



The Basics on IDEA and Mental Health

More than 30 years ago, Congress opened schoolhouse doors to millions of children with disabilities through the *Individuals with Disabilities Education Act* (IDEA), a federal law guaranteeing them a free and appropriate public education (FAPE).

IDEA requires school districts to develop an *Individualized Education Program* (IEP) for students who qualify for special education services because of a disability.

Ten Common Questions about IDEA.

1. Should I seek special education services for my child?

If behaviors associated with your child's mental health condition are interfering with learning and participating in school activities, then you should consider an evaluation to determine eligibility for special education services. Some examples of behaviors that interfere with learning include going "off task" in the classroom, the inability to meet school work deadlines, excessive fear associated with testing, frequently walking away from their desks when they should be working, fighting with other students or inappropriately challenging the teacher.

2. When can I request an evaluation for my child?

You may request an evaluation for special education services at any time. As part of the evaluation, the school will collect information from you, your child and others who know your child well. If you disagree with the evaluation results, you can obtain an independent educational evaluation (IEE) from a professional not affiliated with the school. The school must make a decision about special education eligibility within 60 days of the initial evaluation.

3. Do I have the chance to participate on the IEP Team?

Yes. Once your child is found eligible for special education services, the school will put together an IEP team to decide on the types of services and supports needed by your child. You and your child are key members of the IEP team and meetings should only take place when you can participate.

4. What services and supports are included in the IEP?

The IEP includes the services and supports that are necessary for your child to receive an appropriate education. The IEP team decides on the scope of those services and should be based on information gathered in your child's evaluation, on your input and your child's strengths and needs. Once the team decides on the array of services to include in the IEP, the school must provide them—regardless of cost.

5. Where will my child be placed?

After the IEP team decides on the services and supports to include in the IEP, you and the school will determine the best school for your child. In most cases, children stay in an integrated classroom with their peers. However in some cases a student may do better in a

school that provides intensive mental health services and supports. You can provide valuable input into the decision on the best placement for your child.

6. What happens if my child breaks school rules?

Your child will be held to the same school rules and consequences as students without an IEP except when the punishment results in a significant change in your child's education program. This includes cases in which your child is suspended for more than 10 days or is expelled. In that case, the IEP team and other relevant school personnel must determine whether the misconduct was caused by your child's disability. This process is called a *manifestation determination*.

7. What happens if I disagree with school decisions related to special education services?

You have several courses of action. It is always best to try to work with the school to find a solution before taking other formal action. However if that is not possible, you may proceed with voluntary mediation, working with an independent third-party to resolve the conflict. Or, you can file a complaint with the State Education Agency (SEA). SEAs are required to offer a model form for you to use for this purpose. You can also proceed with a due process hearing to show why your child is not receiving appropriate special education services. These hearings are like a trial and are heard and decided by an impartial hearing officer.

8. What are other ways to work with my child's teachers?

Meeting with your child's teacher, outside of the IEP team meeting, to talk about your child's strengths and needs and to explore effective ways to help your child succeed in the classroom will greatly benefit your child. Share information with your child's teacher about how your child's mental health condition impacts learning and behavior. Share strategies that you successfully use at home to address issues that come up. Most teachers appreciate learning more about the unique needs of your child.

9. Where can I get more information?

There are many online resources that can help you learn more about how to get the services and supports your child needs to succeed in school. Here are two that parents find helpful, but there are plenty more that you will find referenced on these sites:

- Center for Parent Information and Resources: www.parentcenterhub.org
- Wrightslaw: www.wrightslaw.com

10. Hang in there!

Being your child's best advocate may seem challenging at times, but is well worth the time. You may feel overwhelmed from time to time, but don't feel like you have to go at it alone. There are legal advocates, family run organizations and others out there to help. We all want children to succeed in school. Education is an important foundation for life!

For more information about IDEA and mental health, please contact VFFCMH 800 639 6071

Resource: 10 Tips on Developing an Effective IEP by Lewis Bossing, J.D. (Fall 2010 | Issue 16 | NAMI Beginnings). Mr. Bossing is a senior staff attorney at the Bazelon Center for Mental Health Law.