



# INDIVIDUALS WITH DISABILITIES EDUCATION ACT 2004 (IDEA 2004)

The Individuals with Disabilities Education Act (IDEA) is a law that ensures services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education and related services to eligible infants, toddlers, children and youth with disabilities.

## Definition of a Parent (§ 300.30)

Every child who receives special education services needs to have a parent to participate as a member of the IEP team and advocate for the child. The law provides direction in case a child does not have parents available. Under the law a "parent" is defined as a "biological, adoptive or foster parent, guardian or an individual acting in the place of a biological or adoptive parent (including a relative) of a child, but not the state if the student is a ward of the state". Anyone acting in the parent role, as defined above, has all the rights given to parents under the law. Many of those parent rights are outlined in this publication.

Children who are wards of the state or unaccompanied homeless children who do not have a foster parent appointed by the LEA to represent them must have a surrogate parent appointed. In Utah, individuals who act as volunteer surrogate parents in the IEP process are trained by the Utah Parent Center about their responsibilities.

## Six Important Principles Covered in IDEA 2004

Six important principles covered in IDEA are key to understanding the intent and spirit of the law. These principles include

1. **Free appropriate public education (FAPE):** The right to **FAPE** means special education and related services are available to eligible children with disabilities age 3 to 22 and are to be provided at no cost to the parents. The specially designed educational programs and services reflect the child's individual educational needs, and are to be provided in conformity with the Individualized Educational Program (IEP). The provision of FAPE differs for each child, but the principle is the same. **FAPE** applies to all qualifying children with disabilities, including those who have been suspended or expelled from school.
2. **Appropriate evaluation:** An appropriate evaluation gathers accurate information to determine eligibility or continued eligibility; it also identifies the student's strengths and educational needs. An individualized education program is then designed to respond to the student's needs.
3. **Individualized Education Program (IEP):** The IEP is a legally binding, written document that outlines the special education program, services and related services based on the child's educational needs.
4. **Least restrictive environment (LRE):** The LRE is the environment where the student can receive an appropriate education designed to meet his or her special education needs, while still being educated with nondisabled peers to the maximum extent appropriate.
5. **Parent and student participation in decision making:** IDEA requires that parents must be given the opportunity to play a central role in the planning and decision making regarding their child's education. Parents must have the opportunity to participate in the meetings regarding identification, evaluation, educational placement and the provision of FAPE to the student. Student rights and participation are strongly encouraged, particularly when addressing transition planning.
6. **Procedural due process:** The guarantee of procedural due process means that there are safeguards designed to protect the rights of the parents and their children with disabilities, as well as to give families and schools a mechanism for resolving disputes.

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*If your child has special needs, so do you! We can help!*

230 West 200 South, Suite 1101

Salt Lake City, UT 84101-1337

801-272-1051 or 800-468-1160

[www.utahparentcenter.org](http://www.utahparentcenter.org)

### Early Intervention

Infants and toddlers with disabilities (birth-2) and their families receive early intervention services under Part C of IDEA. Children and youth (ages 3-21) receive special education and related services under Part B of IDEA. Utah has designated the Health Department as the lead agency to provide services for the birth to 2 year age group of children with special needs. Services for this age group are called Early Intervention. Early Intervention services are family-centered, multidisciplinary, comprehensive and community-based and honor the values and beliefs of the family. The specific early intervention services for a child are written in an

**Individualized Family Service Plan (IFSP)** which is based on the concerns and priorities of the family. The Early Intervention program must conduct transition planning to move eligible children from early intervention to preschool programs. This planning for the transition to preschool should be implemented at least 90 calendar days before the child turns 3 and is eligible for the preschool program. An IEP should be implemented by the child's 3<sup>rd</sup> birthday. Parents are to be involved in these team planning processes.

### Special Education

Part B of IDEA 2004 outlines the special education process which is available for eligible students with disabilities from age 3 through graduation or to age 22, including special education preschool which serves children ages 3 to 5. The Utah State Office of Education is the lead agency responsible for overseeing special education. A specific child's educational needs and services are written in an **Individualized Education Program or IEP**.

### Parent Rights Summary

1. Parents have the right to provide information and be involved in the evaluation process. Parents can be involved in the review of existing evaluation data during the initial evaluation and re-evaluation of their child.
2. Parents have the right to be a part of the group that makes the decision regarding their child's educational placement.
3. Parents must be given the opportunity to participate in meetings held with respect to the identification, evaluation, and educational placement of their child, and the provision of FAPE to their child. School personnel may have informal meetings without the parents.
4. Parents have the right to receive periodic reports on the progress the child is making toward meeting the annual goals such as through the use of quarterly or other periodic reports at the time report cards are issued.

### Student Rights

1. Students must be invited to attend the IEP meeting if a purpose of the meeting will be the consideration of the postsecondary goals and the transition services needed to assist the student in reaching those goals which are based on individual student needs, preferences and interests. If the student does not attend the IEP meeting, the team must take other steps to ensure that the student's preferences and interests are considered (§300.321).
2. Transition planning will begin for the student with disabilities beginning no later than the first IEP to be in effect when the student turns 16 (the IEP meeting conducted when the student is 15 years old), or younger if determined appropriate by the IEP Team. For more information, please see the section in this book on transition planning (§300.322).
3. On the student's 18<sup>th</sup> birthday, parental rights transfer to the student. At least one year before the student's 18<sup>th</sup> birthday, a statement is required on the student's IEP, that the student and parents have been informed of the transfer of rights (except for a student who has been determined to be incompetent by a court). Parents may want to consider guardianship options, at least for educational programming, if they believe the student does not have the ability to provide **informed consent** about educational decisions. Otherwise, parental rights will transfer to the student. (§300.320)

## INDIVIDUALS WITH DISABILITIES EDUCATION ACT 2004

Children who are placed in the private schools by their parents do not have an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a public school. There are, however, requirements for the school district where the private school is located to locate, identify, and evaluate students with disabilities enrolled in the private school.

The LEA must develop and implement a services plan and provide some funding for each student that has been designated to receive services. For more information on special education in private schools, please see the *Utah Special Education Rules*.

Eligible students at all public schools including charter schools have the right to FAPE (free appropriate public education). §300.320

*This content is taken from the Utah Parent Center handbook: Parents as Partners in the IEP Process Parent Handbook*