An Advocate’s Guide To navigating special education law

Kelley James-Jura

Table of Contents

**I. Goal of this Guide4**

**II. Disclaimer 4**

**III. Terminology4**

A. Basics5

B. Diagnosis5

**IV. The Individuals with Disabilities Education Act5**

A. What is IDEA?6

B. Who is eligible under IDEA?7

C. What protections does IDEA offer?7

**V. IDEA Implementation Rules9**

A. Identification10

1. Child Find10

2. Requests11

B. Evaluation11

1. Initial Evaluation11

2. Re-evaluation13

C. Appropriate Education13

1. Free Appropriate Public Education14

2. Special Education 15

3. Related Services15

4. Least Restrictive Environment.16

D. Individualized Education Plans17

1. IEP Participants17

2. The IEP Discussion 18

3. Changes to the IEP19

4. Effect of the IEP19

E. Planning for the Future20

1. Individualized Family Services Plan20

2. Transition Plan 21

**VI. Additional IDEA Concerns21**

A. Dispute Resolution: Typical Problems22

1. Problems with the IEP22

2. Change in Circumstances23

3. Discipline24

B. Resolving the Dispute26

1. State Complaint Procedures26

2. Due Process Complaint Procedures27

3. Civil Action29

C. Common IDEA Misconceptions29

1. Open & Collaborative Process30

2. Options30

**VII. Sources of Protection other than IDEA31**

A. Section 504 of the Rehabilitation Act of 197332

**VIII. Special Education and Michigan Law34**

A. Differences34

B. Similarities35

**IX. Successful Advocacy36**

A. Knowledge & Attitude36

1. Goal of this Guide

 The purpose of this handbook is to equip parents and advocates with an understanding of special education law. It offers basic information on federal laws pertaining to special education law including the Individuals with Disabilities Education Act[[1]](#footnote-1) and Section 504 of the Rehabilitation Act of 1973.[[2]](#footnote-2) The information in the handbook offers a brief overview of key sections of each Act.

 The guide begins with a discussion of the provisions of IDEA. It goes into further detail about the key principles of the Act including education requirements, plans for the future, and dispute resolution procedures. The handbook then moves into other federal law pertaining to special education. Finally, it ends with a discussion of important aspects of Michigan special education law and tips for successful advocacy.

1. Disclaimer

 Although this guide offers helpful advice, it is not a substitute for legal advice. Do not rely on the information in this handbook if you have a legal issue. If you need assistance for your specific situation, please consult a licensed attorney in your area. A qualified special education attorney can be found by contacting your state bar or local lawyer referral service.

1. Terminology

 As you enter into the field of special education law, it becomes immediately clear that the field has a language of its own. There are acronyms for everything. Specifically, there are terms for the requirements under the law, and there are terms for the conditions a child might have. Some of the terms are specifically defined in statues, while others might simply be referred to in passing. Though there are many abbreviations, below is a list of common terms that you may regularly encounter.

A. Basics

* + - IDEA – Individuals with Disabilities in Education Act
		- ESA – Educational Service Agency
		- FAPE – Free Appropriate Public Education[[3]](#footnote-3)
		- FEOG – Full Educational Opportunity Goal[[4]](#footnote-4)
		- IAES – Interim Alternative Educational Setting
		- IEP – Individualized Education Plan[[5]](#footnote-5)
		- IEE – Independent Educational Evaluation
		- LEA – Local Education Agency
		- LRE – Least Restrictive Environment[[6]](#footnote-6)
		- SEA – State Educational Agency

B. Diagnosis

* + - ASD – Autism Spectrum Disorder
		- AD/HD – Attention Deficit/Hyperactivity Disorder
		- ED – Emotional Disturbance
		- OCD – Obsessive Compulsive Disorder
		- OHI – Other Health Impairment
		- SLD – Specific Learning Disability[[7]](#footnote-7)
1. The Individuals with Disabilities Education Act

 The Individuals with Disabilities Education Act (IDEA)[[8]](#footnote-8) is the primary act that governs the education of children with disabilities. This act was created to meet the needs of millions of children with disabilities who were being under-educated because of their condition.[[9]](#footnote-9) To combat this matter, laws were created to ensure all children with disabilities have an equal opportunity to fully participate in an appropriate education.[[10]](#footnote-10) IDEA requires that the states take affirmative to accomplish these goals.[[11]](#footnote-11) The following sections offer a brief overview of key areas of the Act.

A. What is the IDEA?

 IDEA is a civil rights law that ensures children with disabilities have equal access to a beneficial education that is tailored to the unique needs of the child.[[12]](#footnote-12) Particularly, it was created “to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.”[[13]](#footnote-13) Although the goal is specialized instruction that will allow a child to benefit from his or her education, a school does not have to ensure that the child reaches his or her maximum potential.[[14]](#footnote-14)

 The Act accomplishes this goal by requiring states to meet certain eligibility requirements in order to receive federal funding.[[15]](#footnote-15) To be eligible, states must have certain practices in place, which include FAPE, procedural safeguards, LRE, and IEP procedures. All these requirements will be discussed separately in this handbook.

B. Who is eligible for IDEA?

 In order to receive the protections that are within IDEA, a child must first meet the qualifying criteria. The child must have an identified disability that adversely affects educational performance.[[16]](#footnote-16) This provision basically must be in need of special education because of a disability. The Act defines the types of disabilities that could qualify a child for protections. The child must be diagnosed with one of the following conditions: mental retardation, hearing impairments, speech or language impairments, visual impairments, serious emotional disturbances, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disability.[[17]](#footnote-17) Also, the child must also be between the ages of 3 and 21 years old.[[18]](#footnote-18)

 If a child fails to meet the above definition, other federal laws may offer protections that ensure a child’s right to an appropriate education. Specifically, Section 504 of the Rehabilitation Act of 1973 has a broader definition of disability, so a child who does not qualify for IDEA could qualify for other protections.

C. What protections does IDEA offer?

 This federal act contains many provisions to ensure that a child with a disability receives an appropriate education. There are six primary concepts that provide the foundation for IDEA. The concepts work together to effectively accomplish the objectives and further the goals of this Act.

 The first concept is the Zero Reject Rule. This rule establishes the right that all children with disabilities must have access to education. An educational agency must provide an education regardless of how great a child’s needs. The Act specifically states that a qualifying child cannot be denied an education simply because a condition is too severe for the school to handle.[[19]](#footnote-19) This principle also applies to unique circumstances. It establishes that children with disabilities who are expelled or suspended are still entitled to an education.[[20]](#footnote-20) To accomplish this principle, IDEA created an affirmative obligation of the state to actually locate and provide services to all qualifying children.[[21]](#footnote-21)

 A second key concept of IDEA is evaluations. Proper and thorough evaluations are essential under IDEA. The local educational agency (LEA) must evaluate the child to determine eligibility and educational needs.[[22]](#footnote-22) A thorough multi-factored assessment helps provide the big picture of the child’s situation. [[23]](#footnote-23) The evaluation also allows a school to better understand the child’s strengths, weaknesses, and educational needs. The information gathered from the assessment will later be used to develop an appropriate education plan for the child.

 The third key concept is Free and Appropriate Public Education (FAPE). There are many provisions that define the FAPE requirement. Overall, the Act requires that a child receive an appropriate education at no cost to the parent.[[24]](#footnote-24) It should include special education and related services that are necessary for the child to receive meaningful instruction. The education must be provided in conjunction with the child’s IEP plan, which lays out the objectives for the child.[[25]](#footnote-25) In addition, the education provided to the child must meet the regular state education standards.[[26]](#footnote-26)

 The fourth concept is the Least Restrictive Environment (LRE) principle. This requirement works with the appropriate education requirement in mandating that the child be educated in a regular mainstream environment.[[27]](#footnote-27) Inclusion is very important to the overall educational experience of a child because a child can learn valuable social skills from peers. However, this mandate may be modified if such placement would be inappropriate for the child based on the child’s disability and circumstances.[[28]](#footnote-28)

 The fifth concept concerns safe guards that protect the rights of both parents and students. IDEA requires that educational agencies have procedural safeguards in place that protect the student’s rights.[[29]](#footnote-29) These safeguards cover a variety of topics from notice and consent requirements, to access provisions, and due process procedures.[[30]](#footnote-30)

 The final concept overriding all of the ones discussed above is collaboration. Throughout the entire process the educational agency and parent should work together in order to achieve the best outcome for the child. IDEA actually encourages parental involvement because the parent is the one who is most familiar with the child’s abilities and who can help the school understand realistic goals.[[31]](#footnote-31) Parents should always try to play a meaningful part in the IEP process, its implementation, and placement decisions. And, schools should strive to keep parents involved and informed.

1. IDEA Implementation Rules

 Educational agencies must be in compliance with these IDEA provisions in order to receive funding. These provisions ensure that a child with a disability receives the appropriate education. The following section will offer more in depth descriptions of the key provisions of the Act.

A. Identification

 The first stage of the IDEA process requires proper identification of a child with a disability. There are many different ways that a child can be identified as having a possible disability that affects his or her education. Under IDEA, states are actually required to take action to identify students in such a need.[[32]](#footnote-32) Local educational agencies (LEA) often screen children throughout their education to make sure that the appropriate curriculum is being used. However, those screenings are distinct from eligibility evaluations which are discussed below.[[33]](#footnote-33)

 *(1) Child Find*

 As previously state, IDEA requires that states take proactive measures to identify, locate, and evaluate children who are in need of special education.[[34]](#footnote-34) This requirement even extends to children that are homeless or wards of the state.[[35]](#footnote-35) In order to meet this requirement, states have created many unique programs that are designed to identify a child with a disability at an early age. For example, in Michigan the Early On program works with local agencies to offer information and services to families who suspect they may have a developmentally delayed infant or toddlers.[[36]](#footnote-36) Many similar programs can be found in other states. The program. The goal of this requirement is that by requiring states to be proactive, students will receive an appropriate education at an earlier age.

 *(2) Requests*

 The educational agency or a parent can also request that an evaluation be conducted if it is suspected that the child may have any disability.[[37]](#footnote-37) Any parent, guardian, or any other individual that is concerned about the child’s welfare can make this request. However, before any evaluation is conducted by the educational agency, the parent must give informed consent.[[38]](#footnote-38)

B. Evaluation

 Once a child has been identified, the child must then be evaluated. The evaluation is designed to determine if a child is actually eligible for services under the IDEA and what types of services would actually be beneficial to the child. Below is a brief overview of evaluation requirements under the Act.

 *(1) The Initial Evaluation*

 The initial evaluation determines whether the child has a disability as defined in the Act.[[39]](#footnote-39) It also determines the educational needs of the child.[[40]](#footnote-40) The evaluation should look at all the possible areas of the child’s development that may be affected by the suspected disability.[[41]](#footnote-41) Considering the overall picture, the evaluation should also specify the types of special education and related services that may improve those areas affected.[[42]](#footnote-42)

 Before the initial evaluation takes place, a parent must give his or her informed consent.[[43]](#footnote-43) After consent is received, the evaluation must be conducted within 60 calendar days.[[44]](#footnote-44) It is important to note that state laws may alter this time period. If a parent chooses not to consent to the evaluation, the LEA could still conduct the evaluation under certain circumstances. The agency would have to comply with the necessary procedures discussed in the Act.[[45]](#footnote-45)

 After consent is received, the LEA will organize a team of qualified professionals. Those individuals will conduct the initial evaluation.[[46]](#footnote-46) The team should use various assessment tools and methods.[[47]](#footnote-47) And, the team should consider information disclosed by parents and information contained in other existing data that the LEA may have.[[48]](#footnote-48) All assessment measures must be administered in a way that best ensures accurate results. This measure may even require that the assessment be conducted in the child’s native language in order to ensure accuracy of the date.[[49]](#footnote-49) The different assessment tools work in conjunction to provide an overall view of the child’s functional, developmental, and academic status.[[50]](#footnote-50) There are also many special evaluation provisions that apply to children with specific learning disabilities.[[51]](#footnote-51)

 After the team has conducted its evaluation, the parents are entitled to a copy of the report.[[52]](#footnote-52) The outcome of the evaluation actually dictates the next step of the IDEA process. If the evaluation concludes that the child is in need of services under IDEA, the LEA will set up an initial meeting. However, if the evaluation concludes that the child is not eligible for services under IDEA, a parent or guardian does have the option to have the child reevaluated.[[53]](#footnote-53)

 If not satisfied with the initial evaluation, a parent can choose to have a secondary evaluation conducted. This procedure is known as an independent evaluation. It is provided at public expense only if it is conducted because of a parent’s disagreement with the initial evaluation.[[54]](#footnote-54) An independent evaluation could also occur any time a parent chooses to pursue such action, but the parent would most likely be responsible for the cost. For an independent evaluation, the parent has the right to choose the independent evaluator. If the child is once again found to be ineligible for services under IDEA after the reevaluation, the parent can seek resolution through administrative processes.

 *(2) Re-evaluations*

 In addition to the initial eligibility evaluation, IDEA requires that re-evaluations occur at a regular period throughout the child’s education. Specifically, the child must be re-evaluated every three years, but it could occur sooner if there is a change in circumstances.[[55]](#footnote-55) The reevaluation should consider information provided by parents and teachers, as well as the past evaluation.[[56]](#footnote-56)

 Re-evaluations are necessary at other times during the child’s education as well. The evaluation may have to occur if there is a suspected need for it based on the child’s performance or if a parent or teacher makes such a request.[[57]](#footnote-57) Additionally, a re-evaluation is required before an LEA terminates a child’s services.[[58]](#footnote-58)

C. Appropriate Education

 After properly identifying a qualified child, the next step in the IDEA process is determining an appropriate education for the child. IDEA’s primary focus is that a child with a disability receives an education that actually benefits the child. In order to accomplish this, the Act has many specific requirements concerning the services and curriculum of the child. The Act focuses on the importance of special education and related services when defining the child’s appropriate educational environment. And, case law has interpreted this provision as requiring that the child actually receive an educational benefit from the services being provided.[[59]](#footnote-59)

 *(1) Free Appropriate Public Education*

 IDEA provisions are designed to guarantee that a child with a disability has access to and benefits from an educational experience tailored to their needs. To accomplish this, the Act requires that educational agencies provide a free, appropriate public education to qualifying children between the ages of 3 and 21 years old.[[60]](#footnote-60) Based on the child’s needs, the education may include special education and related services, which are all to be provided entirely at public expense.[[61]](#footnote-61) The education must be provided in conjunction with the child’s education plan and meet regular educational standards.[[62]](#footnote-62)

 FAPE requirements go beyond just basic education instruction. Based on the circumstances of the child, an educational agency may even have to provide assistive technology, supplementary aids or services, and extended school year services if they would be beneficial to the child.[[63]](#footnote-63) Additionally, the Act extends provisions to cover non-academic services like extracurricular activities and physical education.[[64]](#footnote-64) Including provisions that extend beyond simple academics ensure that a child has the opportunity to participate in the full educational experience.

 *(2) Special Education*

 When IDEA was created, it sought to improve the overall educational experience of children with disabilities. In accomplishing this, the Act hoped to change how special education was actually defined and viewed in society. Often when individuals think of special education, they think of a separate building or classroom. However, this is not the meaning of the term under IDEA. One of IDEA’s goals was for “[s]pecial education [to] become a service for such children rather than a place where such children are sent.”[[65]](#footnote-65)

 Under the Act, the term is defined as specifically designed instruction adapted to the child’s needs.[[66]](#footnote-66) It may include specialized training in areas like physical education or vocational training.[[67]](#footnote-67) Because each child with a disability has unique needs and unique ways of learning, the type of instruction given should be determined based on the child’s circumstances. In addition, the setting for where these services take place should also be based on the child’s situation.[[68]](#footnote-68)

 *(3) Related Services*

 IDEA also provides that related services may be part of the child’s education. Related services is a broad term. It refers to a large variety of supportive services that may help a child succeed.[[69]](#footnote-69) Examples of such services include transportation, speech-language services, audiology services, occupational therapy, and psychological services.[[70]](#footnote-70) Case law has even interpreted this provision as requiring personal nursing services for a child who required such care in order to remain at school for the entire day.[[71]](#footnote-71) Which of these services, if any, the child actually needs depends on the determination of the evaluation and IEP meetings.

 It is important to recognize that the Act makes a distinction between related services and another similar IDEA provision, supplementary aids and services. Though many may assume the terms are very similar, they actually have distinct meanings and applications. Related services refer to additional services that are required for a child to actually benefit from the education given.[[72]](#footnote-72) On the other hand, supplementary aids and services refer to additional means of support that are necessary for a child to be educated in the least restrictive environment.[[73]](#footnote-73) Those additional support services should be provided in regular education settings.[[74]](#footnote-74)

 *(4) Least Restrictive Environment*

 IDEA also has many provisions that require a child to be educated in a certain environment. It mandates that an LEA place a child in the least restrictive environment.[[75]](#footnote-75) In other words, a child should be mainstreamed in a regular classroom setting, unless it would be inappropriate for that particular child. If an LEA deviates from this requirement and places a child outside the regular educational environment, the placement must be justified by the child’s disability.[[76]](#footnote-76) This decision about placement should be made by individuals who are aware of the child’s needs and circumstances.[[77]](#footnote-77) Clearly, parents should also be involved in this decision-making process, as a parent knows his or her child best. The placement should also be determined annually and be as close to the child’s home as possible.[[78]](#footnote-78)

D. Individualized Education Plan

 After a child is identified and evaluated, the educational agency must schedule an IEP meeting within 30 calendar days of the child’s eligibility determination.[[79]](#footnote-79) The meeting will consist of a variety of individuals who will collaborate to determine an appropriate educational plan for the child. The team will create a formal written document known as an IEP. The IEP sets forth the child’s goals, curriculum, and educational objectives.[[80]](#footnote-80) The IEP process is discussed in the following sections.

 *(1) IEP Participants*

 The IEP meeting will be conducted by qualified individuals who are all working toward the same goal --- establishing a meaningful and workable educational plan for the child. Under IDEA provisions, the meeting could involve a variety of individuals. However, it specifically states that the parents, one special education, and one regular education teacher must be in attendance.[[81]](#footnote-81) Additionally, a representative from the school and an individual who can clearly explain the results of the evaluation should be present as well.[[82]](#footnote-82) Other individuals like external service providers, relatives, friends, advocates, and attorneys can be present as well if the parent so chooses.[[83]](#footnote-83) Along with these knowledgeable individuals, a child may also be present but only if it is appropriate based on the child’s age and understanding.[[84]](#footnote-84)

 It is also important to understand the parent’s role during this IEP process. Parents should not just take a passive role at the meeting; rather the Act actually encourages parental involvement.[[85]](#footnote-85) However, if a parent does not want to attend the meeting, the LEA can still conduct the meeting as long as it attempted to involve the parents and kept detailed records of those attempts.[[86]](#footnote-86) This parental involvement is essential because no one truly knows the child as well as the parent. Parents should be ready and willing to work with teachers and other staff by offering insight regarding methods that work for the child based on past experiences. Overall, the IEP meeting should be a collaborative, non-adversarial effort between educators and parents.

 *(2) The IEP Discussion*

 The main topic of the IEP meeting should be the student’s abilities and needs. Those involved in the meeting are familiar with the child’s history and progress at school. These individuals should consider that information, as well as the child’s strengths, concerns of the parent, results of the evaluation, and needs of the child.[[87]](#footnote-87) With these factors in mind, the team must create an educational plan for the child. The plan should include information about many aspects including “(i) a statement of the child’s present levels of educational performance, (ii) a statement of measureable annual goals, (iii) a statement of the special education and related services . . . to be provided to the child.”[[88]](#footnote-88) Additional information may need to be included depending on the age of the child. For younger children, early intervention services may be addressed. For older children, information about transition services and post-secondary education goals should be addressed.[[89]](#footnote-89)

 The overall goal is that the team will create a plan that is not only substantive and measurable, but is also relevant to the child’s circumstances. The plan must include concrete goals that are realistic and achievable. To help ensure and measure progress, the goals should also be time-sensitive.

 *(3) Changes to the IEP*

 An IEP is not frozen. It should change throughout a child’s education. Changes may actually be necessary. To ensure that the plan continues to meet the child’s needs, the IEP team should review the plan annually.[[90]](#footnote-90) If changes are in order, addendums could be used to add, modify, or delete instructional goals or objectives. For any modifications, a parent must be notified of the changes, and there must be a written document discussing the changes.[[91]](#footnote-91) Additionally, if requested, the educational agency must provide a parent a copy of their child’s revised IEP.[[92]](#footnote-92)

 *(4) Effect of the IEP*

 Ideally, the IEP meeting should take place before the school year begins, and the plan should be in effect at the start of the school year.[[93]](#footnote-93) If the IEP team concludes that a child needs special education, related services, or supplementary aids, the projected start of those services should be included in the plan.[[94]](#footnote-94) It should also state where and when the child will receive those services.[[95]](#footnote-95)

 Before the child takes part in any special education or related services, the parent must also give his or her informed consent.[[96]](#footnote-96) This consent is distinct from the initial consent given by the parent for the eligibility evaluation. Once the consent is given and the IEP takes effect, it will remain in effect throughout the school year. And, the plan will only be changed when necessary. If the school moves to terminate or deviate from the plan during the school year, a parent has options that will be discussed later in this handbook.

 There are special considerations concerning when an IEP should be in effect for a child that moves during the school year. If a child with an IEP moves from one school district to another within the same state, the new district has an obligation to provide similar services as those in the child’s prior IEP until the school either adopts the previous IEP or creates a new one.[[97]](#footnote-97) If the child transfers from outside the state, the local educational agency still must provide similar services as discussed above, but it may also have to conduct an evaluation if necessary.[[98]](#footnote-98)

E. Planning for the Future

 One of the goals of IDEA is that children will be educated in a manner that equips them with skills to succeed in the future. For this reason, the Act includes provisions for all ages of children with disabilities. The earlier the intervention, the better a child’s educational experience and future will be. To comply with this notion, IDEA offers services that help a family plan a child’s education from the very beginning of preschool to completion of high school.

 *(1) Individualized Family Services Plan*

 An educational agency may be obligated to create an Individualized Family Services Plan (IFSP) for a family that has a very young child with a disability.[[99]](#footnote-99) This requirement helps a family prepare for the early stages of the child’s education.

 A multi-disciplinary team develops the IFSP. The plan should include statements about the child’s current level of development in different areas including physical, cognitive, emotional, and social.[[100]](#footnote-100) In addition, the plan should identify early measureable goals for the child and recognize intervention services that might assist the child in reaching those objectives.[[101]](#footnote-101) It may also include objectives and resources focused on the family.

 This plan is an important proactive measure to better prepare the child for the future. It allows parents to understand their child’s needs at an early age, so that a better educational outcome can be achieved. The plan not only helps families, but it also assists other educators in the future because it offers crucial information and insight that an IEP team can consider at later stages of the child’s education.[[102]](#footnote-102)

 *(2) Transition Plan*

 One of IDEA’s primary goals is to prepare a student adequately so that he or she is equipped to lead a productive independent life.[[103]](#footnote-103) To accomplish this, the Act requires that students have in place a plan that helps them transition from school to the real world. Transition services should include activities that help a student navigate from their current placement to post-school activities like further education, vocational training, or employment.[[104]](#footnote-104) It might also include objectives that help strengthen a child’s independent living skills and social skills. The IEP team should define these goals and activities based on the child’s strengths, interests, and goals. And, such plans should be included in the child’s IEP before he or she turns 16 years old.[[105]](#footnote-105)

1. Additional IDEA Concerns

 While an individual navigates the world of special education law, it is easy to be confused about a specific provision of the law. This confusion may give rise to disagreements between schools and parents, or it may cause people to misunderstand their rights entirely. The following section will discuss common issues and misconceptions that are associated with IDEA provisions.

A. Dispute Resolution: Typical Problems

 During a qualified child’s education, a dispute may arise between the parent and educational agency. The dispute might be the result of a simple miscommunication or a misunderstanding of the provisions. Fortunately, the Act proscribes how such matters should be resolved in an efficient and civil manner. Below is an explanation of potential issues that could arise and how they may be remedied through mediation or through other administrative processes.

 Whenever any issues arise regarding the child’s education, a parent should document every step of the process. Any time a parent requests a meeting or evaluation, the request should be dated and be in writing. A parent should also keep detailed records of the child’s progress and school assignments. Such detailed record keeping may better prepare a parent if a dispute arises in the future.

 *(1) Problems with the IEP*

 The most common problem arises when the educational agency deviates from a child’s IEP. In such a situation, the first step is to contact the educational agency’s administration to notify them of the issue. This notice also triggers the agency’s duty to schedule an IEP review meeting. At the IEP meeting, the parent should clearly identify the issues, and the educational agency must justify why the changes occurred.

 Another problem that may arise if the child has an IEP that is being followed, but the child does not appear to be progressing towards the objectives. Under such circumstances, a parent should request an IEP review meeting. At the meeting, the team, including the parents, should discuss the child’s progress and objectives. After considering the relevant information, the team may then amend the IEP as necessary to include services and modifications that might be more beneficial for the child.

 *(2) Change in circumstances*

 Another area ripe for dispute involves changes in circumstances. If there is any change in the child’s services or placement, an educational agency is required to notify the parents prior to the changes taking effect.

 A typical scenario arises when an LEA decides that the child is no longer eligible for services under IDEA. An educational agency does have the ability to terminate the child’s services if it deems that the child is no longer eligible under IDEA.[[106]](#footnote-106) However, before any services are terminated, the child must be evaluated.[[107]](#footnote-107) The evaluation must comply with the applicable evaluation provisions. If the child is no longer eligible because the child exceeds the age limitations specified in the Act, or the child graduated from a secondary school with a diploma, an evaluation is not required.[[108]](#footnote-108) The educational agency is not the only one that can terminate the child’s services as a parent can also do so by withdrawing his or her consent.[[109]](#footnote-109)

 If a parent disagrees with the educational agency’s determination, a parent can invoke certain safeguard provisions. If the educational agency does determine that the child is no longer eligible for services under IDEA, a parent has the right to invoke the “Stay Put” provision.[[110]](#footnote-110) This provision allows a parent to require the child to stay in their current placement until the matter is resolved.[[111]](#footnote-111) This provision can also be invoked while due process and discipline matters are being resolved.

 *(3) Discipline*

 Another major area where disputes could arise is the field of discipline. Many problems could arise if a child with a disability is being disciplined for a behavior that violates a school’s policy. Violations of IDEA may occur if the discipline disrupts the child’s educational services or in any way limits the child’s access to the normal services provided.

 There are different procedures the school may have to follow based on the child’s violation. As part of the discipline, the educational agency may remove a child from his regular placement, as long as it does not exceed 10 consecutive school days.[[112]](#footnote-112) If discipline requires the child be removed from his or her current educational environment for longer than this period, the LEA must schedule a meeting known as a Manifestation Determination within 10 days of the child’s conduct.[[113]](#footnote-113)

 The Manifestation Determination is conducted by the LEA, the parent, and relevant IEP teams members.[[114]](#footnote-114) The purpose of the meeting is to determine whether the child’s conduct was the result of the child’s disability or whether it was the result of a failure of the IEP.[[115]](#footnote-115) If the conduct had no relation to the disability, then the child can be disciplined in the same manner as a non-disabled student.[[116]](#footnote-116) If the conduct was related to the child’s disability, then the educational agency must assess the child’s behavior and determine an appropriate intervention plan to remedy the behavioral issues.[[117]](#footnote-117)

 Special provisions apply if the child is being disciplined because of a behavior that involved weapons, drugs, or dangerous violent conduct against another person.[[118]](#footnote-118) For such behavior, the educational agency has no obligation to determine the cause of the behavior, which means that the manifestation of the child’s disability is irrelevant under the circumstances.

 If the child did engage in conduct that involved weapons, drugs, or violence the LEA does have the right to remove the child from their ordinary school setting.[[119]](#footnote-119) The child would then be placed in an Interim Alternative Educational Setting (IAES) for a maximum of 45 days.[[120]](#footnote-120) Generally, the child’s IEP team has the responsibility of determining the appropriate alternative setting.[[121]](#footnote-121) The setting must allow the child to have access to services that will continue to allow the child to make progress towards the IEP goals and objectives.[[122]](#footnote-122) Based on the circumstances, the IEP team may also find that behavioral intervention programs must be available to the child during that time.[[123]](#footnote-123) If the child is moved to a different setting, the educational agency must provide a parent with advanced notice and inform them of the available procedural safeguards.[[124]](#footnote-124)

 For discipline matters, if a parent disagrees with the manifestation determination or does not approve of the child’s change in placement, there is opportunity to appeal through a hearing procedures, which will be discussed later in this handbook.[[125]](#footnote-125) While this appeal procedure occurs, the child should remain in the interim alternative educational setting until a resolution is found or the applicable time period expires.[[126]](#footnote-126)

B. Resolving the Dispute

 While many issues that arise could simply be resolved by an informal meeting between educators and parents, sometimes the resolution is not that simple. There are situations where a parent may have to further pursue the matters in order to achieve an outcome that is in the child’s best interests. The following section will briefly describe IDEA complaint procedures.

 Overall, the complaint procedures can be rather complicated. A parent might easily have questions about filing procedures and rights. IDEA actually recognized and resolved this matter in some way because there are regulations that require an educational agency to provide parents with a procedural safeguard notice.[[127]](#footnote-127) The notice must inform a parent about safeguards including information about due process and state complaint procedures.[[128]](#footnote-128) Additionally, a state educational agency is actually even required to have model forms that would assist a parent through the due process procedures.[[129]](#footnote-129) Although the following sections summarize the law, the best resource to learn about the matter is through a specific state’s agency like the Department of Education.

 *(1) State Complaint Procedures*

 For any issue involving a violation of IDEA provisions, a parent should always first seek to resolve the matter at the local level by contacting the educational agency and requesting an informal meeting. If the issue cannot be resolved at the local level, a parent can file a complaint with the state educational agency, which is generally a state’s department of education.

 There are some limitations to this right, as a parent must file a complaint within a year of the alleged violation.[[130]](#footnote-130) The complaint must contain specific information including a description of the circumstances, the alleged violation, and a proposed resolution.[[131]](#footnote-131) And, it must also be sent to LEA that is serving the child.[[132]](#footnote-132) Once the state educational agency receives the complaint, it has 60 calendar days to resolve the matter.[[133]](#footnote-133)

 To resolve the matter, the state may launch an investigation to fully understand the situation or it may encourage mediation.[[134]](#footnote-134) Mediation is a voluntary process where a neutral third party works to find a mutually agreeable solution. IDEA provisions actually encourage the use of mediation services by requiring that educational agencies make mediation available.[[135]](#footnote-135) If mediation is successful, the parties enter into a legally binding agreement, which discusses the resolution. If mediation fails, a parent can still seek other processes. If the parties choose not to enter into mediation, a state may conduct an investigation. Upon analyzing all the pertinent information, the state must determine whether a violation occurred and issue a written decision on the matter.

 If a parent is not satisfied with the outcome of the state’s decision, a parent can continue the process by appealing the decision. The appeal process differs from state to state. For an in depth explanation of the laws and process, a parent should contact his or her state educational agency.

 *(2) Due Process Complaint Procedures*

 In addition to filing a state complaint, a parent has the right to file a due process complaint for violations concerning identification, evaluation, educational placement, or FAPE provisions.[[136]](#footnote-136) The complaint must be filed within 2 years of the alleged violation and contain specific information pertaining the issue.[[137]](#footnote-137) The parent must file the complaint and provide a copy of it to the state education agency that serves the child.[[138]](#footnote-138)

 After a parent files the complaint, the LEA must provide a parent with notice about IDEA procedural safeguards.[[139]](#footnote-139) If the LEA has not previously contacted the parent regarding the matter with a prior written notice, the LEA must then respond to the complaint within 10 days of its receipt.[[140]](#footnote-140)

 Besides responding, the LEA also has a responsibility to schedule a preliminary resolution meeting within 15 days of receiving the complaint, unless the parties otherwise agree.[[141]](#footnote-141) At this meeting, a parent may bring an advocate or attorney. However, if the parent brings an attorney, the educational agency is then also allowed to have an attorney present too.[[142]](#footnote-142) The parties will then discuss the primary issues of complaint and try to find a resolution. If the parties are able to come to an agreement, the terms of the resolution must be included in a legally binding written settlement agreement.[[143]](#footnote-143)

 In addition to the resolution meeting, parties also have the opportunity to engage in an impartial due process hearing whenever a due process complaint is filed.[[144]](#footnote-144) This hearing can take place if the parties request it, or if the resolution meeting was unsuccessful and the matter has not been resolved within 30 days of receipt of the complaint.[[145]](#footnote-145)

 The impartial due process hearing must be held by a neutral individual who is familiar with the application of IDEA.[[146]](#footnote-146) The hearing officer will be presented with the situation and conclude on the matter.[[147]](#footnote-147) If a party is not satisfied with the outcome of the hearing decision, then they can pursue an appeal.[[148]](#footnote-148) The appeals process differs from state to state and depends on the tier-system used by that state. If an individual wants to pursue an appeal, the best resource on the rules and procedures is his or her state’s educational agency.

 *(3) Civil Action*

 After a party has exhausted all the administrative procedures, a parent may still have the right to pursue a civil action regarding the alleged violation.[[149]](#footnote-149) This civil action allows an aggrieved party to appeal a hearing officer’s decision.[[150]](#footnote-150) Such an action has strict time constraints associated with it, as there is only a 90-day window to bring the action to court.[[151]](#footnote-151) The specific rules and processes for bringing a civil action also depend on the state. To ensure compliance with the requirements, an individual should contact his or her state educational agency. An individual should also seek legal advice from an experienced special education attorney.

C. Common IDEA Misconceptions

 While navigating the field of special education law, a parent or advocate may encounter a vast amount of misinformation. This misinformation may be intentional misleading, or it may be the result of a misunderstanding of the law. Below is a brief discussion on common misconceptions of the IDEA’s provisions.

 *(1) Open Collaborative Process*

 A common misconception is that the IEP process is a secretive process that does not require parental participation. This is far from the truth. Parents play a key role in the process and should be involved in all aspects of the child’s plan. Parents need to consent before any evaluation, implementation of services, or modification of an IEP occurs. And, the Act also requires that parents be involved in IEP meetings and placement decisions.[[152]](#footnote-152) Finally, parents also have the right to view the child’s cumulative file and to access the child’s records.[[153]](#footnote-153) Educational agencies should be aware of the need to involve parents. IDEA actually requires that the educational agency provide parents with a notice of all the procedural safeguards at least once a year.[[154]](#footnote-154) And, it must always keep a parent aware of their child’s education by offering regular progress reports and notifications of any disciplinary proceeding involving the child.[[155]](#footnote-155)

 *(2) Options*

 Another common misconception deals with options. The choices could range from a variety of topics like what should be included in a child’s IEP or where the child should actually attend school. Parents are often told they have limited options. Sometimes they are told that a specific accommodation or modification is too costly. However, the Act makes it clear that cost is a non-issue.[[156]](#footnote-156) The education and services provided to the child should not be based on the cheapest services available, rather it should be based on what is best for the child. Cost should not dictate an option. A parent should never have to settle for a less expensive service or aid simply because the school doesn’t believe that the more costly alternative isn’t in the budget.

 Outside of cost issues, parents also have the choice between public or private school. But, this choice is limited to situations where the public school cannot provide an appropriate accommodation.[[157]](#footnote-157) If a public school is not providing the necessary services, the student has the option of attending a private school capable of providing those services.[[158]](#footnote-158)

 The misconception involving lack of options may even extend to a parent’s understanding of the finality of an educational agency’s decisions. Parents may believe that once the educational agency has made a determination, nothing else can be done. This notion is far from the truth. Schools do not have the final say. For instance, if a parent disagrees with a school’s evaluation, the parent can seek an independent evaluation.[[159]](#footnote-159) Also, if the parent disagrees with a manifestation determination involving a child’s discipline, the parent can take further action by filing a complaint.[[160]](#footnote-160)

 Overall, there are many misconceptions that may arise in the field of special education law. In order to avoid such obstacles, an individual should equip themselves with knowledge of the applicable laws and procedures.

1. Sources of Protection other than IDEA

 If a child fails to meet the eligibility requirements of IDEA, there are other laws that offer the child protection. Specifically, Section 504 of the Rehabilitation Act of 1973 applies if a child does not need special education, but does have a disability that requires some type of educational modification. The benefit of being eligible under Section 504 is that many of the protections continue through the student’s secondary education and college.

A. Section 504 of the Rehabilitation Act of 1973

 Section 504 is a civil rights law that was created to eliminate disability discrimination from any program that receives federal funding. Specifically, the regulations implementing the Act state that “No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.”[[161]](#footnote-161)

 The Act’s implementing regulations form the foundation for how such a purpose can be achieved. The regulations include very similar language to that which is found in IDEA. This is because IDEA adopted many provisions from Section 504. The provisions of Section 504 apply to any agency, entity, or organization that receives federal funding from the Department of Education.[[162]](#footnote-162)

 An individual is qualified under Section 504 if he or she has a physical or mental impairment that substantially limits one or more major life activities.[[163]](#footnote-163) If a child meets the above definition, the child is entitled to appropriate accommodations in the classroom. The appropriateness of the accommodations are determined based on the child’s needs.

 The regulations are very similar to those under IDEA. Any qualifying public elementary or secondary education program must take proactive steps to locate students that meet the above criteria and who are not receiving the appropriate education.[[164]](#footnote-164) The school must then evaluate the child in order to determine the proper placement.[[165]](#footnote-165)

 Under Section 504 regulations, if the child is in need of special education, the school must provide a free appropriate public education, regardless of the nature or severity of the person’s handicap.[[166]](#footnote-166) Such an education may require academic adjustments.[[167]](#footnote-167) And, the school must pay for the additional aids or benefits the student may require, including assistive technology.[[168]](#footnote-168) The child must also be educated in a mainstream environment, unless it would be inappropriate based on the needs of a particular child.[[169]](#footnote-169) Last, there are many procedural safeguards like parental notice and impartial hearings, which help ensure compliance with the Act.[[170]](#footnote-170) These regulations clearly paved the way for the provisions included in IDEA.

 Another similar aspect of Section 504 is that the regulations focus on providing equal opportunities for students in other fields beyond just education. For instance, there are provisions that require an entity to ensure that the student has equal opportunity to participate in extracurricular activities, including physical education and athletics.[[171]](#footnote-171) Requirements like these work to ensure that a qualifying child is able to participate in the entire general education experience, despite having a disability.

 Another benefit of Section 504 is that it extends to post-secondary education. [[172]](#footnote-172) Under this section, prohibited discrimination extends to even the admission and recruitment stages for college.[[173]](#footnote-173) For a current secondary school student, such entities must make academic adjustments, which could include required course adjustments for the major or an extension of time to complete an individual class.[[174]](#footnote-174) The school may also have to make modifications to course examinations or provide auxiliary aids.[[175]](#footnote-175) There are other provisions involving extracurricular opportunities also apply in post-secondary education environments as well.[[176]](#footnote-176)

 Though Section 504 does not offer the same provisions as IDEA, it still offers provisions that can better a child’s educational experience. If a child fails to be eligible under other federal acts, Section 504 still offers a variety of protections that work to ensure the child has equal opportunity and access to an education.

1. Special Education and Michigan Law

 Though the federal acts discussed above take precedent over state law, the federal laws only establish minimum standards. States have the opportunity to enhance the above laws. Michigan has taken the opportunity to modify the federal requirements so that they are more progressive and beneficial to the student.

A. Differences

 Michigan has adopted many of the provisions of the Acts discussed above, but in some instances the state actually extended protections. The most unique aspect of Michigan’s special education laws is that it requires the schools to strive to create an educational environment that allows a student to thrive. School districts must actually create a special education plan “designed to develop the maximum potential of each student with a disability . . . .”[[177]](#footnote-177) This wording differs from the federal laws discussed above because it focuses on reaching the child’s maximum ability and potential.

 Michigan law also extends the federal protections in other ways. First, it extends special education services to students beyond the age of 21 years old by capping the age at 26 years old.[[178]](#footnote-178) Michigan also has some different time periods compared to federal law. It requires that the school provide a parent with written notice within 10 days of receiving a request for an evaluation.[[179]](#footnote-179) And, after the school receives a signed consent from the parent, it has 30 school days to determine if the child is eligible.[[180]](#footnote-180)

B. Similarities

 Other Michigan special education law is very similar to the federal regulations. A child must still be evaluated with a variety of assessment methods to determine the child’s eligibility.[[181]](#footnote-181) And, a parent is still entitled to one independent educational evaluation at public expense if the parent disagrees with the initial evaluation.[[182]](#footnote-182) Finally, the due process procedures are similar too.[[183]](#footnote-183) Being familiar with your state’s due process procedures for special education law is very important because much of the procedures vary from jurisdiction to jurisdiction.

 With Michigan law, there are some special concerns with how other laws may interfere with the federal objections. Particularly, Michigan created the Michigan Merit Curriculum (MMC), which raised the overall amount of mandated credits a student must complete in order to graduate from high school.[[184]](#footnote-184) The student must complete specific core classes in order to obtain a high school diploma. The act allows for modifications of the requirements only under certain circumstances.[[185]](#footnote-185) Specifically, a student with a disability may be able to create a personal curriculum if he or she would not be able to complete the general curriculum.[[186]](#footnote-186) This personal curriculum would work in conjunction with the child’s IEP. Establishing and completing the requirements of a personal curriculum would allow the student to receive an actual high school diploma, not a certificate of completion.[[187]](#footnote-187) Having this knowledge early on is very important in making sure that a child reaches his or her overall educational goals.

 It is important to understand these nuances between Michigan’s state laws and the requirements under federal law. Michigan has many favorable state laws that actually extend the protections to students, but it also has some state laws that might negatively impact the students. For these reasons, it is important to familiarize yourself not only with the federal law, but with your applicable state laws.

1. Successful Advocacy

 Being a successful advocate for your own personal situation or for someone else takes work. There are two key principles that help an individual accomplish this goal: knowledge and attitude. Knowing the laws and regulations that govern special education is just as important as the way you approach the matter.

A. Knowledge & Attitude

 We have all heard the statement, “knowledge is power.” There is much truth to these words of wisdom. Navigating the field of special education can be difficult, especially if you are unfamiliar with the law. For this reason, the most important aspect of successful advocacy is knowing the law. Becoming familiar with a parent’s rights, the rights of the child, and the procedures is essential to effective advocacy.

 To accomplish this task, there are many resources to turn too. A great website that offers a comprehensive look at the matter is Wright’s Law, which can be accessed online at the website www.wrightslaw.com. This website allows a reader to actually access the majority of federal statutes, regulations, and other commentary that govern the field. In addition, case law is also available on the site. Another great website is operated by the National Dissemination Center for Children with Disabilities. It can be accessed at www.nichcy.org. This website offers state specific information on laws and resources that may be helpful to a parent or advocate.

 There are many other sources besides the internet that can help an individual learn about the field. Additional information can come from local advocacy groups. Many communities have non-profit organizations whose mission is to protect and empower individuals with disabilities. A few local organizations in Michigan include the Disability Network of Southwest Michigan, which serves many counties in lower Michigan. Other community resources include Kent County Disability Advocates, ARC, and Michigan Special Education Mediation Program. Becoming a part of an organization such as the ones listed above opens the door to great resources and to a great support system as well.

 In addition to knowledge, attitude is another essential principle for successful advocacy. The IEP process or any process dealing with a disabled child’s education should not be adversarial. It should be a collaborative effort between the school and the parent. To maintain an effective working relationship between the school and parents, all parties should be respectful and always keep the primary purpose in mind – the child’s best interest. Being knowledgeable about the applicable laws and entering into the process with a respectful positive attitude can lead to results that are more satisfactory.

1. Individuals with Disabilities Education Act, 20 U.S.C. §§ 1401 et. seq. (2006). [↑](#footnote-ref-1)
2. Rehabilitation Act of 1973, 29 U.S.C. § 794 (2006). [↑](#footnote-ref-2)
3. 20 U.S.C. § 1401(9) (2006). [↑](#footnote-ref-3)
4. 20 U.S.C. § 1412(a)(2); 34 C.F.R. § 300.109 (2011). [↑](#footnote-ref-4)
5. 20 U.S.C. § 1414(d)(1). [↑](#footnote-ref-5)
6. 20 U.S.C. § 1412(a)(5); 34 C.F.R. § 300.114(a). [↑](#footnote-ref-6)
7. 20 U.S.C. § 1401(30). [↑](#footnote-ref-7)
8. 20 U.S.C. §§ 1401 et. seq. (2006). [↑](#footnote-ref-8)
9. 20 U.S.C. § 1400(c). [↑](#footnote-ref-9)
10. 20 U.S.C. § 1400(d), 20 U.S.C. § 1412(a)(2). [↑](#footnote-ref-10)
11. 20 U.S.C. § 1407. [↑](#footnote-ref-11)
12. 20 U.S.C. § 1400(d)(1)(A). [↑](#footnote-ref-12)
13. *Id*. [↑](#footnote-ref-13)
14. *Bd. of Educ. v. Rowley*, 458 U.S. 176, 189 (1982). [↑](#footnote-ref-14)
15. 20 U.S.C. § 1412(a). [↑](#footnote-ref-15)
16. 20 U.S.C. § 1401(3)(A). [↑](#footnote-ref-16)
17. 20 U.S.C. § 1401(3)(A)(i). [↑](#footnote-ref-17)
18. 20 U.S.C. § 1412(a)(1)(A). [↑](#footnote-ref-18)
19. 20 U.S.C. § 1412(a)(3)(A). [↑](#footnote-ref-19)
20. 20 U.S.C. § 1412(a)(1)(A). [↑](#footnote-ref-20)
21. 20 U.S.C. § 1412 (a)(3). [↑](#footnote-ref-21)
22. 20 U.S.C. § 1414(a)(1)(C). [↑](#footnote-ref-22)
23. 20 U.S.C. § 1414(b). [↑](#footnote-ref-23)
24. 20 U.S.C. § 1412(a)(1). [↑](#footnote-ref-24)
25. 20 U.S.C. § 1401(9)(D). [↑](#footnote-ref-25)
26. 20 U.S.C. § 1401(9)(B). [↑](#footnote-ref-26)
27. 20 U.S.C. § 1412(a)(5). [↑](#footnote-ref-27)
28. *Id*. [↑](#footnote-ref-28)
29. 20 U.S.C. § 1415. [↑](#footnote-ref-29)
30. *Id*. [↑](#footnote-ref-30)
31. 34 C.F.R. § 300.501. [↑](#footnote-ref-31)
32. 20 U.S.C. § 1412(a)(3); 34 C.F.R. § 300.111. [↑](#footnote-ref-32)
33. 20 U.S.C. § 1414(a)(1)(E); 34 C.F.R. § 300.302 [↑](#footnote-ref-33)
34. 20 U.S.C. § 1412(a)(3); 34 C.F.R. § 300.111. [↑](#footnote-ref-34)
35. 34 C.F.R. § 300.111. [↑](#footnote-ref-35)
36. *Early On Website*, accessed at http://www.earlyondirectory.org/about.php [↑](#footnote-ref-36)
37. 20 U.S.C. § 1414(a)(1)(B). [↑](#footnote-ref-37)
38. 20 U.S.C. § 1414(a)(1)(D). [↑](#footnote-ref-38)
39. 20 U.S.C. § 1414(a)(1)(C)(i); 34 C.F.R. § 300.304(b)(1)(i-ii). [↑](#footnote-ref-39)
40. *Id*. [↑](#footnote-ref-40)
41. 34 C.F.R. § 300.304(c)(4). [↑](#footnote-ref-41)
42. 34 C.F.R. § 300.304(c)(6). [↑](#footnote-ref-42)
43. 20 U.S.C. § 1414(a)(1)(D); 34 C.F.R. § 300.300(a). [↑](#footnote-ref-43)
44. 20 U.S.C. § 1414(a)(1)(C)(i)(I). [↑](#footnote-ref-44)
45. 20 U.S.C. § 1414(a)(1)(D)(ii); 34 C.F.R. § 300.300(a)(3). [↑](#footnote-ref-45)
46. 20 U.S.C. § 1414(b)(3). [↑](#footnote-ref-46)
47. *Id*. [↑](#footnote-ref-47)
48. 20 U.S.C. § 1414(b)(2)(A); 34 C.F.R. § 300.305(a). [↑](#footnote-ref-48)
49. 34 C.F.R. § 300.304(c)(1)(ii). [↑](#footnote-ref-49)
50. 34 C.F.R. § 300.304. [↑](#footnote-ref-50)
51. 34 C.F.R. § 300.307 – 300.311. [↑](#footnote-ref-51)
52. 20 U.S.C. § 1414(b)(4)(B). [↑](#footnote-ref-52)
53. 20 U.S.C. § 1415(b)(1). [↑](#footnote-ref-53)
54. 34 C.F.R. § 300.502(b) [↑](#footnote-ref-54)
55. 20 U.S.C. § 1414(a)(2)(B). [↑](#footnote-ref-55)
56. 20 U.S.C. § 1414(c). [↑](#footnote-ref-56)
57. 20 U.S.C. § 1414(a)(2)(A). [↑](#footnote-ref-57)
58. 34 C.F.R. § 300.305(e). [↑](#footnote-ref-58)
59. *Bd. of Educ. v. Rowley*, 458 U.S. 176, 189 (1982). [↑](#footnote-ref-59)
60. 20 U.S.C. § 1401(9); 34 C.F.R. § 300.101(a). [↑](#footnote-ref-60)
61. *Id*. [↑](#footnote-ref-61)
62. *Id*. [↑](#footnote-ref-62)
63. 34 C.F.R. § 300.105; 34 C.F.R. § 300.106. [↑](#footnote-ref-63)
64. 34 C.F.R. § 300.107; 34 C.F.R. § 300.108. [↑](#footnote-ref-64)
65. 20 U.S.C. § 1400(c)(5)(C). [↑](#footnote-ref-65)
66. 20 U.S.C. § 1401(29); 34 C.F.R. § 300.39. [↑](#footnote-ref-66)
67. 34 C.F.R. § 300.39(a). [↑](#footnote-ref-67)
68. *Id*. [↑](#footnote-ref-68)
69. 20 U.S.C. § 1401(26): 34 C.F.R. § 300.34. [↑](#footnote-ref-69)
70. *Id*. [↑](#footnote-ref-70)
71. *Cedar Rapids Comm. Sch. Dist. v. Garret*, 526 U.S. 66 (1999). [↑](#footnote-ref-71)
72. 20 U.S.C. § 1401(26). [↑](#footnote-ref-72)
73. 20 U.S.C. § 1401(33). [↑](#footnote-ref-73)
74. 34 C.F.R. § 300.42. [↑](#footnote-ref-74)
75. 20 U.S.C. § 1412(a)(5); 34 C.F.R. § 300.114(a). [↑](#footnote-ref-75)
76. 34 C.F.R. § 300.114(a)(2). [↑](#footnote-ref-76)
77. 34 C.F.R. § 300.116(a)(1). [↑](#footnote-ref-77)
78. 34 C.F.R. § 300.116(b). [↑](#footnote-ref-78)
79. 34 C.F.R. § 300.323(c). [↑](#footnote-ref-79)
80. 20 U.S.C. § 1414(d); 34 C.F.R. § 300.320(a). [↑](#footnote-ref-80)
81. 20 U.S.C. § 1414(d)(1)(B)(i-iii); 34 C.F.R. § 300.321(a)(1-3). [↑](#footnote-ref-81)
82. 20 U.S.C. § 1414(d)(1)(B)(iv-v); 34 C.F.R. § 300.321(a)(4-5). [↑](#footnote-ref-82)
83. 20 U.S.C. § 1414(d)(1)(B)(vi); 34 C.F.R. § 300.321(a)(6) [↑](#footnote-ref-83)
84. 20 U.S.C. § 1414(d)(1)(B)(vii); 34 C.F.R. § 300.321(a)(7). [↑](#footnote-ref-84)
85. 34 C.F.R. § 300.322. [↑](#footnote-ref-85)
86. 34 C.F.R. § 300.322(d). [↑](#footnote-ref-86)
87. 20 U.S.C. § 1414(d)(3)(A)(i-iv). [↑](#footnote-ref-87)
88. 20 U.S.C. § 1414(d)(1)(A). [↑](#footnote-ref-88)
89. 34 C.F.R. § 300.320(b). [↑](#footnote-ref-89)
90. 20 U.S.C. § 1414(d)(4)(A)(i); 34 C.F.R. § 300.324(b). [↑](#footnote-ref-90)
91. 34 C.F.R. § 300.324(a)(4) and (6). [↑](#footnote-ref-91)
92. 34 C.F.R. § 300.324(a)(6). [↑](#footnote-ref-92)
93. 20 U.S.C. § 1414(d)(2)(A). [↑](#footnote-ref-93)
94. 20 U.S.C. § 1414(d)(1)(A)(VII). [↑](#footnote-ref-94)
95. *Id*. [↑](#footnote-ref-95)
96. 34 C.F.R. § 300.300(b). [↑](#footnote-ref-96)
97. 20 U.S.C. § 1414(d)(2)(C)(i)(I); 34 C.F.R. § 300.323(e). [↑](#footnote-ref-97)
98. 20 U.S.C. § 1414(d)(2)(C)(i)(II); 34 C.F.R. § 300.323(f). [↑](#footnote-ref-98)
99. 20 U.S.C. § 1436(a) [↑](#footnote-ref-99)
100. 20 U.S.C. § 1436(d). [↑](#footnote-ref-100)
101. *Id*. [↑](#footnote-ref-101)
102. 20 U.S.C. § 1414(d)(2)(B); 34 C.F.R. § 300.323(b). [↑](#footnote-ref-102)
103. 20 U.S.C. 1400(c)(5)(A)(ii). [↑](#footnote-ref-103)
104. 20 U.S.C. § 1401(34); 34 C.F.R. § 300.43. [↑](#footnote-ref-104)
105. 34 C.F.R. § 300.320(b). [↑](#footnote-ref-105)
106. 20 U.S.C. § 1414(c)(5). [↑](#footnote-ref-106)
107. 20 U.S.C. § 1414(c)(5)(A). [↑](#footnote-ref-107)
108. 20 U.S.C. § 1414(c)(5)(B)(i). [↑](#footnote-ref-108)
109. 34 C.F.R. § 300.300(b)(4). [↑](#footnote-ref-109)
110. 20 U.S.C. § 1415(j); 34 C.F.R § 300.518 (discussing child’s status during proceedings); 34 C.F.R. § 300.533 (discussing child’s placement during appeals). [↑](#footnote-ref-110)
111. *Id*. [↑](#footnote-ref-111)
112. 34 C.F.R. § 300.530(b). [↑](#footnote-ref-112)
113. 20 U.S.C. § 1415(k)(1)(E); 34 C.F.R § 300.530(e). [↑](#footnote-ref-113)
114. 20 U.S.C. § 1415(k)(1)(E)(i); 34 C.F.R § 300.530(e). [↑](#footnote-ref-114)
115. *Id*. [↑](#footnote-ref-115)
116. 34 C.F.R. § 300.530(c). [↑](#footnote-ref-116)
117. 20 U.S.C. § 1415(k)(1)(F); 34 C.F.R. § 300.530(f). [↑](#footnote-ref-117)
118. 20 U.S.C. § 1415(k)(1)(G); 34 C.F.R. § 300.530(g). [↑](#footnote-ref-118)
119. *Id*. [↑](#footnote-ref-119)
120. *Id*. [↑](#footnote-ref-120)
121. 20 U.S.C. § 1415(k)(2); 34 C.F.R. § 300.531. [↑](#footnote-ref-121)
122. 20 U.S.C. § 1415(k)(1)(D). [↑](#footnote-ref-122)
123. *Id*. [↑](#footnote-ref-123)
124. 20 U.S.C. § 1415(k)(1)(H); 34 C.F.R. § 300.530(h). [↑](#footnote-ref-124)
125. 20 U.S.C. § 1415(k)(3); 34 C.F.R. § 300.532. [↑](#footnote-ref-125)
126. 20 U.S.C. § 1415(k)(4); 34 C.F.R. § 300.533. [↑](#footnote-ref-126)
127. 34 C.F.R. § 300.504 [↑](#footnote-ref-127)
128. 34 C.F.R. § 300.504(c). [↑](#footnote-ref-128)
129. 34 C.F.R. § 300.509. [↑](#footnote-ref-129)
130. 34 C.F.R. § 300.153(c). [↑](#footnote-ref-130)
131. 34 C.F.R. § 300.153(b). [↑](#footnote-ref-131)
132. 34 C.F.R. § 300.153(d). [↑](#footnote-ref-132)
133. 34 C.F.R. § 300.152(a). [↑](#footnote-ref-133)
134. *Id*. [↑](#footnote-ref-134)
135. 20 U.S.C. § 1415(e); 34 C.F.R. § 300.506. [↑](#footnote-ref-135)
136. 20 U.S.C. § 1415(b)(6); 34 C.F.R. § 300.507. [↑](#footnote-ref-136)
137. 20 U.S.C. § 1415(b)(6)(B); 34 C.F.R. § 300.508. [↑](#footnote-ref-137)
138. 20 U.S.C. § 1415(b)(7)(A); 34 C.F.R. § 300.508(a). [↑](#footnote-ref-138)
139. 34 C.F.R. § 300.504(a)(2). [↑](#footnote-ref-139)
140. 20 U.S.C. § 1415(c)(2)(B); 34 C.F.R. § 300.508(e). [↑](#footnote-ref-140)
141. 20 U.S.C. § 1415(f)(1)(B); 34 C.F.R. § 300.510(a). [↑](#footnote-ref-141)
142. 20 U.S.C. § 1415(f)(1)(B)(i)(III). [↑](#footnote-ref-142)
143. 20 U.S.C. § 1415(f)(1)(B)(iii). [↑](#footnote-ref-143)
144. 20 U.S.C. § 1415(f)(1)(A). [↑](#footnote-ref-144)
145. 20 U.S.C. § 1415(f)(1)(B)(ii). [↑](#footnote-ref-145)
146. 20 U.S.C. § 1415(f)(3)(A); 34 C.F.R. § 300.511(c). [↑](#footnote-ref-146)
147. 20 U.S.C. § 1415(f)(3)(E). [↑](#footnote-ref-147)
148. 20 U.S.C. § 1415(g). [↑](#footnote-ref-148)
149. 20 U.S.C. § 1415(i)(2). [↑](#footnote-ref-149)
150. 34 C.F.R. § 300.516(a). [↑](#footnote-ref-150)
151. 20 U.S.C. § 1415(i)(2)(B). [↑](#footnote-ref-151)
152. 34 C.F.R. § 300.501(a) [↑](#footnote-ref-152)
153. 20 U.S.C. § 1415(c); 34 C.F.R. § 300.501(a) [↑](#footnote-ref-153)
154. 20 U.S.C. § 1415(d); 34 C.F.R. § 300.504. [↑](#footnote-ref-154)
155. 20 U.S.C. § 1415(c). [↑](#footnote-ref-155)
156. 20 U.S.C. § 1401(9). [↑](#footnote-ref-156)
157. 20 U.S.C. § 1412(a)(10). [↑](#footnote-ref-157)
158. 20 U.S.C. § 1412(a)(10). [↑](#footnote-ref-158)
159. 20 U.S.C. § 1415(b)(1). [↑](#footnote-ref-159)
160. 34 C.F.R. § 300.532(a). [↑](#footnote-ref-160)
161. 34 C.F.R. § 104.4(a). [↑](#footnote-ref-161)
162. 34 C.F.R. § 104.2. [↑](#footnote-ref-162)
163. 34 C.F.R. § 104.3(j). [↑](#footnote-ref-163)
164. 34 C.F.R. § 104.32 [↑](#footnote-ref-164)
165. 34 C.F.R. § 104.35(a). [↑](#footnote-ref-165)
166. 34 C.F.R. § 104.33(a). [↑](#footnote-ref-166)
167. 34 C.F.R. § 104.44. [↑](#footnote-ref-167)
168. 34 C.F.R. § 104.33(c). [↑](#footnote-ref-168)
169. 34 C.F.R. § 104.34(a). [↑](#footnote-ref-169)
170. 34 C.F.R. § 104.36. [↑](#footnote-ref-170)
171. 34 C.F.R. § 104.37. [↑](#footnote-ref-171)
172. 34 C.F.R. § 104.41. [↑](#footnote-ref-172)
173. 34 C.F.R. § 104.42. [↑](#footnote-ref-173)
174. 34 C.F.R. § 104.44(a). [↑](#footnote-ref-174)
175. 34 C.F.R. § 104.44(c) and (d). [↑](#footnote-ref-175)
176. 34 C.F.R. § 104.47. [↑](#footnote-ref-176)
177. M.C.L. § 380.1711 [↑](#footnote-ref-177)
178. MI. Admin. Code. R. 340.1702. [↑](#footnote-ref-178)
179. MI. Admin. Code. R. 340.1721. [↑](#footnote-ref-179)
180. MI. Admin. Code. R. 340.1721(b). [↑](#footnote-ref-180)
181. MI. Admin. Code. R. 340.1721(a). [↑](#footnote-ref-181)
182. MI. Admin. Code. R. 340.1723(c). [↑](#footnote-ref-182)
183. MI. Admin. Code. R. 340.1724(f). [↑](#footnote-ref-183)
184. M.C.L. § 380.1278. [↑](#footnote-ref-184)
185. Anne Forgrave, *PC:* *Practical Considerations Regarding the Personal Curriculum, Michigan Protection & Advocacy Service, Inc.*, available at http://www.mpas.org/Article.asp?TOPIC=11099, last visited November 9, 2012. [↑](#footnote-ref-185)
186. M.C.L. § 380.1278b(6). [↑](#footnote-ref-186)
187. Forgave, *supra* note 185. [↑](#footnote-ref-187)