



Educational Rights and Resources

There are two laws that are important for children who have been diagnosed with serious or chronic medical conditions. The first of those laws is the *Individuals with Disabilities Education Act* (IDEA). This law provides the guidelines for special education eligibility and services. The law requires every school district to identify, evaluate, and serve children with special education needs. The law covers children ages 3 to 22 years. A child must meet the federally defined criteria for one of thirteen categories to be qualified for special education or related services. Children with serious or chronic medical conditions are often qualified under the 'Other Health Impairment' category but any child can be evaluated for qualification under any of the 13 different categories. The qualification process requires a "multi-factored evaluation" to determine whether or not the child has a disability.

The other law to be aware of is *The Rehabilitation Act of 1973, Section 504*. The civil rights law includes protections against disability discrimination in the school setting. *Section 504* of the Act defines disability as a physical or mental *impairment that substantially limits one or more major life activity*. Major life activities include learning, reading, thinking, writing and concentrating. The student must have an impairment (or history of an impairment) that is not temporary. The impairment must interfere with the identified life activity.

IDEA is intended to address services for *educational benefit*. Children who are eligible for services under IDEA will have an Individual Education Plan (IEP) at school. The IEP is a legal contract that spells out the educational and related services that are to be provided to the child. The student's rights are protected by education law, including strict timelines and a system of due process. Section 504 addresses the need for *access* to services. For example, a child with physical limitations but no learning problems may have a 504 Plan that outlines accommodations for his movement into and around the classroom or school. A 504 Plan is protected by civil rights law. Children who are eligible for services under IDEA also have the protections of Section 504. However, students with a 504 plan do not have the same protection of educational law.

Private schools are not bound by the special education or federal civil rights laws that allow for an IEP or 504 Plan. Many private schools work with the public district to create a "Student Service Plan" but the legal protections are not the same.

Public schools are required to provide home instruction (a tutor at home) when a child is not medically able to attend school. Charter schools are considered public schools and have all the same responsibilities as the public school districts. Private schools are not required to provide home instruction but a plan can often be negotiated.

RESOURCES

Center for Parent Information and Resources at <http://www.parentcenterhub.org/resources>

Morin, A. (2014). *The Everything parent's guide to special education*. Avon, MA: Simon & Schuster, Inc.

Ohio Department of Education, <http://education.ohio.gov/Parents>

Siegel, L.M. (2011). *The complete IEP guide: How to advocate for your special ed child* (7th ed). Berkeley, CA: NOLO.
(Updated edition is due July 2020).

The Ohio Coalition for the Education of Children with Disabilities 1-800-231-5872 / www.occad.org

US Department of Education, FAQ about 504 Plans at
<http://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html>

US Department of Education, A Guide to the Individualized Education Program at
<https://www2.ed.gov/parents/needs/speced/iepguide/index.html>

Wright, P.W.D., Wright, P., & O'Connor, S.W. (2015). *Wrightslaw: All about IEPs*. Hartfield, VA: Harbor House Law Press, Inc.

Wright, P. & Wright, P. (2016). *From emotions to advocacy: The special education survival guide* (2nd ed). Hartfield, VA: Harbor House Law Press, Inc.

Wrightslaw web page / www.wrightslaw.com