



UPMC

University of Pittsburgh
Medical Center

Children's Case Management Module 4

Right to Education for Children/Adolescents with Disabilities



Program Description

This module will provide an overview of laws pertinent to the rights of children with disabilities and their parents for educational services and procedural protections. Child case managers can use this information to advocate for their clients and assist parents in advocating for their child.

Educational Objectives

Upon completion of this module, participants will be able to:

- Discuss the laws regarding the “right to education” in Pennsylvania
- Take steps to obtain services and supports for students with disabilities
- Describe the various advocacy resources available to parents in support of their child’s education

How It All Began

“In these days it is doubtful that any child can succeed in life if he is denied the opportunity of an education. Such an opportunity... is a right which must be made available to all on equal terms.”

Brown v. Board of Education
U.S. Supreme Court
(1954)

History of Legal Victories for Children with Disabilities

- **1954 Brown v. Board of Education:** U.S. Supreme Court ruled that equal but separate is not equal. Segregation violates the 14th Amendment to the Constitution.
- **1971 PARC v. Commonwealth of Pennsylvania:** Consent agreement: if state provides education for some children, it must provide education to children with mental retardation; was basis for Education of the Handicapped Act (EHA)
- **1973 Section 504 of the Rehabilitation Act of 1973:** Stipulates that any program that receives federal funds cannot discriminate against people with disabilities.

History of Legal Victories for Children with Disabilities

- **1975 Education of the Handicapped Act (PL 94-142):** Provided funding to states for special education and related services; known as the “mainstreaming law”
- **1986 Board of Education v. Rowley:** “Appropriate” education is sufficient when it permits child to benefit educationally but does not require maximum benefit (Chevy vs. Cadillac)
- **1987 Honig v. Doe:** U.S. Supreme Court established that students identified as disabled, even if violent, cannot be removed from their educational placement without following procedures required by IDEA (“stay put” rule).
- **1990 P.L. 101-336 (Americans with Disabilities Act):** Prohibits public and non-religious private schools from discriminating against individuals with disabilities through exclusion from participation in or denial of benefits of the services, programs or activities of the educational entity.

History of Legal Victories for Children with Disabilities

- **1990 P.L. 101-476:Individuals with Disabilities Education Act (IDEA) - Reauthorization of P.L. 94-142 (EHA)**
- **1993 Oberti v. Clementon:** School districts must provide eligible students the individualized education program **with supplementary aids and services** necessary to receive educational benefit in the Least Restrictive Environment (LRE) before consideration of placement in a more restrictive environment.
- **1996 Florence County School Dist. v. Carter:** A court may order reimbursement for private school placement to parents who unilaterally withdraw their child from a public school that provides an inappropriate education under IDEA

History of Legal Victories for Children with Disabilities

- **1997 IDEA 97:** Changes to IEP; inclusion of students with disabilities in statewide and district-wide assessments; involvement in and *progress in* the general education curriculum
- **2001 No Child Left Behind Act:** “Requires that all children, including children with disabilities, have a fair, equal, and significant opportunity to obtain a high-quality education and reach proficiency on challenging State academic achievement standards and assessments”
- **2004 Individuals with Disabilities Education Improvement Act (IDEIA)** - Reauthorization of IDEA
- **2004 Gaskin v. Pennsylvania Department of Education:** Class Action lawsuit filed in 1994 and settled in 2004; enforces the rights of students to be educated in the regular classroom (least restrictive environment) with necessary supplementary aids and services.

Federal Laws

The next series of slides provides additional information about the federal laws that pertain to the education of children with disabilities.

Federal Laws: IDEA

Individuals with Disabilities Education Act (IDEA)

1. Identification and Evaluation (“Child Find” duty):

If school district has “reason to suspect” a child may need special education services, it must evaluate child.

2. **All “Eligible Children” are entitled to a Free Appropriate Public Education (FAPE).** - Child **must** meet 2-prong test:

- Does the child have a disability?
- Does the disability require specially designed instruction?

Federal Laws: IDEA

3. Funding Statute – The State must ensure that Early Intervention Services and FAPE are available to children from birth to age 21 in Pennsylvania to receive IDEA funds

4. Procedural Safeguards

(<https://www.pattan.net/Publications/Parents-Rights-Understanding-the-Procedural-Safegu>); Procedural Safeguards-Options for Resolving Disputes Between Parents and School Districts (<https://www.pattan.net/Publications/Office-for-Dispute-Resolution-Services>); Legal issues (<https://www.pattan.net/Legal>)

Federal Laws: IDEA

Notice – Informed consent

- Parent participation
- Due process (informal meeting, mediation, resolution session, due process hearing)
- Administrative complaints
- Access to records
- Discipline rights
- Status quo or “Pendency” (“Stay Put Rule”)
- Confidentiality

IDEA requires FAPE

- **FREE** – at public expense/no cost to parents (can use M.A. and private insurance but only with parent’s consent)
- **APPROPRIATE** – “reasonably calculated to yield meaningful educational benefit” or progress - specially designed instruction
- **PUBLIC** – schools under public supervision (includes charter schools)
- **EDUCATION** – Special Education and related services

Highlights of IDEA

- Parent as equal partner – radical concept
- Education is broader than academics – includes behavior and social skills
- Child entitled to achieve meaningful benefit or progress in the general curriculum (Children have a right to make progress not just participate.)
- Special education is a service not a place

Federal Laws: Section 504 of the Rehabilitation Act of 1973

For students with “an impairment which substantially limits a major life activity” such as learning.

Also requires FAPE

IDEA vs. Section 504

The following are the major differences between IDEA and Section 504:

- **IDEA** - Requires meaningful educational benefit (progress) via IEP goals
- **Section 504** - Requires equal opportunity (accommodations) via a Section 504 Service Agreement (Chapter 15 in Pennsylvania)

Both require FAPE

Federal Laws: ADA

Americans with Disabilities Act:

“The ADA protects individuals with disabilities from discrimination in employment, public services and in places of public accommodation.”

No Child Left Behind Act (NCLB)

No Child Left Behind (NCLB) includes requirements about parental involvement, highly-qualified teachers, scientifically based reading instruction, tutoring and supplemental educational services, research-based teaching methods, and school and school district report cards.

(<http://www.wrightslaw.com/nclb/art.htm>)

Federal Laws: FERPA

Family Education Rights and Privacy Act

Affords parents and students 18 and older the right to:

- Inspect and review the student's education records within 45 days of the day the District receives a request for access.
(Request should be in writing)
- Request the amendment of student's records that parent or student believes are inaccurate or misleading.

Federal Laws: FERPA

Written complaints may be filed with the United States Department of Education at the following address:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-4605

What Families Need to Know

For further information and articles to share with families, please click on the hyperlinks in the slides that follow.

- [Advocacy Steps for Families](#)
- [If Behavior is a Concern](#)
- [When Special Education is Not Working](#)
- [Things to Remember](#)
- [Advocacy Resources](#)

Special Education Process Timelines

<https://www.pattan.net/Publications/Special-Education-Timelines>

Advocacy Steps for Families

1. Become Informed

- About a child's disability, strengths and needs
- About the law and your child's rights at the Education Law Center – PA (www.elc-pa.org) and Wrightslaw (www.wrightslaw.com)
- About a child's school – get to know teachers, principals and other personnel

Advocacy Steps for Families

About Response to Intervention (RtI) and progress monitoring as required by IDEA and No Child Left Behind Act (i.e., early academic and behavioral supports to struggling students rather than waiting for a child to fail before offering help).

A Parent's Guide to Response to Intervention in PA:

<http://www.frsd.info/wp-content/uploads/2017/01/A-Parents-guide-to-RTI-in-PA.pdf>

Advocacy Steps for Families

2. Keep Records: Make all requests in writing

- Send written request for ALL school records - <http://www.wrightslaw.com/nltr/11/nl.0830.htm>
- Keep copies of everything you send to or receive from school.
- Organize all records in an advocacy notebook - <http://www.wrightslaw.com/blog/carrying-a-binder-instead-of-a-big-stick-2/>
- Document all written communication and calls to and from the school in your notebook - <http://www.wrightslaw.com/nltr/08/nl.0226.htm>

Advocacy Steps for Families

3. Prepare

- If your child has not been evaluated, request an evaluation in writing - <https://www.parentcenterhub.org/evaluation-2/>
- Make a list of your child's strengths, interests and needs.
- Determine what you want to accomplish, and prepare an IEP agenda ("IEP Attachments") and Record of Proposals (<http://www.educationlawadvocates.com/Sample-Letters-and-Forms.shtml>)

Advocacy Steps for Families

3. Prepare, continued

- Gather information that supports your child's needs: medical reports and letters, report card, test scores
- Obtain research reports on effective interventions (The internet is a great resource.)

Advocacy Steps for Families

4. At the Meeting

- Bring an advocate or friend to take notes and provide moral support
- Bring your “Advocacy Notebook” and add meeting notes
- Bring professionals who have worked with your child: therapist, psychologist, TSS, etc.
- Be on time and courteous
- Acknowledge when good things have happened at school
- Sit across from decision-makers and maintain eye contact
- Ask questions!

At the Meeting (continued)

- Take time to make good decisions
- Repeat what is said to make sure you understand
- Don't feel pressured to make a decision
- If you need to take a break, step out of room to consult with friend or advocate
- End meeting with a plan of action or "next steps"

At the Meeting (continued)

- Follow up meeting or conversations with a “letter of understanding” (A “paper trail” is essential)
- For more information on advocacy steps to take, go to [https://www.elc-pa.org/wp-content/uploads/2014/03/ELC Right to Special Education revisedlinks March2014.pdf](https://www.elc-pa.org/wp-content/uploads/2014/03/ELC_Right_to_Special_Education_revisedlinks_March2014.pdf)

If a Child's Behavior is a Concern

Reducing challenging behaviors/increasing appropriate behaviors:

- An assessment of a child's behaviors and the learning environment followed by the use of appropriate interventions
- A Functional Behavior Assessment (FBA)
- If a child qualifies, an assessment or FBA can lead to a Positive Behavior Support Plan

When a Special Education Program is not Working

- Read your Procedural Safeguards –
<https://www.pattan.net/Publications/Parents-Rights-Understanding-the-Procedural-Safegu>
- Know your options before taking any action.
- Talk to your child’s teacher to resolve concerns.
- Request an IEP meeting (in writing) with dates you are available to meet.
- Bring “Parent Attachment” (Prior Written Notice) for actions proposed or refused by the district -
<http://www.wrightslaw.com/advoc/tips/bonnell.iep.attach.htm>

When Special Education Program is not Working

6. If agreement cannot be reached, write to school principal and request IEP FACILITATION , MEDIATION, or a DUE PROCESS HEARING. Also see: “How to Resolve Special Education Disputes” - <http://www.wrightslaw.com/info/mediate.negot.disputes.htm>
7. If district is not providing services in IEP, or not complying with timelines or procedures, you may request a hearing or file a complaint with the PA Department of Education.

When Special Education Program is not Working

6. Network with other parents and advocates. Organize or join a support group of parents in your school district.
7. For more info on when your child is not making progress in special ed - <http://www.wrightslaw.com/blog/is-your-child-making-progress-in-special-ed/>

Things to Remember

- The parent/guardian is the expert on the child. Always keep the focus on the child's needs.
- Focus on the problem, not the people. Be proactive and keep your eye on the prize – the child.
- Don't get bogged down in "legal-ese." You will be most convincing in your own words.

Things to Remember

Help parents/guardians:

- Focus on the present and the future first. Resolve current issues, then move on to remedies for past issues.
- Be flexible and creative. There may be more than one way to resolve problems.
- See the “big picture” – pick your battles. Don’t get so focused on winning the battle that you lose the war. Decide what is truly important and advocate for it.

Advocacy Resources

Click on links below for information on:

- When is Your Child with a Disability Entitled to Extended School Year (ESY) Services? - https://pealcenter.org/wp-content/uploads/2017/05/dis-Extended_School_Year_8-08.pdf
- Transition to Adult Life for Children with Disabilities – <https://disabilities.temple.edu/programs/im4q/docs/Ed%20Law%20Center%20Transition.pdf>
- School Discipline for Children with Disabilities - <http://www.wrightslaw.com/info/discipline.stud.dis.dwyer.pdf>

Advocacy Resources

A telephone intake service for families of children with disabilities is available through the Disability Rights Network. If you have special education questions, please access the website at <https://www.disabilityrightspa.org/> or call:

- Harrisburg office – 1.800.692.7443 (V); 877.375.7139 (TDD)
- Philadelphia office – 215.238.8070 (V)
- Pittsburgh office – 412.391.5225 (V)

Advocacy Resources

The Right to Special Education in Pennsylvania: A Guide for Parents and Advocates (2014 edition):
<https://www.elc-pa.org/resource/elc-parent-guide-right-to-special-education-2014/>

Advocacy Resources

For advocacy and legal tactics and strategy, visit www.wrightslaw.com where you can subscribe to their online newsletter and order books such as:

- ❖ *Special Education Law*
- ❖ *No Child Left Behind*
- ❖ *From Emotions to Advocacy*

To speak with an advisor from the Pennsylvania Department of Education, call the “CONSULTLINE” at 1-800-879-2301

Education Materials

- **Education Law Center Website:** <https://www.elc-pa.org/>
- **Special Education in PA – Consult Line:**
<https://www.education.pa.gov/K-12/Special%20Education/Pages/Special-Education-in-PA---Consult-Line.aspx>
- **What’s New – Education Law Advocates:**
<http://www.educationlawadvocates.com/Whats-New.shtml>
- **Reading Strategies:**
<http://www.pbs.org/parents/education/learning-disabilities/types/reading/reading-strategies/>

Resources

The following are several websites which can provide you with valuable information in performing your duties as a case manager. Please feel free to review them at your convenience:

- <https://pealcenter.org/>
- <http://www.dhs.pa.gov/>
- <http://www.cms.hhs.gov/>
- <http://www.nami.org>
- <http://www.namikeystonepa.org/>
- <http://www.pmhca.org>
- <http://www.samhsa.gov/>
- <http://www.grants.gov/>
- <https://www.samhsa.gov/disorders/co-occurring>

Resources

Specifically for educating a child/youth:

- <https://www.pattan.net/Publications/Education-ABCs>
- <https://www.pattan.net/Multi-Tiered-System-of-Support/Literacy/Literacy-Resources-for-Practitioners/PaTTAN-Publications>

Summary

You have completed Module 4 – Right to Education for Children/Adolescents with Disabilities.

Please complete the quiz for Module 4: <https://www.oerp.pitt.edu/wp-content/uploads/2019/04/TEST-Child-Module-4.pdf>

Return the your quiz from all the modules to your supervisor. You or your supervisor will need to complete a Registration Form to send in to OERP when all your tests are completed and scored.

<https://www.oerp.pitt.edu/wp-content/uploads/2019/04/Child-Case-Management-Registration-Form-1.pdf>

Please complete an evaluation when you have completed the training at: www.surveymonkey.com/r/CM-eval

Comments

Please refer any comments or questions regarding this training to:

Doreen Barkowitz, LSW

UPMC Western Psychiatric Hospital / OERP

3811 O'Hara Street

Champion Commons Building, 3rd Floor

Pittsburgh, PA 15213

or via email to: barkowitzdh@upmc.edu

You have completed Module 4.

Please click this link to return to the main page:

<https://www.oerp.pitt.edu/child-case-management-training/>