



John Huppenthal, Superintendent of Public Instruction

Traveling the Special Education Highway

A Parent's Guide to a Successful Journey

Parent Information Network
Arizona Department of Education
Exceptional Student Services
1-877-230-PINS (7467)
www.azed.gov/ess/pinspals

November 2011



Parent Information Network

TRAVELING THE SPECIAL EDUCATION HIGHWAY

The Individuals with Disabilities Education Act of 2004 (IDEA '04) requires schools to provide parents of a child with a disability a copy of the procedural safeguards notice (PSN) so they can learn about parental rights and special education procedures. *Traveling the Special Education Highway* is a guide and is not intended to replace the PSN.

For more information about parental rights and special education procedures, contact the Arizona Department of Education, Exceptional Student Services
Parent Information Network
1-877-230-PINS (7467)
602-542-4013
www.azed.gov

Table of Contents

Child Find.....	3
Notices and Consent.....	4
Eligibility Determination.....	6
Individualized Education Program.....	7
Reevaluation for Continued Eligibility.....	10
Discipline Procedures.....	11
Exiting Special Education.....	12
Dispute Resolution.....	13
Documentation.....	14
Resources.....	15

Child Find

A Continuous Search

Child find is a component of IDEA '04 that requires states to locate, identify, and evaluate all children with disabilities, aged birth through 21, who are in need of early intervention or special education services, including children who are:

- Highly mobile (including homeless and migrant children),
- Private schooled,
- Homeschooled, or
- Suspected of having a disability, even though they are advancing from grade to grade.

Schools districts and charter schools conduct public awareness activities to inform you about early intervention and special education services available for children who may not be reaching developmental milestones or making academic progress in the following areas:

- Vision and hearing
- Motor control or coordination
- Behavior or social skills
- Speech or communication skills
- Cognitive or academic skills

Schools also provide you with contact information so you can speak to someone about the concerns you have regarding your child. The earlier you express your concerns, the sooner your child's needs will be identified and the sooner he or she will receive the help needed to succeed.

Referral

After you contact the school, the school will do one of the following:

- begin the informal screening process,
- refer you to the AZ Early Intervention Program (AzEIP) for infants and toddlers, or
- refer you to the school district you live in for preschool services, if your first contact was with a charter school or a high school district.

Screening

The screening process for children ages 3 through 21 will be completed by the school district within 45 calendar days. If a concern is identified through the screening procedures, or through a review of records, the school is required to notify you of the concern within 10 school days and inform you of the plans and procedures to follow-up on your child's needs.

Notices and Consent

Watch for Road Signs

Prior Written Notice

Prior written notice (PWN) is a document the school must give you when school personnel propose or refuse to initiate or change your child's:

- Identification;
- Evaluation;
- Educational placement; or
- Provision of a free appropriate public education (FAPE).

The PWN must be written in a language that is understandable to the general public and be provided in your native language or the mode of communication you use, unless it's not realistic to do so. The PWN must:

1. Describe the action the school proposes or refuses to take;
2. Explain why your school is proposing or refusing to take the action;
3. Describe any other options that were considered and the reasons why those options were rejected;
4. Describe each evaluation procedure, test, and record the school used to make their decision;
5. Tell you how you can obtain a description of the procedural safeguards if the action that your school is proposing or refusing is not an initial referral for evaluation;
6. Include resources for you to contact for help in understanding the notice; and
7. Provide a description of other reasons that are relevant to the school's proposal or refusal.

Procedural Safeguards Notice

The procedural safeguards notice (PSN) provides you with a full explanation of special education rules and procedures used to ensure your rights and those of your child. Those rights are protected throughout the special education process. Knowledge of your rights will help you understand the process and make informed decisions.

The school must provide you with a copy of the PSN:

- At least once a year;
- When your child is initially referred for an evaluation;
- In accordance with discipline procedures;
- When you file a State complaint (the first complaint in a school year);
- When you or the school files a due process complaint (the first due process complaint in a school year); or
- Upon request.

Meeting Notice

The school must provide you with a written notice when any school group gathers to make decisions about the identification, evaluation, or educational placement of your child in special education, as well as the provision of FAPE to your child. Parents are vital members of the evaluation and planning team for your child, and you will be invited to all of these meetings with a meeting notice.

- Meetings should be scheduled at a time and place that is agreeable for all team members.
- The school must notify you early enough to make sure you can attend.
- The meeting notice will indicate the purpose, time and location of the meeting, and who will attend.
- If you can't attend the meeting, the school will use other methods to ensure your participation (e.g., conference call).
- You may bring anyone to the IEP meeting who can provide support or additional information and expertise about your child.
- Informal and unscheduled conversations or preparatory activities that will be discussed at a later meeting can occur without your attendance.

Parental Consent

Consent means that you have been fully informed about activities that need your permission. Your consent is voluntary and may be withdrawn at any time. If you revoke consent, the revocation is not retroactive; it does not cancel an action that occurred after the consent was given and before the consent was revoked.

The request for consent must:

- Be written in your native language or other method of communicating;
- Describe the activity; and
- List the records (if any) that will be released and to whom.

Consent is required before any of the following five situations can occur:

1. Initial evaluation to determine if your child requires special education and related services;
2. Reevaluation of your child (unless the school made reasonable attempts to get your consent and you did not respond);
3. Placement of your child for the first time in a special education program;
4. Access to your child's public benefits or private insurance regarding FAPE; or
5. Release of any personally identifiable information about your child.

Consent is not required before the school district:

- Reviews existing data as part of your child's evaluation or reevaluation; or
- Gives your child a test or other evaluation that is given to all children, unless consent is required from the parents of all children.

Revocation of Parental Consent

If, at any time after the school has initially provided special education and related services, you revoke your consent in writing for continued special education and related services, the school district:

1. May not continue to provide special education and related services to your child, but must provide you with a PWN first before the school stops providing special education and related services;
2. May not use dispute resolution procedures, including mediation or due process hearings, in order to obtain your agreement or a ruling that the services be provided to your child;
3. Will not be in violation of the requirement to make FAPE available to your child; and
4. Is not required to convene an individualized education program (IEP) team meeting or develop an IEP for your child.

Also, if you revoke consent for special education and related services after the school has initially provided those services to your child, the school district is not required to amend your child's education records to remove any references to special education.

Private School Placement by Parents

If you choose to place your child in a private school or facility, the public school does not have to pay for the cost of private education, including special education and related services, if the school has made FAPE available to your child. However, the school district in which the private school is located must include your child in the population whose needs are addressed under IDEA '04 provisions regarding children who have been placed by their parents in private schools.

If you choose a private school placement, you should notify the public school, in writing, at least ten business days before you remove your child from the public school. Disagreements between the parents and the school regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to due process procedures. Reimbursement can be limited if you did not make it clear at the IEP meeting held before removing your child that you are rejecting the school's placement proposal, stating your concerns, and notifying the school of your intent to enroll your child in a private school at public expense.

Consent and Access to Educational Records

The Family Educational Rights and Privacy Act (FERPA) is a federal law that allows you to have access to your child's records and also limits access of others to your child's records without your consent. FERPA states that the school must allow you to inspect and review any educational records relating to your child, including all records regarding the identification, evaluation, educational placement, and provision of FAPE. In no case may the school delay this review more than 45 calendar days after you have made your request. The school is also required to tell you who, if anyone other than you, including authorized school personnel, has examined your child's

records, the date the access was given, and the purpose for which the person was authorized to review the records.

Electronic Mail

If your school district or charter school offers parents the choice of receiving documents by e-mail, you may choose to receive the following by e-mail:

1. Prior written notice
2. Procedural safeguards notice
3. Notices related to a due process complaint

Eligibility Determination

The Journey Begins

The multidisciplinary evaluation team (MET), consisting of you and a group of qualified professionals, will review existing data and additional evaluation results to determine if your child is eligible for special education and related services. The evaluation will consist of a variety of assessment tools and strategies to gather academic, functional, and developmental information about your child. Your child has a right to be evaluated in his or her native language, or the mode of communication he or she uses, by a qualified professional in all areas of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, adaptive behavior, communication, and motor abilities. Your child's initial evaluation must be complete within 60 calendar days from the date you give informed written consent to determine special education eligibility. You will receive an explanation and a copy of the evaluation.

Your child may be eligible in one or more of the following disability categories:

- Autism (A)
- Developmental Delay (DD)
- Emotional Disability (ED)
- Hearing Impairment (HI)
- Mild Intellectual Disability (MID)
- Moderate Intellectual Disability (MID)
- Multiple Disabilities (MD)
- Multiple Disabilities with Severe Sensory Impairment (MDSSI)
- Orthopedic Impairment (OI)
- Other Health Impairments (OHI)
- Preschool Severe Delay (PSD)
- Severe Intellectual Disability (SID)
- Specific Learning Disability (SLD)
- Speech/Language Impairment (SLI)
- Traumatic Brain Injury (TBI)
- Visual Impairment (VI)

Independent Educational Evaluation

If you disagree with an evaluation obtained by the school, you have the right to request an independent educational evaluation (IEE). When you make the request, the school will give you information about where the evaluation can be obtained and the criteria that apply to an IEE. The school must either ensure that the IEE is provided at public expense (at no cost to you) or file for a due process hearing to show their evaluation was appropriate. If the due process hearing decision is that the school's evaluation is appropriate, you still have a right to an IEE at your own expense and to have it considered as part of the eligibility process. Although the team is required

to consider the information provided by an independent evaluator, the team is not required to include the findings or follow the recommendations.

Individualized Education Program

A Road Map to Success

After the MET determines eligibility, the individualized education program (IEP) team will develop an appropriate education program for your child.

Parent

“Parent” as defined by IDEA '04 is the biological or adoptive parent, unless the parent’s rights have been restricted by a court, and includes a legal guardian, foster parent, or responsible adult with whom the child lives and who is acting as a parent.

Student

The team may decide your child’s participation in the IEP meeting is appropriate at any age. One year before your child reaches the age of majority (age 18), the school will inform you about the transfer of rights to your child. You will retain the right to participate in meetings; however, all other rights transfer to your child unless he or she has a court appointed legal guardian.

Surrogate Parent

There are times when a surrogate parent is required to represent the child’s special education interests. The need for a surrogate parent is determined by the child’s school and is requested only when the:

- Parent cannot be identified;
- Parent cannot be located after several attempts;
- Child is a ward of the state and no parent can be identified or located; or
- Child is an unaccompanied youth as defined by federal law.

When the school determines a surrogate is necessary, the school makes an application for appointment of a surrogate parent to the Arizona Department of Education. Once appointed, the surrogate parent represents the child in all matters relating to the identification, evaluation, educational placement, and the provision of FAPE.

School Staff

IEP members from the school will include:

- Not less than one special education teacher;
- Not less than one regular education teacher if the child is, or will be, participating in a regular education environment;
- A school district representative who is knowledgeable about district resources, the general curriculum, and is qualified to provide or supervise special education; and
- An individual qualified to interpret evaluation results..

A member of the IEP team may be excused from attending the meeting, in whole or part, if the parent and school agree in writing prior to the meeting.

Purpose of an IEP

- Describes your child's current academic achievement and functional performance.
- Describes the measurable academic and functional goals for your child for one year.
- Describes what special education your child needs.
- Serves as a commitment from the school to provide listed special education services.
- Serves as a monitoring and compliance tool to ensure State and Federal requirements are met.

Additional Functions of the Individualized Education Program

Measurement of Progress toward Annual Goals

The IEP will include a description of how your child's progress toward meeting his or her specific annual goals will be measured and how you will be notified of his or her progress. For example, periodic reports will be provided (i.e., semester, quarterly, or concurrent with the issuance of report cards).

Description of Related Services

Related services can include services such as (this list does not include all related services):

- Speech therapy
- Physical therapy
- Occupational therapy
- Audiology services
- Orientation / mobility training
- Braille
- Interpreter for hearing-impaired students
- Specialized transportation
- School-based health services

Decision about Accommodations and Alternate Assessments

As part of the IEP team, you will discuss what accommodations will be necessary to measure your child's academic achievement and functional performance on State and school-wide assessments. The team may decide your child will take an alternate assessment.

Determination of the Least Restrictive Environment

IDEA '04 states that to the maximum extent appropriate, children with disabilities should be educated with children without disabilities—the least restrictive environment (LRE). However, schools are required to provide a variety of placement options, and IEP teams must consider all

options when determining your child's placement for special education and related services. LRE for your child refers to the educational setting best suited to address your child's learning needs. The following questions should be taken into consideration when determining placement in the LRE.

- Is placement based on your child's annual IEP goals and the services necessary to reach those goals?
- Would your child attend this school if he or she did not have a disability?
- Will there be harmful effects on your child or on the quality of services that he or she needs with this placement?
- Will the placement provide your child the opportunity to participate with peers without disabilities, to the maximum extent appropriate, in nonacademic and extracurricular activities?
- Has the team committed enough opportunities, time, and resources to determine that your child's IEP requirements cannot be met in an age-appropriate regular education classroom with accommodations and supplementary aids and services?

Discussion of Extended School Year Services

Extended school year (ESY) services are provided to prevent the loss of a student's learning progress (both academic achievement and functional performance) from the regular school year. Decisions about whether your child is eligible for ESY services are made based on information collected throughout the school year. Related services (speech, occupational, physical therapy, etc.) are also considered. Eligibility for ESY services is determined at least annually by the IEP team. The ESY decision is documented in the IEP, and a PWN notifies parents of the decision.

Determination of Transition Services

The IEP should include measurable postsecondary goals addressing training/education, employment, and where appropriate, independent living skills. These measurable postsecondary goals and transition services should be updated annually and based upon your child's strengths, preferences, and interests as determined by age-appropriate transition assessments. Planning for transition should begin no later than the first IEP to be in effect when your child turns 16, or when your child is younger if the IEP team determines that is appropriate.

Review and Revision of the IEP

Your child's IEP must be reviewed periodically, but not less than once a year, to make sure the goals are being achieved and related services are appropriate. Your participation in the annual or review IEP meeting is very important to discuss your child's academic and developmental goals and progress, anticipated needs, and other special considerations. The IEP document will be revised to include current information, updated goals, and related services.

Practical IEP Tips

Before the IEP Meeting

- Review progress reports and other documentation.
- Review the previous and current IEPs.
- Think about your child's strengths and needs.
- Ask for a copy of the draft IEP before the meeting.
- Review your parental rights and responsibilities.
- Make a list of the things you want to discuss at the meeting.
- Familiarize yourself with grade level (general education) academic standards.

During the IEP Meeting

- Share your questions, concerns, and ideas.
- Ensure that your child's strengths and needs are considered.
- Ask questions to clarify anything you do not understand.
- Be an active participant in talking about your child's goals.
- Ensure the suggestions that are proposed or refused are documented.
- If any issues are left unresolved, request another IEP meeting.
- Request a copy of the IEP document before leaving the meeting.
- Write down any questions you have that were not answered in the meeting.

After the IEP Meeting

- Review the IEP on a regular basis and monitor your child's progress toward his or her goals.
- If you don't understand how progress toward IEP goals was measured, request clarification from the educator or therapist who wrote the progress report.
- Request an IEP review meeting if your child is not making progress toward IEP goals.
- Discuss with your child his or her progress report(s), strengths, needs, barriers to learning, and IEP goals.
- Communicate with your child's teacher or others from the IEP team when you have questions or concerns.
- Contact your local Parent Information Network (PIN) Specialist if you need further assistance, 1-877-230-PINS (7467).

Reevaluation for Continued Eligibility

Consider a New Path

Reevaluation

Your child will be reevaluated when:

- You and the public education agency (school district or charter school) determine continued special education eligibility at least once every three years, unless you and the IEP team agree that additional data isn't needed to determine continuation of special education and related services (reevaluation may not occur more than once a year, unless you and the school district agree otherwise);
- You and the public education agency determine testing is necessary; or
- You or your child's teacher requests an evaluation.

As part of the reevaluation:

- The multidisciplinary evaluation team (MET), which includes you, must review existing data (input and evaluations you provide, assessments, and classroom observations) and then determine whether additional data is needed.
- When additional data is needed by the MET, you will give informed written consent. (Your child may be reevaluated without your consent, if the school has made reasonable attempts to get your consent and the school documents those attempts.)
- A decision will be made by the MET as to whether or not to continue special education and related services.
 - o Special education services will stop if your child is no longer eligible.
 - o A new IEP will be written if your child is still be eligible.
- You will receive an explanation and a copy of the results of the reevaluation.
- You will receive a PWN if the school proposes any change to your child's identification, evaluation, educational placement, or provision of FAPE.

Discipline Procedures

Keep Your Eyes on the Road

School personnel may consider unique circumstances on a case-by-case basis to determine whether a change of placement is appropriate if your child violates a school code of student conduct.

- The school may move your child to an interim alternative educational setting or suspend your child for a single conduct violation or separate incidents of misconduct for not more than 10 school days in a row.
- Once your child has been removed from his or her current placement for a total of 10 school days in the same school year, the school must provide services.
- The services will enable your child to continue to participate in the general curriculum, although in another setting, and work on IEP goals.
- A functional behavioral assessment and behavioral intervention plan must be provided, as appropriate.
- If removal is a change of your child's placement, the IEP team will determine appropriate services.
 - o A PWN is required for a change in educational placement.
 - o A manifestation determination will decide if the behavior was a result of your child's disability.
 - o Dispute resolution is an option if you don't agree with the school's decision.

Additional Authority of School Personnel

The school is permitted, under IDEA '04, to remove your child from his or her special education placement to an interim alternative educational setting, as determined by the IEP team, for up to 45 days, if he or she has engaged in any of the following behaviors:

- carrying or possessing a weapon to or at school, on school premises, or to or at a school function;
- possessing or using or selling illegal drugs or a controlled substance while at school, on school premises, or at a school function; or
- inflicting serious bodily injury upon another person while at school, on school premises, or at a school function.

Nothing prohibits the school from reporting a crime committed by a child with a disability to appropriate authorities. The school reporting the crime will ensure that copies of the special education and disciplinary records of your child are transmitted for consideration by the appropriate authorities. These records will be provided only to the extent that is permitted by the Family Educational Rights and Privacy Act (FERPA).

Exiting Special Education

The Journey's End

There are a number of reasons why your child may no longer be eligible to receive special education and related services.

1. The MET determined through reevaluation your child is no longer a child with a disability.
 - You will receive a PWN and a copy of the PSN.
 - You can appeal the school's decision to terminate special education and related services through dispute resolution procedures.
 - A discussion may be held with the MET regarding eligibility for Section 504 of the Rehabilitation Act of 1973. Section 504 provides reasonable accommodations in the regular classroom for students whose disability significantly affects one or more life activities, such as learning.
2. He or she graduated with a regular high school diploma.
 - You or your child, if he or she has reached the age of majority (18 years), will receive a summary of the student's academic achievement and functional performance, including recommendations on how to assist your child to meet his or her postsecondary goals.
3. He or she has exceeded the age of eligibility for FAPE.
 - Arizona allows a student with a current IEP to continue through the end of the school year in which he or she turns 22.

Dispute Resolution

Safely Moving Through a Roadblock

The Informal Dispute Resolution Process

Effective communication is very important when questions or concerns arise regarding your child's special education program.

Practical Dispute Resolution Tips

- Attempt to address the issue with the teacher(s) first.
- Document your concerns and the efforts you make to resolve the problem; make notes and keep copies of records.
- Find out if the school or district has their own system for addressing parent complaints.
- Contact the individual at your child's school one level above the person with whom you have already discussed your concerns. Continue to follow the chain-of-command until you are satisfied with how the dispute has been resolved.
- Contact a Parent Information Network Specialist to help you make use of effective self-advocacy skills, 1-877-230-PINS (7476).

The Formal Dispute Resolution Process

The Arizona Department of Education, Exceptional Student Services (ADE/ESS), provides parents and schools with procedures to resolve disputes when informal methods are unsuccessful.

1. Mediation
 - Is a voluntary, no-cost approach to dispute resolution that is the least adversarial.
 - Is a process initiated by contacting the ADE/ESS, Dispute Resolution Unit.
 - Is a procedure facilitated by a trained, objective third party who will assist all parties to come to a mutually agreeable solution.
2. State Complaint
 - Is a formal ADE/ESS investigation of the issue(s).
 - Is a process that requires a signed written complaint, including supportive information, be sent to the ADE/ESS, Dispute Resolution Unit.
 - Involves an ADE/ESS complaint investigator who has 60 days to examine the alleged violations and issue a Letter of Findings.
3. Due Process
 - Is the most formal of the dispute resolution options.
 - Requires you, the school district, or an attorney for either party to submit a signed, written request for a special education due process hearing to the ADE/ESS Dispute Resolution Unit.

- Directs that the request be forwarded to the Arizona Office of Administrative Hearings and assigned to an Administrative Law Judge, who will manage the case, conduct the hearing, and decide the case within 75 days (30 days for resolution period and 45 days for hearing decision).

Documentation

Log Your Journey

It is helpful to have your child's paperwork organized and easily accessible. Two suggested formats are a three-ring binder with dividers or a box with folders.

Include the following items:

- ☐ Calendar log of meetings and appointments
- ☐ Communication log of calls, letters, and e-mails
- ☐ Developmental records, reports, and evaluations
- ☐ A list of your child's strengths, needs, and interests
- ☐ School records, past and current IEPs, report cards, progress notes, and samples of your child's work
- ☐ Medical records and reports
- ☐ Adaptive and/or medical equipment list and instruction manuals
- ☐ Copies of birth certificate, social security card, and other legal documents
- ☐ Directory of names and phone numbers
- ☐ Resources: disability-specific articles, special education and disability laws

Resources

Roadside Assistance

Parent Information Network

ADE/ESS

1535 W. Jefferson

Phoenix, AZ 85007

1-877-230-PINS (7467)

www.azed.gov

The Parent Information Network (PIN) provides parents with information that is essential for them to actively participate in their child's special education. PIN Specialists promote consensus-building to achieve positive outcomes for students. They regularly assist parents and schools throughout Arizona to build and sustain positive working relationships.

- FREE printed resources are mailed to families and are available on the PIN website.
- FREE workshops and trainings are offered on a variety of special education topics.
- FREE consultation is provided to help parents assess their needs and learn how to actively participate in the special education decision-making process.

Arizona Department of Education, Exceptional Student Services

1535 W. Jefferson, BIN 24

Phoenix, AZ 85007

(602) 542-4013

1-800-352-4558

www.azed.gov

The mission of ADE/ESS is to promote the development and implementation of quality education for students with disabilities. The ESS website includes numerous links to special education law, publications, presentations, and public reports.

NOTES