

**Special Education Laws and
the School Environment:**

**A Guide to Understanding
Your Rights as a Parent**

The Texas Young Lawyers Association



BE AN UNCOMMON LEADER.®

If you are reading this handbook, you are most likely a parent with a special needs child who has been diagnosed, or you believe should be diagnosed, with a “disability” and you are asking yourself, “What can I do, and what is the school supposed to do?” This handbook is meant to be a tool to help you find the resources you need and to understand some key concepts that will make your navigation through the challenging waters of special education a little easier.

The concepts this handbook will address include: (1) the laws which affect your child’s education; (2) what to do if you believe your school is not providing the necessary services and education for your special needs child; (3) key phrases and words used by special education providers; (4) your role in the diagnosis, treatment, education, and ultimate success of your child; and (5) the resources available to you to understand your rights and the obligations of the school and yourself.

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I. LAWS GOVERNING SPECIAL EDUCATION

You may have heard the words, “IDEA” and “504” by now. If so, that is a good thing – you are on the right track! Although there are many laws and regulations which will govern your child’s education and services provided, these two laws are, by and large, the laws you will hear providers discuss. Although this handbook will briefly describe “504”, the majority of this handbook deals with IDEA.

A. IDEA

IDEA, the Individuals with Disabilities Education Act, is a federal law.¹ This means that no matter what state you are in, IDEA will govern the education of your child when he or she meets the listed criteria. The law has been around since the 1970’s and has been revised several times, the latest being in 2004. To look for the latest regulations, make sure you are reading information that refers to the “IDEA 2004” laws. This handbook will highlight some of IDEA’s key elements. For a better understanding of IDEA, please see the end of this handbook for resources which you may find helpful.

To qualify under IDEA, your school-age child has to be identified as having a particular “disability.” These “disabilities” are:

- (1) mental retardation;
- (2) a speech or language impairment;
- (3) a visual impairment (including blindness);
- (4) a serious emotional disturbance (referred to in this part as “emotional disturbance”);
- (5) hearing impairment (including deafness);
- (6) an orthopedic impairment;
- (7) autism;
- (8) traumatic brain injury;
- (9) another health impairment;
- (10) a specific learning disability;
- (11) deaf-blindness; or
- (12) multiple disabilities.²

1 Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. 1221e-3, 1411-1419, 1400 *et. al.*; 30 C.F.R. 300 *et. al.*; 71 FR 46753, Aug. 14, 2006.

2 20 U.S.C. Sec. 1401 (a)(1)(A); 30 C.F.R. 300.8(a)(1).

Your child must also need special education and related services.³

For infants and toddlers with a disability, he or she must:

Need early intervention services because the individual is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.⁴

There are several other listed infants and toddlers who may qualify as well. For a three to five year old child to qualify under IDEA, he or she must:

Experience developmental delays, as defined by the State and as measured by the appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development; and who, by reason thereof, needs special education and related services.⁵
(emphasis added)

Within IDEA, there are key phrases and acronyms which you will hear used in meetings with teachers and special education providers. These buzz words should catch your attention because they provide a basic understanding of the rights and responsibilities of you and your child's school. Therefore, these phrases and key words will be broken down and discussed in Section II below: "FAPE", "IEP", "ARD", "BIP", "informed consent" and "due process."

3 *Id.*

4 30 C.F.R. 300.25.

5 20 U.S.C. Sec. 1401(a)(1) (B); 30 C.F.R. 300.8(b).

B. Anti-Discrimination: The Rehabilitation Act, Section 504

If your child does not qualify for services under IDEA as outlined above, a school may mention that your child may receive services under “504.” It is important to distinguish the two laws – IDEA is a special education law, and 504 is an anti-discrimination law. The Rehabilitation Act, Section 504, is a civil rights law that prohibits discrimination against individuals with disabilities.⁶ This section of the Rehabilitation Code ensures that a child with a disability has equal access to an education. Section 504 is often referred to as a catch-all anti-discrimination provision which may act as an “umbrella” to diagnose your child and allow services to be provided. If a child does not meet the specific criteria listed under IDEA, Section 504 may allow services to be provided for those children with “handicaps” which “substantially” impair “major life activities”.

Under Section 504, a person is “handicapped” if they are a person who:

- (i) has a physical or mental impairment which substantially limits one or more major life activities,
- (ii) has a record of such an impairment, or
- (iii) is regarded as having such an impairment.”⁷

A “physical or mental impairment” is further defined as:

- (a) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
- (b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.”⁸

6 34 C.F.R. Sec. 104 et. al..

7 34 C.F.R. Sec.104.3(j)(1).

8 *Id.* at 104.3(j)(2)(i).

A major life activity includes “functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.”⁹

Although there are many procedural similarities between Section 504 and IDEA, this handbook is meant to deal with those procedures which govern IDEA and not Section 504. If your child qualifies for services only under 504, please refer to the back of this booklet for other resources you may find helpful.

II. DEFINITIONS AND KEY PHRASES OF IDEA – **THE FIRST STEP TO UNDERSTANDING** **SPECIAL EDUCATION**

A. How Your Child is Identified and Classified

1. The Parent’s Role

As a parent, you know your child better than anyone else. At any point during your child’s life before the age of 18, and under most circumstances the age of 21, you have the right to have your child tested to see if a disability is present which requires the need for intervention, special services, and/or an individualized education plan.¹⁰ This test is commonly referred to as a Full and Individual Evaluation (“FIE”). This initial evaluation must be completed within sixty (60) days from parental consent.¹¹ Generally, there are several team members involved in providing this evaluation. Many factors are included in this evaluation, including your observations as a parent. Note, however, a school may refuse to perform this evaluation if it does not suspect a disability.¹² They must put their refusal in writing with their stated reasons; however, to dispute their findings, the law allows you to file for a Due Process Hearing through the Texas Education Agency.¹³

In Texas, a child two years of age or younger may qualify for a program known as the Early Childhood Intervention program (“ECI”). If your child qualifies, services will be provided as needed to the child and your family. Once the child turns three, services from ECI may be transferred, if necessary, to special education programs.

9 *Id.* at 104.3(j)(2)(ii).

10 30 C.F.R. 300.101-102.

11 20 U.S.C. Sec. 1414 (a)(I)(C)(i)(I); 30 C.F.R. 300.301(c)(1).

12 30 C.F.R. 503(b).

13 *Id.*

Once your child is three, there are programs, such as Head Start, which your child may qualify for. Theoretically, if a child is properly diagnosed at an early age, depending on the type of disability, early intervention can be beneficial and critical to the long-term success of the child.

Sometimes you may not realize your child may need special education services until they enter the school system. At that time “red flags” may arise such as their performance in school or a change in their behavior. You have the right to request the testing of your child by a school official. The school may also employ the services of a physician or therapist to conduct the testing. You should always put your request for testing to the school in writing.

If you are unsatisfied with the schools’ assessment or disagree with the outcome, you have the right to have the state fully fund a private assessment of your child with the doctor or specialist not employed by the school district.¹⁴ Upon evaluation, the private assessor will provide you and the school with their final decision regarding your child. There are instances wherein a school may refuse to fund a private assessment, but to do so they must file a Due Process Hearing with the state in order to prevent the private assessment.¹⁵

2. Identifying Your Child

Whether you want it to happen or not, your child will have to be identified, or “labeled”, with a special education disability or handicap under IDEA in order to receive special education and related services. You will be a key player in this process. Therefore, make sure you are vocal about your observations and concerns regarding your child’s developmental, educational, physical, and social needs. If you have a pediatrician or other treating specialist who has made recommendations, be sure to get these in writing and provide copies of these documents to the school as another source for the school to consider.¹⁶

14 30 C.F.R. 300.502.

15 *Id.*

16 30 C.F.R. 300.305.

B. Key Phrases You Need To Know and Understand

1. FAPE – Free Appropriate Public Education

This is one of the most important phrases you need to understand. Each word plays a significant role in the special education process.

a. Free

First, “free” means your child is entitled to a free education. Along with the education, there are free “related services” which may include, but are not limited to, transportation, hearing devices, adaptive technology, speech therapy, and many other programs and services.¹⁷ If the school determines your child requires these or related services, you should not be told “you will have to pay for this yourself.” The school must provide the resources necessary to implement the services the ARD committee determines are appropriate for your child.

b. Appropriate

The second word is “appropriate.” Appropriate is a critical component of special education. Whatever education your child receives, it has to be appropriate to your child. Every child is different and learns in a different way. Your school should be assessing your child’s needs and determining the most appropriate education plan, textbook, adaptations, services, etc. that would meet your child’s needs. As an example, the school should know that not all children with a certain disability learn one way and get one curriculum, i.e., just because two children are autistic doesn’t mean they learn the same way and need the same curriculum.

What is “appropriate”? When analyzing whether a child has received an “appropriate” education, the courts look at several factors including whether the school followed the requirements of the child’s Individual Education Plan (“IEP”) and whether the school has provided *some* educational benefit.¹⁸ Under the law, a school is not required to provide the best education and often use the analogy that a child is entitled to a “Chevrolet” education not a “Cadillac” education.¹⁹ If an education

17 20 U.S.C. 1401(9); 30 C.F.R. 300.17, 300.103 et.al.

18 Bd. of Educ. of Hendrick Hudson C. Sch. Dist. v. Rowley, 485 U.S. 176 (1982).

19 Doe ex rel. Doe v. Bd of Ed. of Tullahoma City Sch., 9 F.3d 455, 459-460 (6th Cir. 1993); Fayetteville v. Perry Sch. Dist., 20 IEDLR 1289 (SEA OH 1994).

is “appropriate”, then the hope is that a child will ultimately master the goals set out instead of continually “progressing” toward the goals.

c. Public

The third word is “public.” A school must first try to accommodate your child in the public education system. In fact, you may hear the phrase “mainstream” often. A school will make every effort to put your child in the regular classroom setting (“mainstream”) as much as possible. This may be referred to as the “Least Restrictive Environment” (“LRE”).²⁰ Some children may be in the regular classroom 100% of the time but have their textbooks adapted or their tests and/or assignments modified in some manner.

Your child may be allowed to use a “resource room” to complete an assignment given by your regular education teacher. Others may experience a “pull out” where they are taught by a special education teacher during only a portion of the day. However, it may be determined your child needs to be in a special education classroom or special school all day. Your child will only receive this level of services or education if it is deemed appropriate to not have them put in the regular classroom at all.

Also, your child may be entitled to a publicly-funded private education.²¹ This is an option if it is determined that your child cannot receive the appropriate education in the public setting. If this happens, you will not be required to pay for the private tuition because each child is required to be given a “free” education as described above. Often the children who receive free private education are deaf-blind or require extensive daily physical therapy and require more services than the average school can provide.

d. Education

The last word in FAPE is “education.” This means the school must actively educate your child. Each year there must be goals set and the progress assessed on a routine basis. If there is no progress, then something must change – the goal or the education process. Parents and teachers need to ensure that appropriate goals are set and being achieved. As a parent, you have to advocate for your child throughout

20 34 C.F.R. Sec. 300.114 - 120.

21 34 C.F.R. Sec. 300.103, 148.

their school years by monitoring their progress and making sure there are appropriate changes if the child is not progressing.

2. ARD – Admission, Review and Dismissal

Once your child has received an initial evaluation and it has been determined they qualify for special education and related services, you will be asked to attend an ARD meeting. Like FAPE, you will hear this phrase over and over again. “ARD” stands for Admission, Review and Dismissal. These meetings are required before any plan regarding your child can be implemented and are attended by (1) you (one or both of the child’s parents), (2) your child’s regular education teacher, if there is one, (3) a school administrator, (4) a special education representative, and (5) anyone else who has knowledge or special expertise regarding the child.²²

You have the right to receive written notice of the ARD meeting five (5) school days before the meeting.²³ The notice must be in your native language, if possible, and it can be emailed if the school is able and you are willing.²⁴ When you get the written ARD notice, make sure you understand which topics will be discussed. If the notice does not list the topics, call the school to find out what will be discussed. If you have something to discuss at the ARD, put it in writing and provide a copy to the school within a reasonable amount of time before the ARD.

You also have the right to reschedule the meeting if (1) you are willing to attend and (2) cannot attend because of your schedule. If the date or time of the ARD is not convenient for you, you should make a written request to reschedule the meeting and provide it to the school. If the school attempts to set up ARD meetings and you fail to come after receiving written notice, the school may hold the ARD meeting without you and provide you written copies of what was determined.²⁵

You have the right to bring a parent advocate or attorney with you. If you do, you must provide the school written notice of your intention to do so. The school will have the right to have its attorney present also.

22 34 C.F.R. 300.321.

23 TEX. ADMIN. CODE Sec. 89.1015.

24 U.S.C. Sec. 1415(b)(3).

25 34 C.F.R. 300.322.

You will be invited to attend many ARD meetings throughout your child's education. However, most parents don't realize they can "call" an ARD when they have a concern as stated above. An ARD must be scheduled to discuss the concerns you have or the school may request Mediation through the Texas Education Agency.²⁶ Sometimes, however, a conference call may be appropriate to discuss a matter. Although the conference call may solve a problem, if your solution in any way changes your child's placement, education, IEP, or BIP, then you must put these changes in writing either as amendment to the IEP or call an ARD to formally change the IEP.²⁷ When changes are not formalized in an the IEP or BIP the school will not be bound to follow the changes, even if all parties have verbally agreed to them in an informal manner.

In an ARD meeting, usually the special education teacher or the administrator will lead the discussion by going through a lengthy set of forms as required under IDEA. They will discuss the disability and the need for services. They will soon discuss the "checklist" of changes to the regular education program and the adaptations your child will need. These discussions typically include the IEP and perhaps the BIP among other issues. Remember, these are important documents that should be carefully weighed.

During the ARD meeting, feel free to bring up any evaluations you have recently had and include any physician's evaluation. Bring copies if you can. Further, during the meeting, if you don't understand something or disagree with something, say so. Everyone who attends the ARD is there to ensure the best plan is put in place for your child. If you disagree with something or don't understand something, no one will know and the issue cannot be addressed unless you voice your concerns.

At the end of the ARD meeting, which typically lasts about thirty (30) minutes, you will be asked if you agree with what was discussed. It is extremely important that you ask any questions that you might have. By signing the IEP and BIP documents, you are agreeing to the plan that defines your child's education. It is important that you and the school have a common understanding of the goals, services, and programs that relate to your child.

If you don't agree with a portion of the meeting but you agree to the other portions, you can disagree in writing with the disputed portions. Be sure to check

26 TEX. ADMIN. CODE Sec. 89.1045.

27 34 C.F.R. 300.324.

“I Agree” to the undisputed portions on the IEP paperwork so the agreed upon sections can go into effect immediately. If you disagree with something, you have the right to suspend the ARD meeting for up to ten (10) school days. You must reconvene the ARD, however, and come up with an agreeable plan for the disputed sections. If some issues cannot be resolved by the ARD meeting, you have other options such as Mediation or filing a Complaint with the TEA. However, until the meeting is officially concluded and new IEP or BIP papers are signed, the school will continue your child’s education without making any new changes.

3. IEP – Individual Education Plan

Each child is given a written “IEP”, Individual Education Plan, which lists out the child’s disability and the need for services and special education.²⁸ The written plan will include goals and how the goals will be achieved and assessed. The plan will also list any adaptations in the regular classroom that your child will require and the services your child will receive.

An IEP must be in place prior to the start of each school year.²⁹ Therefore, you will be asked to attend an ARD meeting before the start of school (often it is in the Spring semester of the prior school year) in order to determine the proper needs of your child. Your input is valuable in determining what is “appropriate” for your child. Refer to this IEP throughout the year to ensure the school is following it. Do not hesitate to talk to your child’s regular education teacher to be sure they are aware of the IEP and its contents.

If you believe the teacher is not implementing the IEP, first talk to the teacher to discuss the matter. If you are not satisfied, you can call an ARD to discuss what is not being done in your opinion. Further, if you feel the child’s needs change during the year, you can request an ARD to determine if the IEP needs to reflect the changes during the year.

4. BIP – Behavior Intervention Plan

Much like an IEP, a “BIP” (behavior intervention plan) will have a list of goals, progress points, and modifications as they relate to the child’s behavior in the classroom. This particular set of papers will specifically target behaviors and

28 34 C.F.R. 300.324(a).

29 34 C.F.R. 300.323.

consequences. It will be a plan on how to handle discipline matters which will most likely be different from the other children in the classroom. It is as individual as an IEP. If your child struggles with controlling his/her behavior in the classroom setting, it will be important to focus on this document during your ARD to determine the most “appropriate” approach for your child. During the year, should the need arise, call an ARD to review and potentially revise the BIP if your child is struggling with his/her behavior in the classroom or anywhere on the campus. As with the IEP, be sure to carefully monitor whether the BIP is being implemented by the school.

5. Informed Consent

Prior to the school making any changes that affect your child’s IEP, BIP, or other resources or education plan, you must be informed of the changes and provide your consent. Thus, the term “informed consent” is a vital factor of special education. A simple phone call by the teacher will usually not be enough to rise to the level of “informed” and your simple agreement will not be “consent.” In general, changes must come only after a parent is informed of the changes and agrees, or consents, in writing to the changes.

III. DON’T JUST SIGN HERE: UNDERSTANDING YOUR RIGHTS AND OBLIGATIONS REGARDING YOUR CHILD’S PLACEMENT AND EDUCATION

When your child is evaluated by any school official, whether in the special education department, regular education department, or otherwise, you have a right to see the results, examine the test, and ask questions.³⁰ The State of Texas pays for these evaluations.³¹

Initially, your first evaluation should determine all of the various needs of your child. These needs include not just the classroom needs, but other needs such as transportation, speech therapy, physical therapy, resource aides, full or part-time aides, etc. However, after the initial “placement into special education” evaluation, the school is duty-bound to ask the parent if they want to re-test and re-evaluate at a minimum of every three (3) years.³² If the need arises in the interim, anyone, including a parent, can ask the school to re-evaluate the child. This request

30 TEX. EDUC. CODE ANN. 26.006.

31 34 C.F.R. 300.301.

32 U.S.C. Sec. 1414(a)(2)(B).

should be granted if the parent can show a need for the evaluation or a teacher determines a need.³³

If you disagree with any assessment, whether it is the initial placement testing or any other tests, you have the right to ask for an Independent Educational Evaluation (“IEE”).³⁴ This request should be made in writing to the school. Once you have done that, you have the right to have your child fully evaluated by someone who is not related in any way to the school district at the state’s expense. Results from this evaluation will be provided to the school as well as yourself. The school will then be obligated to take the recommendations from both evaluations and determine the best course of action. Please see Section IV below should you disagree with the school’s action after an IEE is completed.

You must be an advocate for your child throughout his/her education. Do not consider yourself a “nuisance” or a “bother” if you bring up various concerns or observations regarding your child’s needs and/or lack of progress.

During the year you may notice a need for a change to the IEP. The school must review the IEP periodically, but not less than annually, to determine whether the goals are being met, unless everyone agrees this is not necessary.³⁵ Your child must be making notable progress throughout the year to the point of “mastery” (this is one of the checkmarks on the ARD paperwork) of the majority of the goals. If not, then something is not working. If the teacher does not call an ARD, or if you are at an ARD and everyone keeps agreeing there is only “progress” and not “mastery” – speak up! This is the time to reassess and re-evaluate whether the education provided is sufficiently “appropriate” (remember FAPE) to meet your child’s “individual” (remember IEP) needs.

The same is true for your child’s BIP. Monitor your child’s discipline throughout the year. Often a behavioral plan sounds good on paper, but the plan could be unworkable in the classroom. At that point, call an ARD and change the BIP. Understand the teacher is bound by the BIP, so simply discussing your concerns won’t ultimately change the situation. The BIP must be followed until it is formally changed in writing.

33 U.S.C. Sec. 1414(a)(2)(A).

34 34 C.F.R. 300.502.

35 34 C.F.R. 300.324(b).

IV. THE DISPUTE RESOLUTION PROCESS

There may be times when, despite your best efforts, you simply do not believe your child's needs are being met. If this occurs, you have several options.

A. Start with the ARD

If talking directly with the teacher does not solve the problem, start at the ARD level to attempt to resolve any disputes. Schools will appreciate your knowledge of the process and you will be able to evidence your willingness to work with the school at the school level. However, if an impasse is reached and you do not agree with the process to be implemented from the ARD meeting, you do have additional options.

B. Request Mediation

Although not required by law, Mediation is a great way to find a resolution to a problem. You may contact TEA and request they provide an unbiased independent mediator knowledgeable in special education laws and Mediation. Mediation is different from the Complaint process in that the parties work together in an informal setting to attempt to find a mutually satisfactory outcome. The Mediator does not make decisions, but helps the parties reach their own agreements.³⁶ If you cannot resolve the matter during Mediation, you may still file a TEA Complaint. Any attempts to settle the matter cannot be used against or for you in a later hearing. In fact, the mediator will not be involved in any way beyond the Mediation.

C. TEA Complaint

If a matter cannot be settled during Mediation or you do not have a Mediation, then you may file a formal Complaint with TEA.³⁷ There are forms online to fill out in order to properly file a Complaint – visit the TEA website and search for “Special Education Complaint Forms”. In particular, a TEA Complaint must identify (1) the child, (2) state that a public agency has violated a particular portion of IDEA, (3) list the facts of the violation, as well as (4) provide a proposed solution to the problem.

³⁶ 34 C.F.R. 300.506.

³⁷ 34 C.F.R. 300.507 - 508; 19 TEX. ADMIN. CODE Sec. 89.1165.

The Complaint must be signed and provide a current address of the parent and child. You must provide a copy of the Complaint to the school district or the public servicing agency involved in your child's education.

If you are not comfortable preparing a TEA Complaint on your own, find a parent advocacy group or an attorney who has knowledge of school law or special education laws to handle the matter for you. The school must inform you of any free or low-cost legal services available in your area if you request the information or if you file a Complaint.³⁸

D. Due Process Hearing

Once a Complaint is filed with TEA, you will be contacted by TEA with the name of a Hearing Officer assigned to your case within five (5) business days. A matter must be fully resolved, unless agreed to by both parties in writing, within forty-five (45) days of your filing of the Complaint. Further, a school district has fifteen (15) days from the date they receive notice of the filing of the Complaint to schedule a "resolution session" with the parent.³⁹ Unless you bring an attorney to this resolution session, the district cannot bring an attorney. However, they are required to bring a district employee who has the power to resolve the matter. If the district cannot resolve the matter within thirty (30) days of the Due Process Hearing request, the hearing process must move forward.⁴⁰ You may agree, in writing, to waive this resolution session. Note, a resolution is different from Mediation because there is no neutral third-party present who is knowledgeable of special education laws.

Prior to your hearing, you have the right to ask the district for any information regarding your case to include, but not limited to, all copies of your ARD paperwork, evaluations, teacher notes, class work, etc. However, the district may charge a fee for copying.⁴¹ If you want to have a particular person present, such as a school teacher or a physician for testimony, you may ask them to come. However, if you want to ensure they will be there, you must subpoena them. You may contact an attorney to determine how to correctly issue a subpoena.

38 34 C.F.R. 300-507.

39 34 C.F.R. Sec. 300.511; 19 TEX. ADMIN. CODE Sec. 89.1880, 1885.

40 34 C.F.R. Sec. 300.510.

41 19 TEX. ADMIN. CODE Sec. 89.1180.

The Due Process Hearing is much like the formality of a courtroom. Generally there are “opening statements” and then a presentation of the facts and evidence through the examination of witnesses by the Petitioner, usually the parent. The Rules of Evidence are followed during the process and a court reporter is present. The District has the opportunity to cross examine your witnesses as well as to provide its own witnesses and evidence. At the end, there are closing remarks by both sides. At no time are you allowed to talk to the Hearing Officer about anything involving the case.

At the conclusion of the hearing, the Hearing Officer has until the forty-fifth (45th) day after the filing of the Complaint to make a written decision. The written decision may address each Complaint differently, so it may not be an “all or nothing” situation. Further if the parent prevails, then the District may be required to pay for any attorney’s expenses incurred. On the other hand, the parent may be required to pay the District’s fees should the parent lose.

E. District Court

You have the right to appeal the decision of the Hearing Officer to a federal or state district court within ninety (90) days of the Hearing Officer’s Final Decision.⁴² At this point, if you have not hired an attorney, it would be wise to do so to ensure your paperwork is filed correctly and you have advocated all of the proper legal theories. Further, some state or federal courts may require an attorney to be present.

VI. CONCLUSION

As you can see, there are many facets to your child’s special education. Along with understanding the key phrases and terms, if you will remain an advocate for your child, your child will receive the proper education and hopefully attain his or her achievable goals. Remember, don’t let this handbook be your last resource regarding your child’s education – let it be your first of many resources. This handbook is published as a public service project of the Texas Young Lawyer’s Association. It provides you with a brief overview of the legal system as it pertains to Special Education Laws and is not intended to replace legal advice from an attorney. If you have specific legal questions, you should seek counsel from an attorney in your area.

⁴² 34 C.F.R. Sec. 300.515(b).

RESOURCES

Special Education Rules and Regulations

www.tea.state.tx.us/special.ed/rules

The Texas Education Agency has a side-by-side Federal law (a portion of IDEA), Commissioner's rules, and State law handbook to review. In it, every law is written "as is" and may be difficult to read. However, it is extremely useful to check timelines, requirements, etc.

Special Education in Texas Resources

www.tea.state.tx.us/special.ed/

This part of the Texas Education Agency website provides a lengthy list of forms, question/answer sheets, informative handbooks, reports, laws, etc. It is a great "favorites" to add to your internet and refer to it often to learn more about procedures and rules.

Wrights Law

www.wrightslaw.com

Pete and Pam Wright are attorneys who routinely practice before the Supreme Court of the United States of America on behalf of special education students. They have authored several "How-To" manuals and have prepared several forms for parents to use as a guide when writing letters, attending ARDs, reviewing and understanding IEPs and BIPs, etc. This is an extremely user-friendly site which links to many other fantastic pro-parent advocacy sites.