Children With Special Needs

Parents or guardian, medical personnel, and early childhood educators are often the first to notice that a child's learning, behavior, or development may be a cause for concern. If you are worried about your child's progress in school, and believe that it can be improved by receiving extra assistance from special education services, you should contact someone from the school district. If there is any developmental concern, the your child's medical doctor should also be contacted.

This enables your child to access any services which may be available to him or her. Identifying and reporting suspected children is a crucial first step in getting the proper medical and educational help. Many disabilities get worse as time progresses. Consequently, addressing them as early as possible is imperative.

Child Find

Public schools have a legal obligation to find any child in the district who may have a disability, and be entitled to special education and related services. The school district must have a set of written procedures whereby they can identify and evaluate any such child. Schools can use various outreach programs (such as newspapers and other local media, notices to the parents, and posted in public places) to locate any possible cases. Anyone can start the Child Find process: parent, guardian, doctor, relative, or friend, by calling the local school district. These procedures apply to highly mobile children, such as migrant and homeless children who may have a disability.

Referrals

The procedures for identifying students who may have special needs must allow for referral by the parent(s), guardian, doctor, relative, or friend, and any member of the school staff or outside agencies concerned with childhood development.

2.0. Initial Evaluation

After the referral or Child Find process, the school may ask to evaluate the child. After observations, teacher recommendations, the school may recommend that the child receive further screening and assessments to determine if your child has a disability and needs special education and related services.

2.1. Parent(s) Involvement and Permission to Evaluate

The school must ask permission from the parent(s) or legal guardians to evaluate the child, and receive their written permission before the evaluation may be conducted. In the request to the parents asking for permission to evaluate, the school must explain why it wants to conduct the evaluation, each evaluation procedure, assessment, record, or report used as a basis for proposing the evaluation. Further, they must provide the parents a copy of the New Jersey's *Parental Rights in Special Education* booklet, which describes all of the parent's options.

All communication from the school must be in a form the general public can understand. It must be provided in the parents' native language, if they do not read English, or in the mode they normally use (such as Braille, ASL, or large print), unless it is clearly not feasible to do so.

To proceed with the evaluation, the parent(s) must give their informed written consent. This consent is for the evaluation only. It does not give the school permission to provide special education services to the child.

The parents should attend the meeting where this qualification determination will be conducted. No one knows your child better than you. You may bring anyone to the meeting with you, provided you so notify the school district in advance. These people may be friends, relatives, educational advisors, or attorneys. This meeting may determine a significant portion of your child's life. You must have all the knowledge necessary to make any resulting decisions.

If the school refuses to evaluate the child, it must so notify the parents in writing with the reasons for its decision.

The initial evaluation must be conducted within 60 days of receiving parental consent for the evaluation or any other timeline the State may establish.

Purpose of the evaluation

The purpose of the initial evaluation is to determine if a child qualifies as “having a disability” in accordance with the State and Federal governments’ criteria in at least one of the disabilities listed above in paragraph 1.1.

Scope of the evaluation

The evaluation must use a variety of assessment tools and strategies to gather functional, developmental, and academic information about your child, including information provided by you or your child’s doctor. This full and individual evaluation includes evaluating the child’s:

- health,
- Vision and hearing,
- Social and emotional status,
- General intelligence,
- Academic performance,
- Communicative status, and
- Motor skills.

2.2. The Child Study Team (CST)

A group is formed consisting of the child’s teacher and parents, a school administrator, and members of the evaluating staff, such as a school social worker, psychologist, speech therapist, school behaviorist, special education teacher, and any other school personnel who can provide insight into the evaluation, including a translator if necessary. NOTE: you are a member of the CST.

2.3. The Initial Determination Meeting

Once the evaluations and assessments are completed, the CST will conduct an Eligibility Determination meeting to ascertain whether or not your child has one or more specific learning disabilities (outlined in paragraph 1.1), and is in need of special education services. If it is determined that he or she qualifies, an **Individualized Educational Program (IEP)** will be developed. This IEP must be developed within 30 days of the CST meeting date authorizing it. Parents are expected to be part of the IEP development process.

At this Eligibility Determination meeting, the parents and the school district should notify one another if they intend to invite other people to the meeting. Often, the student is invited to attend. Many parents find it helpful to have a support person at the meeting. This could be a relative or friend, a tutor, an advocate or consultant, or an attorney. An attorney is especially recommended if the school district is bringing its attorney. Remember, this is one of your child's most important events in his or her lifetime.

At the IEP meeting, the CST will discuss your child's strengths, his/her disabilities, your concerns regarding your child's education and how to enhance that education with various accommodations, and teaching staff. The results of the most recent evaluations and assessments of your child will be presented and discussed. The team will also discuss your child's academic development and functional needs. Are these needs adversely affected by poor communications, hearing or visual problems? Does he/she need Braille accommodations? Does he or she need assistive technology services or devices? Does your child's behavior interfere with his/her learning or the learning of others?

The meeting is usually at the school, and could be before, during, or after the regular school hours. Further, you do not have to attend in person. The parents and the school can agree to teleconferencing, video transmission, or other methods of distance communication.

2.4. The Initial IEP

To provide for his or her specific needs, your child requires a well thought-out plan. That plan is entitled the IEP. It is the foundation of a special needs child's education. It should list the special services and accommodations your child will receive, based on his or her specific special needs. This is why, as stated above, the parents help develop the IEP. Usually, no one knows more about your child than you.

2.5. The IEP Document

Basic Information

The first page of the IEP usually contains basic identifying information:

- At the very top, it should indicate that this is a "Draft IEP," until such time that you approve it;

- Your child's name, address, birthday, gender, native language, local I'd number, parents' identifying information and contact information, the school year, case manager's name, school name, and grade level(s) covered by the IEP, and any special alerts (such as medical diagnoses);
- at the bottom half will appear the meeting date, the IEP projected start date, end date, and if there is a Behavior Intervention Plan;
- a placement category;
- the status for the duration of the IEP;
- the center section will include the most recent eligibility information, such as: the disability determination, the classification, if an extended school year (summer school) is provided, the most recent Annual Revue Meeting date, if a consent waiver for re-evaluation exists, and the date of the next re-evaluation;
- a location regarding initial eligibility information, such as: initial referral date, initial consent to evaluate date, initial eligibility determination date, initial IEP meeting date, initial consent to implement IEP date, and the initial IEP implementation date; and
- on the bottom right side, a box with a summary of the Special Education programs and related services.

Present Levels of Academic Achievement and Functional Performance (PLAAFP)

There should be a listing or statements regarding each of the child's strengths and where he/she does well academically, socially, emotionally, and behaviorally.

The concerns of the parents should consist of all the things that the you believe must be addressed in the education of your son or daughter. While it need not be, this should be in writing and placed in this section exactly as you have written or stated them.

This is followed by a list of the most recent evaluation/reports and the relevant data and information used to develop the IEP. It should include: (1) all of your child's needs in each academic and/or functional skill area; (2) a listing of all of his or her current levels of performance and the Statewide and Districtwide Assessment Results. From these data, you should be able to ascertain your child's percentile rankings or grade-level equivalencies in all of his subjects. This is especially important because the purpose of

the IEP is to improve your child's academic, social, and/or behavioral status.(These will serve as baseline data from which to measure his or her progress during the term of the IEP, and make any adjustments if little or no progress is evident); and (3) provides an indication of what goals and objectives should be set to address all the areas of need.

The PLAAFP section of the IEP should contain everything that is needed to develop a set of challenging, ambitious, and measurable annual goals.

Modifications and Supplementary Aids and Services in the General Education Classroom and/or Special Education Classroom

This section should the all the modifications that will be made in each of the child's classrooms, lunch rooms, and other activities at the school.

Supplementary Aids and Services should be listed.

Indicate if Assistive Technology Devices and Services will be provided.

Supports for School Personnel

List the supports for student personnel who may interact with the child, including in-service programs and consultations with CST team members.

Statement of Special Education Programs and Related Services

List all of the special education programs, the locations, the subject area, effective dates, frequency, period, and duration. Also, indicate any special transportation- related services.

Statement of Extended School Year Special Education Programs and Related Services

Indicate whether or not your child needs an extended school year (ESY) program. If so, list the determining factors which were considered in the determination.

Placement Decision

This is a statement of the placement decision.

Rationale for Removal from General Education

List the reasons why the child will be removed from the general education classes.

Transition Planning Activities

If your child will be in a separate setting for all or part of the day, list the activities necessary to move him or her to a less restrictive placement.

Modifications in Extracurricular and Nonacademic Activities

List the modifications that will be provided to enable your child to participate in extracurricular activities.

Length of School Day

State if the length of the school day is different from the length of the school day for non-disabled peers.

Statement of the Student's Transition from Elementary to Secondary Program

List any guidance programs designed to help students transition to a secondary program. Students and parents are usually invited to participate in these programs.

Participation in Districtwide and Statewide Assessment Program

Indicate any individual modifications in the administration of Statewide or districtwide assessments of child's achievement needed for him or her to participate. If he or she shall not participate in either or both of these programs, or parts thereof, indicate why that assessment (or part) is not appropriate for him/her and how your child will be assessed.

Graduation Requirements

Beginning at age 14, list the state and local graduation requirements that the student is expected to meet. Any exemptions to these requirements which are provided for the student, must be listed and the reasons for the exemptions.

Notice Requirements for the IEP and Placement

This section describes the information required in each of the components of written notice for an IEP meeting. The written notice will include the IEP as a description of the proposal action and a description of the procedures and factors used in determining the proposed action.

1. Describe the proposed action and explain why the district has taken it.

2. Describe any options considered and the reason those options were rejected.
3. Describe the procedures, tests, records or reports and factors used in determining the proposed action.
4. If applicable, describe any other factors that are relevant to the proposed action.

Transfer of Rights at Age of Majority

Upon reaching the age of majority, the following rights will transfer to your son or daughter:

1. The school must receive written permission from the student before it conducts any assessments as part of an evaluation or re-evaluation and before implementing an IEP for the first time.
2. The school must send a written notice to the student whenever it wishes to change or refuses to change the evaluation, eligibility, IEP, placement, or the provision of a free, appropriate public education.
3. You, the parents may not have access to the student's educational records without the student's consent, unless the student continues to be financially dependent on you.
4. The district will continue to provide you with notice of meetings and any proposed changes to your child's program, unless the parent or the student notify the district, in writing, that the student is financially independent.
5. The student is the only one who can request mediation or a due process hearing to resolve any disputes arising from disagreements in the program.
6. If, after reaching the age of majority, the student may write a letter to the district giving the parent(s) the right to continue to act on his/her behalf in the above matters.

Procedural Safeguards Statement

This a statement which says that you have been provided a copy of their rights regarding the programs contained herein. Further, it states that you have been given a copy of the document, *Parental Rights in Special Education* (PRISE).

2.6. Progress Reports

One of the main purposes of an IEP is to determine where a special needs student is academically, emotionally, socially, and behaviorally. From those starting points, a plan is developed to move that student to acceptable standards. These plans are manifested in the measurable Goals and Objectives, we set forth in the IEP. The Progress Reports

are to provide a feedback to the parents and the school on the progress toward the goals and objectives during certain intervals through the course of the year. While a regular report card gives a grade on the subject matter, a progress report is different. It is an indication of how well a student is moving toward the achievement of the goals and objectives in the IEP.

The first progress report is very important. As many of these are at the beginning of the school year, the goals and objectives were probably developed several months prior. Your child may or may not be at the same levels of proficiency as when the original evaluations were made. If you see problems with the first progress report, raise them immediately with the CST. Do not wait for your annual review. You can make changes to help him or her reach the goals and objectives. This is especially significant if the student is not expected to meet the goals if he/she continues as is, or that certain goals and objectives have not even been started. These situations require immediate action on the part of the parents and the CST. Perhaps, some supports should be added, or the goal be restructured. In all, the progress report is also an evaluation of the student's special education services up to that point in time. If the student has no difficulty in meeting the goals and objectives, this could be an indication that they were set too low, and a reexamination of those goals may be in order.

Frequency: Progress reports should be distributed as frequently as report cards (often quarterly). Do not wait until the yearly CST meeting to raise questions about your child's progress or lack thereof.

2.7. Educational Placement

After, the goals and objectives, accommodations and modifications have been determined, it is time to properly place your child in a learning environment where he or she can best achieve the goals and objectives. Placement consists of the daily or weekly amount of time your child spends in the decided location. The school is required to have a range of placements. Further, it is required that your child be placed in a **least restrictive environment (LRE)**. This mean that your child spends as much of the school day with children who do not have disabilities, when appropriate. These include all school activities: academic, nonacademic, and after-school activities. The specific

placement depends on your child's specific academic, physical, social, emotional, and behavioral needs. This is important because it influences where your child will spend his or her time at school, how services are provided, and the relationships that he or she develops within the school and the community. The LRE requirements express a strong preference, not a mandate, for educating special needs students in regular classrooms with their peers without disabilities. Consequently, each district must ensure that to the maximum extent appropriate, special needs children are educated with students who are not disabled; and that special classes, separate schooling, or other removal of these students from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes, with the use of supplementary aids and services, cannot be achieved. In such cases, the district can employ such options as:

- a. Mainstream. This is the regular general education setting.
- b. Resource Room. This is for students with special needs, where they receive intensive assistance to keep up with their grade level work. The class is limited in size. Depending on the specific classification, paraprofessional teaching aides may be added to assist the teacher. Your child's IEP will indicate the amount of time he or she spends in the resource room, and whether or not a paraprofessional is necessary.
- c. Self-contained Program. This is a placement where your child will receive services outside of the general education classroom for a significant time of the day (stated in the IEP).
- d. Separate School. Students are placed in a different school than his neighborhood peers. This is done when his regular school is unable to accommodate his special needs and services. This can either be in another school in the school district or outside of the school district. The latter is called an **out-of-district-placement**. It is usually the last placement resource because: (a) it is one of the most restrictive environments, and (b) it is usually very costly to the school district.
- e. Residential Facility. This is for students who spend most or all of their time in a public or private facility as stated in the IEP.

- f. Homebound Instruction. This is for students receiving special education services in a hospital or at home.
- g. Transition Placement. Students with special needs may not always graduate on time. The law requires that they continue to be provided public education until age 21 or 22, depending on the month of their 22nd birthday. Placement in such program should be stated in the IEP.
- h. Preschool Program for Children with Disabilities (PPCD). This is a free program and operated by the school district. It is designed to prepare your child (aged 3 through 5) for kindergarten and special programs provided therein for your child's unique needs, including any special nurturing or use of tools. This is usually in a public school setting with a special education preschool teacher and staff. This classroom environment helps your child to prepare for kindergarten by giving him or her extra time and assistance to learn how a classroom operates. If you choose not to send your child to the preschool, you may still be eligible for free services if your child qualifies.
- i. Separate requirement for a child having speech or language disorders and who only require speech/language services. A student having only such a speech and/or language disorder(s), May be evaluated by the district's speech-language specialists rather than the entire CST. The speech-language specialist must obtain parental authority to evaluate the student. The evaluation must also include information from the classroom teacher regarding the educational impact created by the disorder. The written report from the specialist, containing the results of the assessment, and the services available to deal with the disorders. If the specialist determines that there are other special education problems, this must be reported immediately to the CST.

In all of the above placements, the school district is responsible for all costs, including transportation and materials.

3.0. Future Meetings, IEP Evaluations, Proposed Changes

3.1. Future Meetings

Any future meetings, whether requested by the school or the parents, shall be at the convenience (place , time, availability) of all parties, before, during, or after school. Requests shall be made in writing, or email, and in a language understood by the parents, including ASL. In such a request, both parties will indicate the individuals who should be present. It could simply be an informal one on one between the teacher and the parent. Or it could be a meeting with the entire CST, evaluators, attorneys, and educational advisors. It is recommended that if the school district is going to have an attorney present, the parents should also have one. A notice of the request for such a meeting shall be provided with a list of all who are expected to be in attendance. The notice should be provided in sufficient time so that the parties can make the proper arrangements.

3.2. IEP Reevaluations

Within three years of the previous classification, a multi-disciplinary re-evaluation shall be completed to determine whether your child continues to be a student with a disability. The re-evaluation shall be conducted sooner if conditions warrant, or if you or your child's teacher request it. However, a re-evaluation shall not be conducted prior to the expiration of one year from the date the parent is provided written notice of the determination with respect to eligibility in the most recent evaluation or re-evaluation, unless the parents and the school district both agree that a re-evaluation prior to the expiration of one year as set forth above is warranted. When a re-evaluation is conducted sooner than three years from the previous evaluation, it will occur within the following framework. The reevaluation shall be completed within 60 days of the date the parent provides consent for the assessments to be conducted as part of the re-evaluation or by the expiration of the 3 year timeframe from completion of the prior evaluation or re-evaluation, whichever occurs sooner.

When a re-evaluation occurs sooner than the 3 years from the previous evaluation, it shall be completed within the manner and time frames below:

- A. If the parent provides written consent and the school agrees that a re-evaluation is unnecessary, the re-evaluation may be waived. If this is agreed, the date of the parent's written consent shall constitute the date upon which the next 3 year period for conducting a re-evaluation shall begin.
- B. As part of any re-evaluation, the CST shall determine the nature and scope of the re-evaluation according to the following:
 1. The CST shall review the existing evaluation data on the student, including: evaluations and information provided by the parents; current classroom-assessments and observations; and observations related by teachers and special services providers.
 2. On the basis of this review, and input from the student's parents, the IEP team shall identify what additional data are needed to determine:
 - Whether the student continues to have a disability;
 - The present levels of academic and achievement and functional performance and educational and related developmental needs of the student;
 - Have the student's needs changed?
 - Whether the student needs special education and related services, and the academic, developmental, and behavioral needs; and how they should appropriately be addressed in the student's IEP;
 - Whether any additions or modifications to the special education and related services are needed to enable the student with a disability to meet annual goals set out in three IEP, and to participate, as appropriate, in the general education curriculum.
- C.. If the CST determines that no additional information or data are needed to determine whether the student continues to be a student with a disability, the school district: shall provide proper notice

(N.J.A.C. 6A:14-2.3) to the student's parents of that determination and the right of the parents to request an assessment to determine whether the student continues to be a student with a disability; and shall not be required to conduct such an assessment unless requested by the student's parents.

- D. If additional Data are needed, the IEP team shall determine which CST members and/or specialists shall administer tests and other assessment procedures to make the required determinations to decide whether or not a disability exists.
- E. Parents may disagree with the results of any evaluation, and ask for independent evaluations.
- F. Consent. Usually, you have 15 days to consent to the new IEP after all the recommended and agreed upon changes have been made. If you not give your consent, the district can proceed to have it implemented through a due process hearing. You must be given a written notice of the district's intention to file for due process. This is different from the initial IEP, where the district cannot implement the IEP without your consent.

4.0. Challenging the School District

You, as the parent of a child with a disability, have the right to resolve a dispute with the school district through mediation, a due process hearing, or a complaint investigation. This includes complaints regarding: any issue relating to identification, evaluation, classification, educational placement, or the provision of FAPE.

4.1. The Right to Stay Put During Mediation or Due Process Hearing

As you await the outcome of mediation or a due process hearing, no change may be made to the child's school situation that were in effect before the proposed changes were discussed. To maintain this right of "stay put," the parent must request the

mediation or due process hearing, in writing, and provide the district written notice of your intention. While there is no specific time period within which you may file the petition, it should be done as soon as possible.

5.0. Children Placed in Private Schools by their Parents

Children who are placed in a private school by their parents do not have the same rights of special services and accommodations that they would have had in their home district. Local school districts have the discretion to how Federal funding is used and how and to whom they are provided. Transportation may not even be provided.

6.0. Parent Advisory Groups

A special education parent advisory group (SEPAG) is a state-mandated, district-level group charged with providing input to the local school district on system-level challenges in special education and related services. According to N.J.A.C.

6A:14-1.2(h), Each district board of education shall ensure that a special education parent advisory group is in place in the district on issues concerning students with disabilities.

The purpose of the SEPAG is to give parents direct input to their school district about policies, programs, practices, and services that have an impact on students with disabilities and their families. An effective SEPAG can increase the proactive involvement of families by inviting input that can be used to shape local special education policy.

Who can be a member of a SEPAG?

- parents of children with special needs;
- school leaders and members of the school board;
- teachers and other school professionals;
- students and former students;
- other parents committed to improving education in the district;
- community leaders and other citizens.

Every school in the district should be represented.

What are the benefits of a SEPAG?

- outreach. This can engage families of students with special needs so that they are involved in helping to shape local special programs and policies.
- Positive Relationships. Effective SEPAGs engage parents and school leaders to establish the shared goals and priorities that benefit students with disabilities. They connect with teachers, CSTs, and community resources as sources of support for helping improve programs and services for students and their families.
- Collaborative problem solving. SEPAGs thrive on team spirit and team action. While members bring varied perspectives, everyone shares a common mission - to improve outcomes for all students receiving special education and support.
- System change based on input. SEPAG can communicate the needs of parents whose children receive special education and related services, and can advise school leaders on unmet needs identified through parental input.
- A trusted source of information. SEPAGs can strengthen the bridge between the school district and families. SEPAG members who educate themselves about school policies and channels of communication can be a source for parents who may need information, support, and resources from their school and can steer them in the appropriate direction.
- Effective Resource Allocation. Parents can provide valuable input regarding resources and establishing priorities.

7.0. Rights and Services under Section 504 of the Rehabilitation Act

Section 504 is part of a Federal civil rights statute which prohibits discrimination based on disability. It ensures that schools address and meet the needs of students with disabilities. It reads: “No otherwise qualified individual with a disability in the United States, . . . , shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . . . [29 U.S.C. §794(a), 34C.F.R.

§104?4(a)]? School districts in New Jersey school personnel have told parents: “We don’t do 504s here.”

7.1. Who is Covered Under Section 504?

Section 504 defines a student individual with one or more handicaps as any student, between the ages of 3 and 22 in schools that receive Federal funding, as having (1) has a physical or mental impairment which substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on a case by case basis.

Section 504 defines a physical or mental impairment as any

- physical disorder or condition, or
- cosmetic disfigurement, or
- anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine.

7.2. What are Major Life Activities?

Major life activities include certain acts a person does, and a person’s bodily functions. The list of major life activities under Section 504 are partially listed as follows:

- *caring for one’s self
- * bending
- * performing manual tasks

*speaking	*seeing	*breathing
*hearing	*learning	*eating
*reading	*sleeping	*concentrating
*walking	*thinking	*standing
*communicating	*lifting	*working

This list does not provide every possible major life activity or bodily function. Therefore, if a school provides a form of major life activities to consider during an evaluation process, a student may still have a physical or mental impairment that substantially limits a major life activity even if the activity is not listed on the school's form. For example, a student who has dyslexia and is substantially limited in reading and finds it challenging to read the required class material in a timely fashion. Alternatively, a student who has been diagnosed with depression may be substantially limited in her or his ability to concentrate while completing school assignments. In both of these cases, the student spends far more time preparing for class than other students, and earns good grades because of his or her intelligence and extreme efforts. This student would still be substantially limited in the major life activity of reading despite earning good grades. She or he may require a multi-sensory approach to learning, and additional time to complete in-class tests, quizzes, even if that student earns A's.

Mitigating measures. The Act provides a non-comprehensive list of mitigating measures which could be used to minimize the disability's effect on a student's learning. The partial list includes: medications, prosthetic devices, and assistive devices (such as computers), wheelchairs, scooters, walkers, canes, and crutches).

8.0. What if I Disagree with the District's Decision?

Parents who disagree with an evaluation or accommodations may request a due process hearing or file a complaint with the **Office of Civil Rights**. Ask your district for a copy of *Notice of Parent and Student Rights Under Section 504 of the Rehabilitation Act of 1973*.

*If you have any questions regarding any **special education** issue which may affect your child, contact us at 732-637-5248 for a free consultation. We are located at: **Susan Lark Law Group**; 35 Court Street; Freehold, NJ 07727*

We specialize in Special Education Law and its implementation.