

Brief Summary of the Education Rights of Children with Disabilities

Children with disabilities, ages 3 through 21, are entitled to a free, appropriate, public education in the least restrictive environment.

A child with a disability is a child who has one or more of the following disabilities, and who, as a result of his/her disability, is in need of special education:

Autism	Other Health Impaired (including
Serious emotional disability	Attention Deficit Disorder)
Deaf-Blind	Developmental Delay
Hearing Impaired	Specific Learning Disability
Intellectual disability	Speech-Language Impairment
Multiple handicaps	Traumatic Brain Injury
Orthopedic Impairment	Visual Impairment

Special education is specialized instruction and related services, provided pursuant to an Individualized Education Program (IEP). In order to be appropriate, it must result in reasonable educational progress for the child. For most children, this means passing from grade to grade and mastering the standard course of study.

The **least restrictive environment** is the environment in which a child with a disability can, to the maximum extent possible, be educated with children who are not disabled.

Any child suspected of having a disability that is affecting the child's education is **entitled to be evaluated at public expense.** A parent must put a request for evaluation in writing, directed to the child's principal. School officials wishing to initiate the evaluation process must get permission from the child's parent.

Once a child has been determined to be eligible for special education, that child is entitled to have an **Individualized Education Program (IEP)**, which is reviewed at least once per year. He/she should be reevaluated once every three years. An IEP must include a statement of **measurable annual goals**, a statement of the **special education services** to be provided, a description of all needed **related services** and **classroom modifications**, and the identification of the **setting** in which educational services will be provided (i.e., regular classroom, resource classroom, self-contained classroom, separate school, etc.)

A child with a disability may not be punished for exhibiting symptoms of his/her disability. A disabled child facing long-term suspension (10 days or more) for violating the school's code of conduct is entitled to have "**manifestation determination review**" to determine whether the disability was related to the

misconduct. Even if the misconduct is found not to be a “manifestation” of the disability and the suspension is enforced, the child must continue to be provided a free, appropriate public education. This education may be provided in an alternative setting.

Parents/guardians (which can include foster parents or “surrogate” parents) have the right to participate in all meetings at which decisions are made about special education services to be provided to their child. Parents/guardians also have the right to appeal decisions made regarding special education. A parent wishing to exercise this right should seek legal counsel.

Cases that may be handled by the Children’s Law Clinic include the following:

- A school refuses to evaluate a child to determine the existence of a disability
- The child’s parent or guardian disagrees with a decision that the child is not eligible for special education
- A child is making little or no educational progress, despite having an IEP
- A school has failed to implement a child’s IEP
- A child has been placed in an inappropriate setting (home, a mental health treatment facility, a school or classroom serving only disabled children)
- A child is not receiving a needed related service, such as speech/language therapy, occupational therapy, physical therapy, counseling, social work services, mobility orientation, etc.
- A child is facing a long-term suspension or expulsion from school
- A child has been subject to numerous short-term suspensions from school

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