

SEVENTH EDITION
**Special Education:
A Guide for Parents**



**Disability
Rights
Oregon**



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The following federal authorities share in the cost of funding this publication: The U.S. Department of Health and Human Services, Administration for Community Living (ACL), and the Substance Abuse and Mental Health Services Administration (SAMHSA); and, the U.S. Department of Education, Rehabilitation Services Administration (RSA). The contents do not necessarily represent the official views of ACL, SAMHSA, RSA, or any other funder. We developed this publication at U.S. taxpayer expense.

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Foreward

Disability Rights Oregon [DRO] is pleased to bring you the 7th edition of “Special Education: A Guide for Parents.” As Oregon’s federally mandated Protection & Advocacy [P&A] System since 1977, DRO has a unique role: to uphold the legal rights of people with disabilities. Our organization seeks to make this invaluable information accessible to Oregon families experiencing disability.

DRO envisions a future where people with disabilities experience full equality of opportunity and full participation in society. One of the first steps to attaining this goal is empowering families with information regarding their children’s education early on, so they can advocate for the free and appropriate education [FAPE] that their student is entitled to in the Individuals with Disabilities Education Act.

Likewise, understanding the nuances of an individualized education plan [IEP] and how to be an effective member of the team is critically important for families. If issues arise, you will want to be familiar with your child’s rights and steps to resolve disputes.

Parent participation in the IEP process is important from early intervention to the transition into adulthood. Disability Rights Oregon invites you to use this guide as a reference any time you have a question pertaining to your child’s special education services. Please see our website (droregon.org) and FACT Oregon (factoregon.org) for additional resources.



Jake Cornett
Executive Director and CEO
Disability Rights Oregon

Purpose of this Guide

This guide was written to provide parents and advocates with accurate information and answers to common parent questions and concerns about special education for children enrolled in Oregon's public schools¹ from kindergarten to 21 years of age. Most of the information in this guide is about rights provided by federal laws such as the Individuals with Disabilities Education Act (IDEA), Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act of 1973. This revised guide, however, also includes information about Senate Bill (SB) 819, a new Oregon law that specifically protects the rights of children with disabilities to attend a full day of school.

PRIOR WRITTEN NOTICE

Although this guide is organized to logically track the special education process, years of calls and emails from parents convince us that one of the most important things for every parent of a student with disabilities to know is how to effectively request services, evaluations, or changes in their student's education. That topic is addressed at various places in this guide, but a simple explanation for every parent of a student with a disability to understand is this:

Because oral requests or notes to the principal or a teacher do not legally require the district to respond, many parents do not get a real answer to their requests for months or years.

Whenever you want the district to change your child's educational program in any way, do it in a **written letter or email to the district director of special education**. When you make that written request, end it with: **"If the district is unable or unwilling to do what I have requested, Please Provide Prior Written Notice."**



Chapter 1: An Introduction to Special Education

WHAT ARE THE PRIMARY LAWS DEFINING RIGHTS OF CHILDREN WHO NEED SPECIAL EDUCATION?

IDEA

The Education for All Handicapped Children Act² was enacted in 1975 and renamed the Individuals with Disabilities Education Act (IDEA) in 1990. The name change reflects the evolution of how society has come to view students with disabilities as individuals first, instead of as being defined entirely by their disability. IDEA ensures a Free Appropriate Public Education (FAPE) to children and teens with disabilities and defines most of a student's rights to special education. Periodically, Congress updates the law and allocates money to special education and related services for eligible students with disabilities.³

ADA AND SECTION 504

Two other federal laws also impact children with disabilities: the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973. Although those laws may be referenced occasionally, this guide's primary focus is on issues that are directly impacted by IDEA.

SENATE BILL 819

In addition to the federal laws above, the State of Oregon enacted a new law in July 2023, that directly impacts the rights of children with disabilities to attend a full school day. That statute is currently referred to as Senate Bill 819 (or SB 819), but it will eventually be codified as an Oregon Revised Statute with a unique numerical name.

WHAT IS FAPE?

FAPE is shorthand for the Free Appropriate Public Education that every child eligible for special education is entitled to receive.⁴ It is the heart of special education and IDEA. An Individualized Education Program, or IEP, is the basic tool that is used to provide FAPE.⁵

WHO IS ELIGIBLE FOR SPECIAL EDUCATION?

Students are entitled to receive special education under IDEA if they have certain disabilities and are having problems learning or functioning successfully in school because of their disabilities.

SIGNS OF A DISABILITY MAY INCLUDE:

- » Slowness in learning
- » Not seeing or hearing well
- » Unexplained behavioral problems
- » A serious illness
- » Emotional problems

WHAT DISABILITIES ARE RECOGNIZED UNDER IDEA⁶?

THE FOLLOWING DISABILITIES ARE RECOGNIZED UNDER IDEA:

- » Autism
- » Both deaf and blind
- » Emotional disturbance
- » Hearing impairment and deafness
- » Intellectual disability
- » Multiple disabilities
- » Orthopedic impairment
- » Other health impairments
- » Specific Learning Disability (SLD)
- » Speech or language impairment
- » Traumatic Brain Injury (TBI)
- » Visual impairment and blindness

WHAT IF MY CHILD DOESN'T HAVE ONE OF THESE DISABILITIES?

Some children may experience developmental delays in the areas of physical, cognitive, social-emotional, communicative, or adaptive development. However, these children may not meet the standards to qualify for special education under one of the disability categories listed above.

That said, students with disabilities that are not listed—such as Attention-Deficit/Hyperactivity Disorder or Fetal Alcohol Syndrome—may qualify for special education under Specific Learning Disability (SLD), emotional disturbance, or Other Health Impaired (OHI).

These students are also protected from discrimination based on their disability under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA)⁷. [See Chapter 1: What is Section 504? >](#)

WHAT IS OTHER HEALTH IMPAIRED?

A child may have a health condition that is not included in any of the listed categories, but which limits his or her strength and causes problems in learning⁸.

OTHER HEALTH IMPAIRED CONDITIONS

- » Asthma
- » Attention-Deficit/Hyperactivity Disorder (ADD/ADHD)
- » Diabetes
- » Epilepsy
- » Fetal Alcohol Syndrome (FAS)
- » Heart condition
- » Hemophilia
- » Tourette syndrome

WHAT IS SECTION 504?

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability by programs receiving federal funds. School districts must comply with this law because they receive federal funds. As a result, they must provide the same access and opportunity to children with disabilities as those without disabilities.

STUDENTS WHO SECTION 504 PROTECTS

- » Students with a physical or mental disability that substantially limits one or more major life activities—self-care, walking, seeing, speaking, hearing, breathing, learning, working.
- » Students with a record of having a disability.
- » Students who require supports and accommodations.
- » Students who are seen and treated by others as if they have a disability even if they do not. For example, a child with an odd gait who many others treat as somehow less mobile or less intelligent than their classmates may be protected by Section 504.⁹

A common example of a situation that violates Section 504 requirements is when a school district with a summer school program refuses to allow students with disabilities to enroll in the program. [See *Special Education Laws and Where to Find Them* >](#)

WHAT ARE EI AND IFSP SERVICES THAT ARE PROVIDED TO CHILDREN UNTIL AGE 3?

EARLY INTERVENTION (EI):

EI provides services for preschool children with disabilities from birth to 3 years old.

As much as possible, services for these children are met with an **Individualized Family Service Plan (IFSP)** in a natural environment. That means a familiar and comfortable place for

the child, such as at home and in community settings.

An IFSP is somewhat like an Individualized Education Plan (IEP) and is often seen by parents as an early-age version of one. That is not exactly right since an IFSP considers the family's needs as they relate to the child's disability. This is different from an IEP, where the family's needs are not directly considered or addressed.

WHAT IS EARLY CHILDHOOD SPECIAL EDUCATION (ECSE)?

EARLY CHILDHOOD SPECIAL EDUCATION (ECSE):

ECSE provides services for preschool children with disabilities from three years of age until the age of eligibility for public school. It is free, specially designed instruction that meets the unique needs of preschool children with disabilities. Services for these children are met in a preschool environment, and the family's needs are still part of the IFSP.

Children with disabilities from birth to age 5 receive services through an IFSP:

0 - 3 YEARS OLD

- » Early Intervention (EI).
- » Services met through an IFSP.
- » Natural environments, such as in the home.

3 - 5 YEARS OLD

- » Early Childhood Special Education (ECSE).
- » Services met through an IFSP.
- » Pre-school environment.

IS THERE A GENERAL TIMETABLE FOR STUDENTS UNDER IDEA?

Children with disabilities from age 5 to 21 Receive Services through an IEP:

5 - 21 YEARS OLD¹⁰

- » Services met through an Individualized Education Program (IEP). [See Chapter 5: The Individualized Education Program \(IEP\) >](#)
- » Public school environment.

16 YEARS OLD

- » Transition services must be in the IEP when the student reaches age 16.
- » Transition services can begin when the student is younger, if the IEP team agrees it is appropriate.

17 YEARS OLD

- » School district gives notice to student regarding “age of majority” (18 years of age).

18 - 21 YEARS OLD

- » Upon reaching the “age of majority” (18 years of age), the student makes all educational decisions.
- » Exceptions: students who have an educational surrogate or legal guardian.
- » Once the student reaches 21 years of age, the school district is no longer responsible for educating them once the student finishes the school year or graduates with a regular diploma. [See Chapter 10: Transition from Special Education to Adult Services >](#)

WHO MAKES DECISIONS FOR A STUDENT WHO NEEDS SPECIAL EDUCATION?

UNDER IDEA:

An Individualized Education Plan (IEP) team makes decisions about a child's special education. [See Chapter 5: The Individualized Education Program \(IEP\) >](#)

Parents *must* generally be included in the team or any group or meeting that makes important educational decisions for children with disabilities, such as:

- » Evaluation of your child's disability and eligibility for special education.
- » IEP goals, objectives, related services such as assistive technology, and other supports your child may need.
- » How to deal with discipline problems and whether the problems are related to your child's disability.
- » Educational placement.
- » Transition services.
- » Extended school year (ESY) services.
- » Progress or lack of progress meeting annual goals.

For students aged 16 through 21 years old, both parents and students have roles in educational planning. Students aged 16 and older must be invited to the IEP meeting to participate in transition planning.

If transition planning begins before age 16, the student is still invited to participate. At 17, students must be informed of their rights under IDEA that may transfer to them. [See Chapter 10: Transition from Special Education to Adult Services >](#)

For children who are wards of the court or have state guardians, the school district must appoint a surrogate parent to make educational decisions¹¹. The surrogate parent must be a person who knows about the child. That person can be a biological parent, a foster parent, or

a **Court-appointed Special Advocate (CASA)**. The surrogate parent has all the legal rights of parents discussed in this guide, and they should not be an employee of the school district or any other agency that is involved in the education or care of the child.

In cases where your child with a disability has reached 18 and does not have capacity to represent their own interests at an IEP meeting, **you can ask to be appointed as the surrogate parent**. Another solution is for you become your child's legal guardian, but **school districts do not have the power to insist that you do so**.

WHO IS RESPONSIBLE?

The school district where your child lives is responsible for making sure that he or she receives FAPE. The school district may arrange for other private or public schools and agencies to provide services to your child, but it must make sure that those services provide FAPE.

This is important to remember if you and the district agree to a placement that addresses many needs of your child but may not offer some other important instruction or service that your child needs to receive FAPE. For instance, if your child receives necessary and intense mental health supports in an out-of-district day treatment program that lacks academic instruction, the district must provide the academic instruction your child needs.

WHO PAYS?

Students with disabilities are entitled to FAPE, and the cost of implementing a child's IEP cannot be passed on to parents or guardians. This includes the cost of related services and necessary assistive technology.¹²

With parental consent, however, school districts may bill a third party, such as a family's private health insurance, to offset certain costs.¹³ For school districts to bill a family's private insurance, the parents must voluntarily consent to the third-party billing.

EXAMPLES OF FINANCIAL LOSS

- » Decrease in available cap or lifetime coverage.
- » Increase in insurance premiums.
- » Termination of the insurance policy.
- » Payment of expenses such as deductibles.

School districts cannot force parents to consent if the billing would cause financial loss to the parents.

If parents refuse to allow the school district to file a claim against the family's private insurance, the district is still responsible for providing the student with special education services. **The school district cannot require parents to consent as a condition to providing special education services.**

WHAT ARE ASSISTIVE TECHNOLOGY (AT) AND AT SERVICES?

Assistive technology, usually referred to as AT, is any kind of technology that makes it easier for someone with a disability to maintain or improve functional independence in activities like learning, working, walking, or speaking. AT also includes whatever services are needed to help individuals choose and learn to use the equipment and devices best suited for them¹⁴.

School-wide policies that regulate use of technology that can be considered AT for students with disabilities **cannot** interfere with your child's right to use AT to access education. Examples include cell phones, noise cancelling Air Pods, and more.

If AT is necessary for your child, it will be identified as a special factor and be included on the Individualized Education Program (IEP) under Specially Designed Instruction, Related Services and/or Program Modifications, depending on the use or uses of the AT in your child's education.

[See Chapter 5: The Individualized Education Program \(IEP\) >](#)

ASSISTIVE TECHNOLOGY EXAMPLES

- » Oversized pens and word processors for writing.
- » Augmentative communication devices for speaking.
- » Magnifiers and enlarged print materials for reading.
- » Clipboards and Velcro attachments for organizing materials.

Like other parts of your child's special education, the district must pay for AT—including costs of repair, maintenance, and replacement of necessary AT devices and services.¹⁵ Sometimes, the school may also be required to purchase an AT device for your child's use at home, if required for your child to receive FAPE.

One exception to this requirement is cochlear implants and/or their maintenance and programming. IDEA specifically excludes cochlear implants from this requirement.

It is especially important to consider the need for AT and effective communication systems in situations when your child engages in disruptive behaviors because they are unable to communicate in other ways.

WHAT IS A FREE AND APPROPRIATE PUBLIC EDUCATION FOR MY CHILD?

You should always try to get the best possible education for your child and, to be appropriate, services must be individualized to meet the unique needs of your child. For many years, however, state and federal laws did not hold school districts responsible for providing what is best for special education students if districts provided what is “appropriate.”

In 2017, the US Supreme Court clarified that “a school must offer an IEP that is reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”¹⁶ The Court additionally emphasized every child should have the chance to be challenged. This ruling ended the idea that an IEP provides FAPE if it allows your child to make any progress at all.



Chapter 2: Discovering Special Education Needs

WHAT IS CHILD FIND?

Child Find is the obligation of every school district to identify, locate, and evaluate all children between the ages of birth and 21 who may need special education and related services.¹⁷ This includes children with disabilities who attend private schools, children with disabilities who have moved from grade to grade, and children with disabilities who are homeless or wards of the state.

Anyone—a parent, teacher, student, nurse, doctor, social worker—may request that a child be considered for special education.

IDEA, however, emphasizes that parents and others who request that a student be evaluated for special education put those requests in writing (email is acceptable). [See Chapter 14: Model Letters #1-5 >](#)

WHAT DO I DO IF I SUSPECT MY CHILD HAS A DISABILITY?

1. Request an evaluation in writing, if you suspect your child has a disability. **Submit your written request to the Director of Special Education in your child's school district.** If your child is under 5 years old, the school will refer you to your local Referral and Evaluation Agency.
2. Document the date you request the evaluation, and follow up with special education staff after a reasonable time, if you have not been contacted. [See Chapter 14: Model Letter #1 and Model Letter #2 >](#)

Chapter 3: Evaluating Special Education Needs

WHAT IS AN INITIAL EVALUATION?

Children suspected of having disabilities must be tested prior to receiving special education. This testing is called an **initial evaluation**, and its purpose is to:

- » See if the child has a disability and is eligible for special education.
- » Learn about the child’s abilities and disabilities.
- » Determine appropriate special education and related services.

A full evaluation must be completed, and an Individualized Education Program (IEP) developed before a student is placed in a special education program.

After the initial evaluation, the child must be re-evaluated every three years. The re-evaluation, however, does not need to include any additional testing if the IEP team—including you—decides that no further data is necessary. A parent or teacher may request more frequent evaluations, if needed.

The initial evaluation is the first time a child is being evaluated for special education. Parents have the right to give or refuse consent for this evaluation. After receiving parental consent there is a 60-school day period during which the initial evaluation must take place.

If a parent refuses consent, the school district may use mediation or due process hearing procedures to pursue an evaluation but is not required to do so. [See Chapter 13: Resolving Disagreements >](#)

WHAT MUST BE INCLUDED IN AN INITIAL EVALUATION?

To determine a student’s eligibility and special needs, more than one test or initial evaluation must be given. The tests must not discriminate by race or culture and must be given in the student’s primary language and in the format most likely to yield accurate information about their knowledge and capabilities—academically, developmentally, and functionally—unless it is clearly impossible to do so.¹⁸

If your child primarily communicates through sign language, for example, the district must provide an evaluator who signs or a sign language interpreter. Children who primarily speak in a foreign language, such as Spanish, Russian, or Vietnamese, must be tested in that language. The initial evaluation should include observations by a range of people such as parents, teachers, and caregivers who are familiar with the child in a variety of different settings. **Your child must be evaluated in all areas related to any suspected disabilities.**

INITIAL EVALUATION AREAS

- » Academic achievement
- » Assistive technology
- » Behavior
- » Communication abilities
- » Health status
- » Hearing
- » Intelligence
- » Motor abilities
- » Sensory needs
- » Social and emotional status
- » Vision
- » Vocational aptitude

WHAT IS DONE WITH THE INITIAL EVALUATIONS?

The evaluators must prepare a written report with the results of the initial evaluation. Then the IEP team meets to review the results and make decisions about a student's eligibility for special education. The IEP team includes parents and someone who can explain initial evaluations and what the results mean for the student's education. [See Chapter 5: The Individualized Education Program \(IEP\) >](#)

HOW QUICKLY SHOULD THE INITIAL EVALUATION BE COMPLETED?

Initial evaluations must be done within 60 school days from the time the school received the request and your signed permission to evaluate. The school may be allowed more time if there are special circumstances, or if a parent agrees to a longer time.¹⁹

WHAT IS RE-EVALUATION?

Every three years, the school district must conduct what is called a “re-evaluation” of a student receiving special education services to determine if the student continues to be eligible. During the normal re-evaluation process, the IEP team should consider if the student has had recent relevant evaluations, or if more testing is needed to inform the team about what services are necessary to help educate the child. **Parents can request an evaluation at any time if they have concerns that warrant more evaluations.**

If the team decides no further evaluations are needed, the team then reviews the most recent evaluation data and eligibility criteria for special education and determines if the student remains eligible for special education. There must be current evaluations showing that a student no longer requires special education services before the team can end eligibility.²⁰

Consider a nine-year-old girl, for example, who needs specially designed instruction and support services when learning to read in the first grade because of a learning disability. If fourth grade evaluations show that she is now able to read and write at grade level, she can be found ineligible for special education services if there is no evidence that she is experiencing other school problems related to her disability.

FACTS TO REMEMBER ABOUT EVALUATIONS

- » If you request testing, the team must agree under most circumstances.
- » The district cannot evaluate your child without your consent unless it can show that it tried several times to get your consent without a response.

The team can make any evaluation process more meaningful by giving a list of questions to the evaluators. Answers to focused questions can help the IEP team in planning for the child’s education.

EXAMPLES OF QUESTIONS FOR EVALUATORS

- » How can my child become more independent with toileting?
- » Would my child benefit from more community integration experiences?
- » What vocational training would be appropriate for my child?
- » How can my child learn to communicate choices and preferences?
- » What is triggering my child's angry outbursts, and what can be done to help my child develop more self-control?
- » What supports are needed for my child to participate in a regular class setting?

WHAT IS AN INDEPENDENT EDUCATIONAL EVALUATION (IEE)?

If you disagree with the results of school district evaluations, you have the right to request an independent educational evaluation (IEE) at your school district's expense²¹. **It does not matter if the school district agrees with your request:** It cannot refuse to pay for the requested independent evaluation unless it requests a due process hearing and the Administrative Law Judge finds the district's current evaluation appropriate.

If the Administrative Law Judge finds that the district evaluation was sufficient and appropriate, you still have the right to an independent evaluation, but the district does not have to pay for it.

In practice, districts rarely go to the trouble of requesting a due process hearing to deny a parent request for an independent evaluation. Unless a district takes that unusual step, it must respond to your request for independent evaluations by sending you information about where an independent evaluation may be obtained. That information must include a list of district criteria for independent evaluations. These criteria, including both the location and the qualifications of the examiner, cannot be different than what the district uses when it evaluates other children.

You are not required to use an evaluator on the school district list, and the criteria used by

the school district cannot be so restrictive that you are prevented from getting a meaningful independent evaluation by an experienced and credentialed individual. In selecting an independent evaluator, you should make sure the evaluator understands your concerns. You should prepare questions about the area of disagreement for the evaluator to answer (see the example questions on previous page). The independent evaluator should be prepared to back conclusions and recommendations if called to participate in an IEP meeting or hearing.

WHAT ARE MY EVALUATION RIGHTS?

- » **You have the overall right to consent or refuse consent for any evaluation or re-evaluation.** If you fail to respond to a district's request for consent, however, the district can conduct any type of re-evaluation except an intelligence or personality test without your consent.²²
- » **You have the right to get prior written notice** before any evaluation or re-evaluation of your child.²³ [See Chapter 11: Notice Rules >](#)
- » **You have the right to request an independent evaluation** if you disagree with an evaluation conducted by the school district or if the district fails to conduct requested evaluations within a reasonable amount of time.
- » **You have the right to receive a copy of any evaluation or report** used by the district and documentation of how and when it determined special education eligibility.²⁴
- » **Schools must get your written consent before releasing your child's records** to anyone else in most cases. School records include evaluation results. You also have the right to review and correct factual errors in your child's school records, but not matters of opinion.²⁵ [See Chapter 14: Writing to District Administrators >](#)
- » **You have the right to request mediation, write a letter of complaint, or request a due process hearing** to resolve any disagreement involving evaluations.²⁶ [See Chapter 13: Resolving Disagreements >](#)

Chapter 4: Eligibility for Special Education

WHAT IS ELIGIBILITY?

After your child's initial evaluation is completed, the district must hold a meeting to decide whether your child is eligible for special education.²⁷

That meeting must include you and relevant, qualified professionals who can explain the evaluation results regarding eligibility. That means that the district must bring the right mix of experts such as psychologists, behavioral experts, and speech and language professionals with expert understanding of the eligibility categories being considered to the eligibility meeting.

Each disability category under IDEA has different criteria that a child must meet to qualify for IDEA services. The district should notify you about what category or categories of eligibility will be considered. Once you know that information, we recommend that you review the eligibility criteria²⁸ on the [Oregon Department of Education \(ODE\) website](#) before attending your child's eligibility determination meeting.²⁹

WHAT HAPPENS ONCE MY CHILD IS FOUND ELIGIBLE?

Your school district is required to provide special education services once your child is found eligible if you sign consent for them to do so. **If you refuse to sign consent to begin special education services, however, the school district has no obligation or power to provide those services.**

CAN THE DISTRICT END MY CHILD'S ELIGIBILITY?

If your child has been found eligible for special education services, that eligibility cannot be ended or changed without an adequate evaluation and an eligibility determination meeting.

WHAT IF MY CHILD IS NOT ELIGIBLE?

Your child may qualify for services under a 504 plan even if not eligible for special education services under IDEA. A 504 plan is an individualized plan required by Section 504 of the Rehabilitation Act.

504 plans do not include specially designed instruction that is a part of every IEP, but they do require reasonable accommodations and modifications that your child needs to access education because of a disability. Some common reasonable accommodations and modifications that can be provided by a 504 plan include a note taker, preferential seating, and extra time or a quiet location for taking tests.

Your child may also qualify for services under a Section 504 plan while being evaluated for eligibility under IDEA. This is important to remember if your child urgently needs help while the evaluation and eligibility processes are taking place. [See Chapter 1: What is Section 504? >](#)

PARENT TIP:

Especially in cases involving behaviors, it can be helpful for the parent to send a letter guiding the 504 supports put in place while awaiting the evaluation. This letter should identify for the team:

- » **Triggers:** Describe what makes your child exhibit behaviors that impact learning.
- » **Signs that bigger behaviors might happen:** Describe the more subtle ways your child communicates a struggle. For example, a student might start bouncing their leg, disengage, or slouch before becoming aggressive.
- » **Strategies that help:** What you have found helpful to stop or lessen a big behavior and when it occurs. For example, do you give your child some space, provide a weighted blanket, or put on music?
- » **What makes the situation worse.** For example, a student who always needs an exit should not be brought to a small office with the door shut to address concerns.

This type of information puts the school on notice of issues impacting your child's education and acts as a road map to inform future supports.

CAN I REVOKE MY CONSENT FOR SPECIAL EDUCATION SERVICES?

Yes, you can revoke your consent for special education services in writing at any time. However, if you do this, your child will no longer have the many rights and protections that the law provides to special education students. For instance, without those protections, your child could be suspended or expelled for behavior that is caused by a disability. Another option would be to ask for an IEP meeting to discuss why the services currently being provided are not working as you expected for your child.³⁰



Chapter 5: Determining Services: The Individualized Education Program (IEP)

WHAT IS AN IEP?

The Individualized Education Program (IEP) is the written plan for your child's education services.³¹ The Oregon Department of Education (ODE) has guidelines and forms that have been revised to comply with IDEA. There is an IEP form for children ages 15 or younger, and one for students ages 16 and older. Both guidelines and forms are posted on the [ODE website](#). ODE also accepts approved alternate forms.

The purpose of an IEP meeting is to develop an IEP with goals and objectives to address your child's strengths and needs. These strengths and needs are determined by a combination of formal evaluations and informal observations by teachers, you, and others. The IEP team must consider both the results of the initial, or most recent, evaluation and your own concerns for enhancing your child's education.

Every student with disabilities needing special education must have an initial IEP completed within 30 calendar days from the day they were found eligible for special education. In accordance with the IEP, special education and related services must be made available to you as soon as possible. In general, school districts must have an IEP in effect for your child at the beginning of each school year. **The IEP must be reviewed and updated at least once each year.**

WHEN DO IEP MEETINGS HAPPEN?

As the parent of a student with a disability who receives special education, you may request an IEP meeting at any time. The district also has the right to request an IEP meeting at any time.

WHO IS REQUIRED TO ATTEND AN IEP MEETING?

Regardless of who requests the meeting, the following people are considered the IEP team members and **must** be at an IEP meeting:

- » **YOU:** This generally means the parent most knowledgeable about the student, but both parents have the right to attend an IEP meeting.
- » **An interpreter** must be provided by the school district if you have a hearing impairment or do not speak English.³²
- » **If no parent is available or willing** to be part of the IEP team, a surrogate parent appointed by the district must fill this role.
- » **Regular Education Teacher:** At least one regular education teacher must be present if the student is or may need to be in a regular educational setting. However, IDEA has eliminated this requirement if there is a written agreement between the you and district that the teacher’s presence is not necessary. (See ODE’s form, “Written Agreements between the Parent and District”.)
- » **Special Education Teacher or Provider:** Such as a resource room teacher, speech therapist, or occupational therapist.
- » **School District Representative:** Qualified to provide or supervise special education, make decisions to allocate resources, and knowledgeable about the general curriculum. *This means it is not lawful for the district’s IEP team members to tell you they are not able to deny or agree to a request until they have discussed it with the central office or superintendent.*
- » **Person to Interpret Evaluation Results:** Qualified to interpret evaluation results and explain what the results mean in terms of teaching the student. This is often a school psychologist but could be a person already on the team as described above.
- » **Other Individuals** with special expertise or knowledge about your child. These individuals are not needed to convene a legal IEP meeting but can be invited by you or the district.
- » **Your child:** For discussion of transition services and other participation as appropriate.³³

HOW ARE IEP MEETINGS SCHEDULED?

School districts must notify parents in writing and **well in advance** so that one or both parents can attend the meeting at a **mutually agreed upon time and place**. The written notice must also state the purpose, time, and place of the meeting, as well as who will attend. The school district may ask parents whom they intend to bring to the meeting.

CAN THE SCHOOL CONDUCT AN IEP MEETING WITHOUT A PARENT?

School districts must make serious efforts to include parents at the IEP meeting and must be reasonable about scheduling and location.³⁴

CAN MEMBERS OF THE IEP TEAM BE EXCUSED?

Any team member may be excused if the parent and the school district agree in writing. Excused team members must provide a written report if their subject matter will be discussed or considered at the meeting.

CAN THE IEP BE CHANGED WITHOUT A MEETING?

IDEA allows some changes to the IEP without a meeting **but only if the changes are in writing and by agreement of the district and parents**. This does not change the requirement of an annual IEP review meeting.³⁵

WHAT INFORMATION MUST BE IN MY CHILD'S IEP?

The list that follows contains some of the key pieces that **must** be included in a legally adequate and useful IEP. It is particularly important for you to understand these requirements when the team meets to create your child's IEP.³⁶

PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE (PLAAFP)

- » The PLAAFP (often called Present Levels) should be a complete and accurate description of your child's abilities, strengths, and weaknesses. It should be descriptive and include clear and concrete examples of your own concerns, hopes, and observations of your child's strengths. If the PLAAFP is written well, you should be able to say that's my child when you read it back to yourself.
- » This is a critically important part of a good IEP because it is the one place where you can make sure your child is accurately described. For that reason, you should object to simple statements like, "John is a happy child who loves school." Similarly, you should object to any attempts to describe your child as nothing more than difficult behaviors.
- » If the district resists your efforts to create a more accurate picture of your child, you can insist the team include your observations under a separate heading labeled "par-

STATEMENT OF SPECIAL EDUCATION SERVICES, SUPPORTS, AND MODIFICATIONS THAT WILL BE PROVIDED TO YOUR CHILD

- » IDEA requires that these required services and supports be based on peer-reviewed evidence-based research whenever possible.

MEASURABLE ANNUAL GOALS

- » Annual goals should allow you to understand whether your child has made progress by the end of the school year. It can help to ask the district to include a baseline measure of your child’s performance that can be easily compared to later. For example, a goal such as “Ellie will increase her overall measured reading level from grade level 4.0 to grade level 5.0 by June of 20XX” will be much easier for you to understand compared to a vague goal like, “Ellie will improve her reading comprehension as measured by teacher observation and data.”

SHORT-TERM GOALS OR BENCHMARKS

- » Short-term goals or benchmarks are not required unless your child is academically evaluated by assessments other than statewide testing. However, it is often a good idea to include them, and you should feel free to request them.

STATEMENT OF YOUR CHILD’S TRANSITION SERVICE NEEDS AND A FULL-SCALE TRANSITION PLAN

- » Transition services are designed to assist your child making the jump into adulthood and life after school. They can include job coaching, internships, community safety, and experience/training about how to use public transportation.
- » A statement of your child’s transition service needs and full-scale transition planning must be done no later than the IEP year during which your child turns 16, and earlier if appropriate.

STATEMENT ADDRESSING YOUR CHILD’S REMOVAL FROM THE REGULAR CLASSROOM

- » This is a statement of whether your child will need to be removed from the regular classroom and, if yes, for how long and for what reason.

STATEMENT ADDRESSING FIVE SPECIAL FACTORS

- » Addresses whether your child has an educational need in any of the following five areas: behavior, language, Braille instruction, communication, and assistive technology. [See What other important requirements should I consider for my child's IEP? >](#)

IEP SECTION EXAMPLES

What follows are examples of how certain specific sections of an IEP might be written to state your concerns and easily understand whether your child is making good progress over time. See the [Oregon Department of Education \(ODE\) website](#) for complete forms and guidelines.

Present levels of academic achievement and functional performance (PLAAFP)

- » Jason can add, subtract, and multiply whole numbers with 85% accuracy, but he cannot accurately divide whole numbers without a calculator or times table.
- » He can comprehend and solve whole-number practical math problems when they are read to him and involve a single calculation, but he becomes confused if they require multiple calculations.
- » He understands approximately 10 commonly used fractions (e.g. $\frac{1}{2}$, $\frac{1}{4}$, $\frac{3}{4}$, $\frac{1}{3}$, $\frac{2}{3}$) and can solve one-step practical problems involving them, but he cannot perform calculations or estimate correct answers to practical problems that involve less commonly encountered fractions (e.g. $\frac{3}{32}$, $\frac{5}{19}$).
- » According to recent academic testing, Jason's overall math skills have been measured at the 2.7 grade level. At the beginning of the school year, an achievement test measured his overall math skills at a grade level of 2.5.
- » Jason's parents observed that one of his many strengths at home is accurately setting the table with enough tableware for a family of six.
- » Jason's parents are concerned that the new skills he is reportedly learning have not added up to any measurable progress toward catching up with his fifth-grade classmates in the last two years.

EXAMPLES, CONTINUED

Short-term objective

- » In four of five opportunities, Jason will be able to correctly identify relevant units of measurement and use them to accurately estimate answers to practical math problems involving whole numbers and common fractions.

Goal

- » By the end of this school year, Jason will increase his measured overall level of academic performance in math from 2.7 to 3.7 as measured by a standardized achievement test.

WHAT OTHER IMPORTANT REQUIREMENTS SHOULD I CONSIDER FOR MY CHILD'S IEP?

If appropriate, the IEP must include a statement about the **modifications and supports** that teachers, instructional aides, and specialists may need to help your child make progress toward annual goals. For example, a teacher may need training on how to use your child's communication device. This need for teacher training should be identified in the IEP.

The school must focus on your child's involvement and progress in the general education curriculum. The general education curriculum is the accepted plan of instruction, courses, and activities that most students without disabilities receive. Make certain the IEP includes a statement about your child's involvement in the general curriculum and education with others. For example, your child's IEP will need to list any accommodations necessary to allow them to participate in school plays, eat in the cafeteria, or complete homework assignments.

Under IDEA, there is a presumption that students with disabilities are to be educated in regular classes. If your child will not be educated in regular education classes and activities, the IEP must explain why. The IEP must also explain when your child will be educated separately. [*See Chapter 6: Placement in the Least Restrictive Environment*](#) >

The IEP must either state that your child will participate in statewide assessments with

individual appropriate accommodations or that your child will not participate in the assessments, and why. If your child will not participate in statewide assessments, the IEP team must decide on an alternate assessment, and explain why the alternate assessment is appropriate for your child.

The IEP team must also consider and address **five special factors** in the IEP if your child has an educational need in any of the following areas:

- » **BEHAVIOR:** Students with behavior needs that affect learning.
- » **LANGUAGE:** Students with limited English skills.
- » **BRAILLE INSTRUCTION:** Students who are blind or visually impaired.
- » **COMMUNICATION:** For all students, and for students who are Deaf or hard of hearing.
- » **ASSISTIVE TECHNOLOGY:** For all students.

For additional information about how to write IEPs, visit Wrightslaw Special Education Law online at www.wrightslaw.com/articles.htm.

HOW CAN I LEARN ABOUT MY CHILD'S PROGRESS?

As a parent of a child with disabilities, you must be regularly informed of your child's progress, and the IEP must state how often this occurs. The school district is obligated to inform you at least as often as it informs parents of children without disabilities. The IEP must be reviewed at least once a year and needs to be revised as needed to deal with lack of expected progress, re-evaluation results, information you provide about your child, your child's anticipated needs, and other matters.

HOW CAN I BE SURE MY CHILD'S TEACHERS WILL FOLLOW THE IEP?

IDEA requires that your child's IEP be accessible to teachers, specialists, aides, and any provider responsible for implementing your child's IEP. Each teacher or provider must be informed of his or her role in carrying out the IEP and of the individualized accommodations, modifications, and supports identified on your child's IEP. Teachers must make a good faith effort to help your child achieve the goals and objectives listed on the IEP.³⁷

WHAT ARE MY IEP RIGHTS?

YOU HAVE THE RIGHT TO:

- » Prior written notice any time the district proposes to review or revise your child's IEP.³⁸
- » Prior written notice any time the district refuses to make a change you requested to the IEP. [See Chapter 11: Notice Rules >](#)
- » Request an IEP meeting at any time.
- » Be present and participate in all IEP meetings concerning your child.
- » Invite others to the IEP meeting.³⁹
- » Receive a copy of the IEP.⁴⁰
- » Have any part of the IEP explained to you by a person with the proper experience and credentials to competently do so.⁴¹
- » Ask for additional IEP meetings, request mediation, write a letter of complaint, or request a due process hearing to resolve any disputes involving the IEP.⁴² [See Chapter 13: Resolving Disagreements >](#)



Chapter 6: Placement in the Least Restrictive Environment (LRE)

WHAT IS AN EDUCATIONAL PLACEMENT?

An educational placement is the package of services and the setting needed to educate a student according to the IEP. **It is not a physical location.** After the IEP team develops IEP goals and objectives, they determine the setting, or placement, in which the student can work toward these goals.⁴³

For example, a student's placement may be a self-contained classroom for individuals with emotional disturbance that offers daily opportunity to interact with students without disabilities. If more than one classroom in the district can provide everything that the IEP calls for, a change from one of these classrooms to another would not be a change of placement. This means that the district could legally make this kind of change without an IEP meeting.

The decision about what type of placement is needed, on the other hand, must be made by the IEP team and include parents after the IEP is created.⁴⁴

According to the law, a change of placement occurs if a student is excluded from the IEP-designated placement for more than 10 days in a school year (or in a series of removals that show a pattern) because of disciplinary actions such as suspensions. In that situation, the district is required to notify you and convene the IEP team to discuss whether a new placement or additional supports should be considered.

HOW IS PLACEMENT DECIDED?

The placement decision must be made by a group of people that includes someone with knowledge about your child and the meaning of evaluation results, as well as someone familiar with placement options. You must also be included in this group. The placement decision is based on test results, teacher recommendations, and the student's needs as dictated by the IEP. The placement must be one where all the IEP goals and objectives can be addressed.⁴⁵ A **continuum of placement options** that ranges

less to more restrictive environments is a range of placement options that must be available to your child when the IEP team considers where your child's IEP can be implemented. Districts cannot insist that they do not provide a particular type of placement if that placement is needed to implement an appropriate and legal IEP.

CONTINUUM OF PLACEMENT OPTIONS

- » A regular classroom.
- » A regular classroom with modifications and/or supplemental aids and services.
- » A resource room for special education instruction with instruction in a regular classroom.
- » A classroom for children with disabilities located in a regular school (self-contained classroom).
- » Day or residential special schools, where many or all students may have disabilities.
- » A partial school day.
- » A home, hospital, or institution-based program.

The district must ensure that this continuum is available to students in their district.⁴⁶

WHAT IS THE LEAST RESTRICTIVE ENVIRONMENT (LRE)?

By law, students with disabilities must be educated in the Least Restrictive Environment. Congress has defined the **Least Restrictive Environment (LRE)** as the placement closest to a regular education environment that is still capable of meeting the needs of a particular student with disabilities. This means that the LRE varies according to those needs. It also means your child must be educated in the regular classroom with supplemental aids and services unless your child cannot be satisfactorily educated there.

EXAMPLES OF SUPPLEMENTAL AIDS AND SERVICES

- » Adaptations to classroom materials.
- » Special materials or equipment, including assistive technology (AT).
- » Support from an individual instructional assistant.

When deciding your child's placement, the school district must consider potentially harmful and positive effects. The district must also consider the quality and quantity of services your child needs. In addition, the educational impact on other students in the class must be considered. For example, a regular classroom may not be appropriate if your child is greatly agitated by the noise and movement of a large group, or if your child's behavior is too disruptive for others to be able to learn. However, that sort of decision cannot be made before the team considers whether additional supports and services might allow your child to succeed without disrupting others to a degree that they could not learn. For these reasons, placement should be the last thing discussed and decided by the team.

If your child is removed from a regular classroom, the school district must ensure they will be with others in regular classes for non-academic and extracurricular activities whenever possible.

Unless the IEP requires another arrangement, your child must be educated in the school they would attend if they didn't have disabilities. If the IEP requires a different location, it must be as close as possible to your child's home.⁴⁷

WHAT IF I DON'T LIKE THE PLACEMENT?

Any change in placement must be based on your child's IEP goals. Placement decisions must be reviewed each time the IEP is significantly revised. Since an IEP must be reviewed annually, placement decisions also must be made at least annually. However, as a parent, you have the right to request a change in placement if you feel a placement is not working. The placement team, which includes you, then meets to discuss and decide placement.

CAN I VISIT MY CHILD'S CLASSROOM?

Prior to making a placement decision, school districts should give you the opportunity to visit the proposed placement setting so you can form your own opinion about whether that setting would be appropriate for your child. Once the placement decision has been made, you should still be able to visit the classroom. School districts may have policies about school visitation by parents and guests that are designed to eliminate distractions to both students and staff. So long as those policies are reasonable and applied equally to all, they are legitimate.

For instance, such policies might reasonably limit the amount of time of your visit, and the cumulative amount of visitation time per week or month. However, policies that do not allow you or your guests to take notes, or that limit your visitation time to a particularly small amount of time, are probably not reasonable.

WHAT IF I WANT THE DISTRICT TO PAY FOR PRIVATE SCHOOL?

You always have the right to place your child in a private school at your own expense. In some cases, you **may** be entitled to reimbursement for private school costs from the school district if there is strong evidence that the district did not provide a free and appropriate public education (FAPE) to your child. However, before seeking reimbursement, you must give notice to the district of your intent to place your child privately and the reasons for your decision. **This notice must be given at an IEP meeting or in writing within 10 business days (including holidays) before you remove your child from public school.**

Once you give notice of your intention, the district may ask to evaluate your child or convene an IEP meeting to consider other ways to address your concerns without placement at a private school.

REIMBURSEMENT MAY BE REDUCED OR DENIED FOR ANY OF THE FOLLOWING REASONS:

- » You did not give notice of your intent to place your child in private school.
- » The school district is already providing FAPE to your child.
- » You did not make your child available for evaluations when asked by the district.
- » The private school will not provide FAPE.⁴⁸

WHAT IF THE DISTRICT WANTS TO MOVE MY CHILD TO PRIVATE SCHOOL?

If the school district wants to move your child to a private school (which can be expensive), most parents should consult an attorney to confirm the district will assume responsibility for the cost before the student is moved.

WHAT ARE MY PLACEMENT RIGHTS?

- » **You have the right as a member of the placement team to participate in discussions and decisions** regarding placement.⁴⁹
- » **You have the right to give or withhold consent for your child's first placement in special education.** If you do not consent, the school district may no longer utilize due process hearing procedures to override your refusal to consent. School districts do not have a legal obligation to provide FAPE to students with disabilities if the parent refuses consent for special education or revokes consent in writing for special education services.⁵⁰
- » **You have the right to receive prior written notice any time the district proposes a change in placement.** You also have the right to prior written notice any time the district refuses your request to change your child's placement.⁵¹ [*See Chapter 11: Notice Rules >*](#)
- » **You have the right to request an IEP meeting, mediation, write a letter of complaint, or request a due process hearing** to resolve any disagreement about placement.⁵² [*See Chapter 13: Resolving Disagreements >*](#)

WHAT IS PREDETERMINATION?

Since your child has legal rights to FAPE, it is important to remember that your opinions about their educational needs must be heard and truly considered whenever the team makes important decisions—including contents of your child's IEP and placement. The district is not permitted to make those sorts of important decisions before it hears and truly considers your input.

Unfortunately, some districts decide results of a meeting before it takes place. That sidelining of your input is called **predetermination** and is *not* permitted by IDEA.

But predetermination can and does sometimes happen. The two most common predetermination scenarios happen when district staff meet ahead of the official IEP meeting—and without you there—to decide their final opinion or otherwise discuss what the team will decide before hearing from you. If you attend a meeting and see the district is responding to your questions and concerns with polite or bored silence and then moving ahead in the opposite direction, you may have reason to suspect predetermination. In these cases, you should consider consulting with an attorney or researching how to file a complaint with the Oregon Department of Education. [See Model Letter #3: Complaint to ODE >](#)

WHAT IS THE EFFECT OF SENATE BILL 819 ON MY CHILD'S RIGHT TO A FULL DAY OF SCHOOL?

Senate Bill 819 (SB 819) is a state law that went into effect on July 13, 2023. It will eventually be renamed as an Oregon Revised Statute with a specific ORS number.

SB 819 provides you with many additional rights related to placement, primarily by eliminating the power of a school district to shorten the length of your child's school day over your objections. SB 819 does not forbid shortened school days in situations where you agree to such an arrangement, but depending upon several circumstances, it does require frequent IEP meetings to review progress toward a full school day.

For a more comprehensive explanation of SB 819 and answers, see our [Frequently Asked Questions about how it works. >](#)



Chapter 7: Extended School Year (ESY) Services

WHAT IS ESY?

Some students in special education programs need education services continued during the summer months or other vacations when school is not in session to maintain the skills they have learned as identified on the IEP goals. This includes related services and assistive technology.

ESY SERVICES MUST BE PROVIDED⁵³ WHEN:

- » Your child is eligible for special education services.
- » Your child would **regress** (lose progress) considerably in identified areas of the IEP without an extended school year program.
- » Your child would require a substantial amount of time, after school starts, to recoup (get back) losses in identified goals of the IEP due to an extended school break.

HOW DO I GET ESY FOR MY CHILD?

Planning for an extended school year must begin at least several months before the vacation period starts. School districts take data about the student's progress on an ongoing basis. This data can be used to determine a child's regression and recoupment after break periods.

If you believe that your child may need ESY and it is not already part of the IEP, you should request in writing that data be collected on your child's **regression** and **recoupment** before and after the winter and spring breaks. Then request an IEP meeting to review the data and decide if your child is eligible for ESY. Often the meeting to decide ESY is held in the spring. Because the ESY decision is made by the IEP team, all your IEP meeting rights apply. The decision to provide ESY must be written into your child's IEP. If the school disagrees with giving your child ESY, the school must provide you with written notice of its decision.

You can supplement the school's data by providing observations and documentation from

summer months, especially if your child is getting no services. Collect notes and reports from teachers, specialists, and others at the end of one school year and the beginning of the next school year. This can also be done before and after other extended breaks. Documentation can include recommendations from private therapists or professionals who work with your child. These notes should describe your child's behavior or skills at both points in time.

WHAT IF THERE IS NO DATA?

In the case of some students, the district may suggest that your child does not need ESY services even though it has not collected data to show presence or absence of regression during breaks. In such cases, your child is still entitled to ESY services if the IEP team reasonably believes that there would be significant regression and recoupment problems.

WHAT IF I DISAGREE WITH THE ESY DECISION?

You may request mediation, write a letter of complaint, or request a due process hearing to resolve any disagreement about ESY. [*See Chapter 13: Resolving Disagreements >*](#)

WHERE DOES MY CHILD GO FOR ESY?

The school district does not have to provide a full range of placement options for ESY programs. Still, the district must offer placements that are appropriate to carry out those portions of your child's goals on the IEP where problems with regression and recoupment were noted.

For example, an ESY placement might be a summer camp, a park and recreation program, or other non-classroom activity if your child's primary need for ESY relates to socialization skills. For students who require maintenance of physical therapy goals, the placement may be at the student's home.

IS SUMMER SCHOOL THE SAME AS ESY?

No. Summer school—which is often not free—**does not** take the place of ESY services. If ESY services are part of your child's FAPE, they must appropriately and effectively address areas of regression in a way that allows your child to resume school in the fall without having to relearn skills. In addition, ESY must be provided at no cost to you.

Although ESY and summer school are different, if your school district offers summer school to general education students that would be beneficial for your child, they are also entitled to attend with any reasonable accommodations that might be needed. [See Chapter 1: Introduction to Special Education >](#)



Chapter 8: Physical Restraint and Seclusion

State regulations effective July 1, 2012, promote school safety by requiring planning, training, and parental involvement to regulate use of physical restraint and seclusion in schools.

WHAT IS PHYSICAL RESTRAINT?

Oregon Administrative Rule (OAR) 581-021-0062(1)(a) defines physical restraint as “the restriction of a student’s movement by one or more persons holding the student or providing physical pressure upon the student.” The rule notes that physical restraint is not touching or holding a student without the use of force to direct the student or to assist the student in completing a task.

WHAT IS SECLUSION?

OAR 581-021-0062(1)(b) defines seclusion as “the involuntary confinement of a student **alone** in a room from which the student is **physically prevented from leaving.**”

CAN MY CHILD BE PHYSICALLY RESTRAINED OR SECLUDED AWAY FROM OTHER STUDENTS WHILE AT SCHOOL?

Yes, but only under strictly limited conditions that are now defined by state law and regulations.

WHEN MAY RESTRAINT OR SECLUSION BE USED?

Your child can only be physically restrained or secluded when your child’s behavior poses a reasonable threat of imminent, serious bodily injury to self or others and when less restrictive interventions would not be effective.

CAN THE SCHOOL USE RESTRAINT OR SECLUSION TO MAKE MY CHILD OBEY STAFF?

No. Physical restraint and seclusion may not be used for discipline, punishment, to force compliance, or for the convenience of staff.

HOW LONG MAY RESTRAINT OR SECLUSION LAST?

Restraint and seclusion may last only as long as your child poses a threat of imminent serious physical harm to self or others. As soon as the threat of harm is over, your child must be released from the restraint or seclusion.

Your child should not be restrained or secluded for extended periods of time. Restraints and seclusions are emergency interventions that should not be used to manage behavior on a regular basis.

If your child is experiencing restraint or seclusion for long periods, or if it is happening frequently, their Individualized Education Program (IEP) team should meet and look at changes to your child's IEP, placement, and behavior plan.

WHAT HAPPENS IF MY CHILD IS RESTRAINED OR SECLUDED FOR A LONG PERIOD OF TIME?

ADDITIONAL PROTECTIONS ARE IN PLACE IF RESTRAINTS AND SECLUSIONS LAST MORE THAN 30 MINUTES.

1. Your child must be allowed access to the bathroom and water.
2. Staff must get written authorization from a district administrator for the restraint/seclusion to continue, including documenting the reason the restraint/seclusion needs to continue.
3. Staff must try to immediately contact you either by phone or e-mail to notify you of the length of the restraint or seclusion.

CAN ANYONE WORKING AT MY CHILD'S SCHOOL USE RESTRAINT OR SECLUSION IF THEY BELIEVE IT IS NEEDED?

Staff members who use or are likely to use physical restraint and seclusion on students must be trained by a state-approved training program. Staff who are not trained cannot use seclusion or restraint unless they are the only staff present during an unforeseeable emergency.

If restraint or seclusion are used by staff who were not trained in a proper and approved technique, the district must notify you and explain why it was necessary to have an untrained staff member use restraint or seclusion. Staff training must include positive behavior support, conflict prevention and de-escalation, and crisis response techniques.

WHAT HAPPENS AFTER MY CHILD IS RESTRAINED OR SECLUDED?

First, the school is required to notify you verbally or electronically by the end of the day the incident occurred. Within 24 hours of the incident, the district **must** provide you with written documentation including, at minimum:

- » Who implemented the restraint or seclusion;
- » How long the restraint or seclusion lasted;
- » Where it happened;
- » What was happening before it started;
- » How staff tried to de-escalate the situation; and
- » A description of what your child was doing that posed a reasonable threat of imminent bodily injury.

PARENT TIP:

Many districts complete these reports without considering or explaining what was happening before deciding to use restraint or seclusion. For example, they might provide a report saying the “student refused two staff requests to put away materials and transition to the next activity.” You can and should request more useful information such as what activity was taking place, what materials were being used, and whether the staff request was made in a way that embarrassed your child or before they were able to complete something important to them. Was the next activity one that is particularly difficult for your child? Even if you cannot attend the debriefing meeting, you can make requests for more complete information in writing or at an IEP meeting.

Within two days of the incident, staff must hold a debriefing meeting to discuss the incident. The purpose of this meeting is to look at why the incident happened and to take any action necessary to reduce the chances of it happening again.

You must be given notice of when that meeting will occur, and you have the right to attend. However, because debriefing meetings must be held within two days, the district does not have to accommodate your schedule when setting a meeting time.

WHAT IS MECHANICAL RESTRAINT?

Mechanical restraint is any device that is used to restrict your child's movement; for example, strapping your child to a chair to prevent them from leaving the room. The district **cannot** mechanically restrain your child. Protective or stabilizing devices ordered by your child's physician and vehicle safety restraints used during transport are not mechanical restraints.

WHAT IS PRONE RESTRAINT?

Prone restraint is a restraint in which a student is held face down on the floor. **Prone restraint is not permitted under Oregon law.**

WHAT TOOLS ARE AVAILABLE TO HELP REDUCE OR STOP MY CHILD'S DIFFICULT BEHAVIORS?

Your child's disability may cause behaviors that interfere with learning or lead to disciplinary problems. There are two basic tools to help reduce or stop difficult behaviors: a **functional behavior analysis (FBA)** and a **behavior plan (often called a BSP or BIP)**.

PARENT TIP:

If your child is engaging in disruptive behavior that results in staff responses such as room clears, injuries, significant property destruction, escorts to the principal's office, or calls to take your child home early, you should also make a written request for written incident reports and request an IEP meeting to discuss additional behavioral supports.

WHAT IS A FUNCTIONAL BEHAVIOR ASSESSMENT (FBA)?

An FBA is a study conducted by a behavioral expert to answer three questions that are needed to create a good behavior plan. An FBA tries to answer:

1. When and where is the behavior happening? This question requires the identification of **triggers** and **setting events**. These can be features of the school environment such as noise and sensory overstimulation, or activities such as being asked a question by a person close by or spoken to in a loud tone of voice.
2. What clues does your child give that the behavior is about to happen? These clues are also called **antecedent behaviors**. It is very rare for a student to not give any signs that the situation is escalating.
3. Why does your child engage in this behavior? This is often called a **behavioral hypothesis** and is the point of a useful and effective FBA. It explains the function or purpose of the behavior from the perspective of the student. If your child seems to be seeking attention, ask them why. Is the work too difficult? Does your child feel anxious that they won't understand the work, so they want an adult nearby?

Once these questions have been answered, a strategy or plan can be developed to deal with the behavior. A poorly done FBA might read like it's describing another student or almost anyone. A good one will describe your child in a way that makes sense to you.

WHEN SHOULD AN FBA BE DONE?

AN FBA SHOULD BE DONE WHEN:

- » Behavior consistently or predictably impacts your child's learning, or the learning of your child's classmates;
- » Your child has multiple suspensions or disciplinary referrals;
- » Your child is experiencing restraint or seclusion at school;
- » You are frequently being called to pick up your child early because they are "having a bad day" or are engaging in disruptive behavior at school; or
- » Before a behavior plan is written. *See "What is a behavior plan?" in the following section >*

WHAT HAPPENS DURING AN FBA?

The **FBA** starts with a school staff member (possibly a special education teacher, or a behavior specialist) observing your child in different settings, such as the playground and math class, on different days. That person writes down their detailed observations. The IEP team then meets to review what was observed and members add their own observations and thoughts as to why the behavior might be happening. **Parents are crucial to this process** and have a right to be part of it. You know your child and have learned so much about when and why the behaviors happen. Share your expertise with the team during this process.

WHAT DOES A GOOD FBA LOOK LIKE?

To give you an idea of how useful an FBA can be when done thoughtfully, review the following examples.

TRIGGERS AT SETTING EVENTS: WHEN IS THE BEHAVIOR HAPPENING?

USEFUL	UNHELPFUL
The behavior happens at recess and during unstructured times.	Daily, across settings.
The behavior happens when noise in the classroom gets too loud.	At all times, unpredictable.

ANTECEDENT BEHAVIORS: WHAT CLUES DOES THE STUDENT GIVE THAT THE BEHAVIOR IS ABOUT TO HAPPEN?

USEFUL	UNHELPFUL
The student's face turns red, and she raises her voice.	The behavior is unpredictable and happens across all settings at random times.
The student hides under his desk, or fidgets with his pen and push papers away.	The behavior happens when the student is asked to comply with normal classroom expectations.

FUNCTION OR PURPOSE: WHY DOES THE STUDENT ENGAGE IN THIS BEHAVIOR?

USEFUL	UNHELPFUL
The student becomes anxious when presented with too much verbal information to process.	The student is trying to avoid work. The student is trying to gain attention.
The student seeks to escape the embarrassment of situations that might reveal poor reading skills to other students.	
The student seeks to demonstrate competence and mastery by refusing to stop unfinished or imperfectly completed tasks.	

WHAT IS A BEHAVIOR PLAN?

A behavior plan (also called a BIP or BSP) is a set of instructions **for the adults** who work with your child. **It is not a plan for what your child is required to do.** The IEP team uses the information from the FBA to develop the behavior plan. A behavior plan should address the following:

1. ***What is the purpose of the behavior or function of behavior that the team determined during the FBA?***

The behavior theory or function of behavior is the goal of the FBA—it should be the foundation for a behavior plan that will tell staff how to respond effectively to your child’s behavior. A behavior plan that is not based on a good behavior theory is like a house built without a foundation.

Example: If the FBA behavioral theory or purpose is that your child becomes anxious when presented with too much verbal information to process, the plan should instruct adults to reduce their demands and verbal explanations when they see signs of trouble or anxiety. (**Parent tip:** This is a common example of why it is important for the FBA to identify such signs.)

2. *How can staff help eliminate or reduce the triggers and setting events?*

Example: If loud noises are a trigger for your child, can they wear headphones? If transitions lead to behaviors, can the schedule be adjusted to make fewer transitions? Would a visual schedule help? If writing is a trigger, the plan should require adults to be flexible about how and when to ask your child to write.

3. *Teach replacement behaviors. When you look at the function or purpose of the behaviors, is there another way for the student to get that need met?*

This part of the plan focuses on teaching the student new skills that will eventually replace the negative behaviors. (This can also be covered by a behavior goal in the IEP.)

Example: If your child becomes anxious when presented with too much verbal information to process, this part of the plan might encourage your child or teen to learn to flip over a card or give a hand signal to indicate their anxiety level. This gives your child the opportunity to learn another way to communicate their needs to those around them.

4. *How will staff respond when they see antecedent behaviors?*

The behavior plan should list what antecedent behaviors staff should look for, and specific ways they will respond when they see them.

Example: When the student raises his voice and his face gets red, staff will calmly suggest that he can take a walk or change activities to give him space.

5. *How will staff help the student de-escalate if the behaviors escalate?*

Even with the best behavior plan in place, there are times the behaviors will escalate. This part of the plan should focus on the best way to help the student de-escalate as quickly as possible.

Example: If your child is known to escalate when forced to admit a mistake, make sure that the behavior plan specifies that your child is not asked to apologize during de-escalation.

WHAT SHOULD NOT BE PART OF A BEHAVIOR PLAN?

A BEHAVIOR PLAN SHOULD NOT:

- » Be a behavior contract with a list of expectations for the student and consequences for not meeting those expectations.
- » Include half-day or reduced schedules unless you really agree these options are appropriate and necessary for your child to be successful at school.
- » Include negative consequences unless they have been shown to be effective and meaningful for your child.

WHAT HAPPENS IF THE BEHAVIOR PLAN DOES NOT WORK?

If your child's behavior becomes worse or the plan does not result in significant reduction or elimination of the targeted behaviors within a month, you should ask the team to meet and discuss the problem.

The team should first consider whether the problem has been caused by poor implementation—meaning staff have not followed the behavior plan. If that is the problem, the team needs to provide better training or increased supports to ensure that the plan is followed by the adults who work with your child.

On the other hand, if the plan has been properly followed without a good result, the team needs to look at revising the plan and the FBA behavior theory.



Chapter 9: School Discipline

Each school district in Oregon must publish and distribute a student conduct handbook. This handbook describes the school district's expectations for student behavior and lists behaviors that may result in exclusion from school. Some behaviors, such as not following school rules, can result in a short-term exclusion called a **suspension**. More serious behaviors, such as bringing weapons or drugs to school, can result in a long-term exclusion called an **expulsion**. State law does not allow the use of corporal punishment, such as spanking, paddling, or hitting students at school.⁵⁴

CAN MY CHILD BE DISCIPLINED OR SUSPENDED?

In general, students with disabilities can be disciplined to the same extent as children without disabilities and may be suspended if they violate school rules. However, except under a few circumstances, your child cannot be disciplined for behavior that is a manifestation of their disability or the result of staff failure to properly implement their behavior plan. You should also be aware that repeated suspensions of your child may suggest they are not receiving appropriate educational services and trigger additional protections.

If your child is being repeatedly disciplined, you should request a review of your child's IEP and behavior plan (or request a functional behavior assessment and behavior plan, if one has not been developed).

If your child is removed for more than 10 consecutive school days or is subjected to a series of removals that constitute a pattern, those removals are considered a change of placement under special education law. To determine if the removals from school create a pattern, school staff must answer a series of questions.

DETERMINING A PATTERN

- » Is your child's behavior very similar to what caused earlier discipline?
- » For how long has your child been suspended each time?
- » How close together have the suspensions been?

IF MY CHILD IS SUSPENDED, WHAT OBLIGATION DOES THE DISTRICT HAVE TO PROVIDE MY CHILD WITH EDUCATIONAL SERVICES?

After 10 school days of suspension (whether it is a pattern or not), the school must provide services that allow your child to make progress toward IEP goals and have access to the regular education curriculum.

Your child is also entitled to additional protections under the provisions of Senate Bill 819, if they have been removed from school more than 10 days during a school year because of behavior. See [Chapter 1: An Introduction to Special Education](#) > and [Disability Rights Oregon's SB 819 Frequently Asked Questions](#)

CAN STUDENTS WITH DISABILITIES BE EXPELLED?

A school district can expel a student with a disability for misconduct, but not if that misconduct is a manifestation of the student's disability. When a district decides to suspend or expel a student with a disability for more than 10 days, it must hold an IEP meeting within 10 days to determine whether the misconduct was related to the student's disability. This is known as a **manifestation determination**.

The team must make specific factual findings before it can determine that the student's behavior was not disability related. If the team determines that the conduct was not disability related, it may seek to expel the student as it would any other.

Under these circumstances, you must be given notice of the IEP meeting and manifestation determination within a reasonable time before the meeting. You must also be given prior written notice of the intended disciplinary action on the date that the decision to take disciplinary action is made. Finally, you must be given notice of procedural safeguards, which is an explanation of your rights under IDEA.

Even if your child is expelled following a decision that the misconduct was not related to a disability, the school district must still provide services to them in an interim alternative setting. The setting is determined by the IEP team and must allow your child to make progress toward IEP goals and continue to participate in the general school curriculum.

WHAT IS A MANIFESTATION DETERMINATION?

The manifestation determination team decides if your child's misconduct is related to a disability. A team with knowledge about your child must consider all relevant information, including evaluations, your own observations, your child's IEP and placement (including behavior plans), related services, and other supports. The team must determine if:

1. Your child's behavior was caused by, or had a direct and substantial relationship to, his or her disability; or
2. The conduct in question was a direct result of the school district's failure to implement the IEP.

If the answer to either of the above questions is Yes, your child cannot be expelled or disciplined for the behavior.

WHAT IF I DISAGREE WITH THE MANIFESTATION DETERMINATION?

You may request an expedited due process hearing to challenge a manifestation determination or a change of placement arising from misconduct. Under these circumstances, your child is placed in the interim alternative placement during the due process hearing until the decision of the Administrative Law Judge is final, or until the end of the disciplinary removal, whichever occurs first, unless you and the district agree otherwise. [See Chapter 13: Resolving Disagreements](#) >

WHO SHOULD BE PART OF MY CHILD'S MANIFESTATION DETERMINATION TEAM?

A representative of the school district, you, and all relevant members of the IEP team should be included. Together, you and the district determine the relevant members. If there are teachers or counselors at the school who understand your child and your child's behavior, you can ask specifically for those staff members to be part of the manifestation determination team.

If there are professionals such as a private therapist working with your child outside of school, they may have important input to contribute. If you want the input of such individuals to be considered during the manifestation determination, however, it is your responsibility to arrange for their participation or written input.

WHAT IS THE SCHOOL DISTRICT'S OBLIGATION TO REVIEW MY CHILD'S IEP AFTER MY CHILD IS DISCIPLINED?

After a manifestation determination has been completed, regardless of the outcome, **the district must conduct a functional behavior assessment (FBA)**. The IEP team then uses the information gathered from the FBA to develop a behavior plan. If your child already had an FBA and a behavior plan before being disciplined, the district must review and change them as necessary to better address the behavior.

If the team finds that the school did not implement your child's IEP, the school must immediately make changes to address its failures. **You are always entitled to request a review of your child's IEP and behavior plan.** After a disciplinary issue arises, we recommend that you request an IEP meeting and have the team consider whether additional steps would help your child maintain proper behavior.

POSSIBLE STEPS TO MAINTAIN PROPER BEHAVIOR

- » Adding a more structured behavior intervention program to your child's IEP.
- » Adding a related service, such as counseling or an instructional assistant.
- » Adding goals and objectives to help teach your child appropriate social and emotional responses or other skills needed for getting along in a school setting.
- » Increasing the amount of time in a special education program.
- » Changing your child's special education placement to a different and possibly more restrictive setting such as a self-contained classroom, special school, alternative school, or residential program.
- » Reconsidering the behavioral theory that has been used to create the current behavior plan.

EXAMPLES

Below are examples of useful and measurable IEP information, goals, and objectives that would help a child learn appropriate social and emotional responses and skills:

Mary enjoys spending time with her peers but does not manage peer conflicts successfully. Mary exhibits inappropriate verbal behaviors like name calling and teasing at least once per week and has engaged in physically harmful behavior such as pushing and biting on three occasions during the past month.

Mary will learn to use alternate strategies of conflict management in 80% of her peer conflicts.

- » In eight of 10 structured role plays, such as in social skills groups, Mary will identify five situations that lead to conflicts with peers.
- » Mary will identify five behaviors and/or phrases that will help her avoid escalating conflict, such as walking away, taking five breaths, or telling the peer/teacher when she is getting angry.
- » Mary will use her appropriate behaviors and/or phrases during periods of frustration or anger 80% of the time, with prompting.
- » Mary will use her appropriate behaviors and/or phrases during periods of frustration or anger 80% of the time, independently.
- » Mary's use of the above strategies will allow her to reduce incidents of name calling or teasing to two or fewer during any four-week school period.

WHAT IF A STUDENT WITH A DISABILITY BRINGS DRUGS OR WEAPONS TO SCHOOL?

If a student with a disability knowingly carries a weapon to school or to a school function, or if they knowingly use, sell, or solicit the sale of illegal drugs at school or a school function, the school district may place the student in an appropriate interim alternative educational placement for up to 45 days. This placement is considered a safer temporary setting while

the student's appropriate educational placement is being worked out by the parent and district.

During this time, the district must conduct or review the functional behavior assessment and behavior plan for the student and make changes to address the behavior, so it does not recur. A parent who disagrees with an interim placement arising from the student's involvement with a weapon or drugs may request an expedited due process hearing.

WHAT IF MY CHILD PHYSICALLY HARMS OTHERS OR THEMSELVES?

When Congress amended IDEA in 2004, it divided physical harm into three categories, and the district must respond differently to these categories:

1. SERIOUS BODILY INJURY

The school can immediately place your child into an interim alternative placement if your child causes an injury likely to cause death or serious disfigurement.

2. INJURIOUS BEHAVIOR

This is behavior that has not caused a serious bodily injury but is likely to cause injury to your child or others. If your child's behavior falls in this category, the district must request an expedited due process hearing if they wish to place your child into an interim alternative placement.

3. OTHER HARM

This is behavior that would lead to the normal discipline process. The district is allowed to impose up to 10 days of suspension but is required to conduct a manifestation determination if it suspends or removes your child from their classroom for longer than 10 days.

WILL MY CHILD GET SPECIAL EDUCATION IN THE ALTERNATIVE PLACEMENT?

The IEP team must determine what the interim alternative setting will be. The setting **must** still allow your child to progress in the regular education curriculum (although in another setting) and make progress toward IEP goals.

WHAT HAPPENS AFTER THE 45 DAYS IS OVER?

After the 45-day interim placement is over, your child must be returned to his or her current placement (the placement before the interim alternative setting) unless you and the district agree otherwise. If the district believes it is dangerous for your child to return to the current placement while due process proceedings are ongoing, however, it may request an expedited hearing on this issue.

WHAT IF A STUDENT HAS NOT YET BEEN FOUND ELIGIBLE FOR SPECIAL EDUCATION?

If the district knows that a student in regular education has a disability, the student cannot be excluded without following IDEA procedures.

THE DISTRICT IS CONSIDERED TO KNOW THAT THE STUDENT HAS A DISABILITY IF:

- » The parent expressed concern in writing that the student needed special education.
- » The parent requested a special education evaluation.
- » A teacher or other staff expressed concern to the Special Education Director or other supervisor about the behavior or performance of the student.

Even if a district cannot be deemed to have known that the student had a disability, the parent of a regular education student whom the district seeks to exclude may request an expedited evaluation. During the evaluation, the student must remain in the placement determined by the district.⁵⁵



Chapter 10: Transition from Special Education to Adult Services

WHAT ARE TRANSITION SERVICES?

Eligible students are entitled to special education services until the end of the school year during which they turn 21 years of age. The transition from educational services to adult services can often be confusing. Transition services are designed to help the student move from school to employment, further education, adult services, independent living, or other types of community participation. These activities **must** be based on the student's strengths, preferences, and interests.⁵⁶

WHEN DO TRANSITION SERVICES BEGIN?

Under IDEA, transition services must be included in the IEP that will be in effect when a student reaches age 16. Transition services can begin when the student is younger if the IEP team agrees that it is appropriate.⁵⁷

WHO DECIDES WHAT TRANSITION SERVICES MY CHILD WILL GET?

Transition services are decided at the IEP meeting. Besides the usual IEP team members, the school district should invite representatives from other public agencies who are likely to be responsible for providing or paying for transition services. Your child, whose preferences and participation are key transition factors, will also be invited. Because transition services are decided by the IEP team, all your IEP rights apply. [See Chapter 5: Determining Services: The Individualized Education Program \(IEP\) >](#)

WHAT ARE EXAMPLES OF TRANSITION SERVICES?

In considering the activities to include in a transition plan, it is helpful for parents to first discuss their student's desires for vocational, educational, independent living, and other goals for the future.

EXAMPLES OF TRANSITION SERVICES

- » Instruction
- » Community experiences
- » Employment development
- » Vocational evaluation
- » Job training
- » Instruction in daily living skills
- » Post-school adult living objectives

The goals listed on the IEP should be based on an age-appropriate transition assessment.⁵⁸

WHAT IF OTHER AGENCIES DON'T PROVIDE A TRANSITION SERVICE?

If an agency other than the school district (e.g., Vocational Rehabilitation) does not provide the agreed-upon services, the IEP team must meet to develop other approaches to achieve the transition objectives.

PARENT TIP:

In these situations, you can request the district provide the needed transition service or support. If the district refuses, you have the same right to file a complaint or request mediation that you would if the district failed to provide any other special education service or support.

CAN MY CHILD CONTINUE TO GET SPECIAL EDUCATION IF THEY GRADUATE WITH A REGULAR DIPLOMA?

School districts are not required to continue providing special education to students with disabilities who have graduated with a **regular** high school diploma. Other types of diplomas or certificates of attendance, however, do not end a student's right to continue receiving special education services.

Students who have not received a regular diploma by age 18 still have the right to continue receiving special education services until the end of the school year during which they reach age 21.

CAN MY 18-YEAR-OLD MAKE EDUCATIONAL DECISIONS WITHOUT ME?

Yes. In Oregon, a child becomes a legal adult at age 18. Beginning at least one year before a child turns 18, the school district must inform you and your child of rights under IDEA that will transfer to your child. This must be documented on the transition plan. You must continue to be notified in writing of action the school district wants to take or refuses to take regarding education services, including IEP meeting notices, but all other IDEA rights transfer to your child.

Your school district will give your child a copy of the Oregon Department of Education (ODE) Notice of Procedural Safeguards at the IEP meeting closest to his or her 17th birthday and inform you and your child that special education rights will transfer at age 18. Your child will also receive a written notice that these rights have transferred after his or her 18th birthday.⁵⁹

WHAT IF I THINK MY 18-YEAR-OLD IS UNABLE TO BE AN EFFECTIVE SELF-ADVOCATE?

IN THIS SITUATION, YOU COULD CONSIDER TWO OPTIONS:

1. One option is to request that the district appoint an educational surrogate. An educational surrogate has the power to represent a student with disabilities in IEP meetings and make all decisions related to special education. If you request that the district appoint an educational surrogate, that person cannot be a district employee and must have sufficient knowledge about the student to represent the student's educational interests. You can also request that the district appoint you to be your adult-aged child's educational surrogate.
2. A second, more extreme option is to become your adult child's legal guardian. Guardians, however, may only be appointed by the courts under specific circumstances. There are different types of guardians; some make all decisions for the person with disabilities while others make only limited kinds of decisions.

If you believe your adult child might need a guardian, the Oregon State Bar Lawyer Referral Service can help you find a lawyer who practices guardianship law. Your child's school district does not have the power to insist that you become your child's guardian.

For more detailed information on guardianship, visit droregon.org/guardianship.

Chapter 11: Notice Rules and Importance of Prior Written Notice

WHAT IS PRIOR WRITTEN NOTICE?

In the world of special education, one of the most important and least used rights of every parent is the right to receive a written notice and explanation of important district decisions about your child's education. Under special education law, that written notice and explanation are called **Prior Written Notice**.

The requirement for Prior Written Notice means that districts are not allowed to make important educational decisions without letting you know about those decisions in writing beforehand. Your right to receive Prior Written Notice is particularly useful when your requests for changes in your child's special education program are continually brushed off without any response or explanation. This often takes the form of a teacher or building principal saying something like, "Let's hold off on that for a while and see how things go."

WHEN PRIOR WRITTEN NOTICE IS REQUIRED

THE SCHOOL DISTRICT MUST GIVE YOU PRIOR WRITTEN NOTICE WHEN IT:

- » Identifies your child as a student with a disability.
- » Changes the category of your child's disability.
- » Evaluates or re-evaluates your child.
- » Plans to develop, review, or change your child's IEP and related services.
- » Changes any part of your child's IEP.
- » Places your child in a special education program.
- » Changes your child's special education placement.

The school district must also give you Prior Written Notice whenever it refuses your request about any of the previous decisions.

PARENT TIP:

The requirement for Prior Written Notice gives you a way to avoid situations where you want changes to your child’s special education program but cannot get a straight answer from the school district.

TO USE PRIOR WRITTEN NOTICE EFFECTIVELY, YOU SHOULD ALWAYS:

- » Make all requests for important changes to your child’s special education program in writing with a letter or an email to the district Special Education Director—not to the school principal or your child’s teacher.
- » End your email or letter with a request for Prior Written Notice if the district refuses or is unable to provide whatever you requested. See [*Model Letter #1: Request to School District*](#) > and [*Prior Written Notice*](#) >

Including a request for Prior Written Notice at the end of your request to the district triggers its legal responsibility to respond in a reasonable time and provide a written explanation if it refuses to provide the requested action or service. A district failure to provide adequate Prior Written Notice within a reasonable time is a violation of law that can be the basis of a complaint to the Oregon Department of Education. For that reason, it is an effective tool that every parent of a child who receives special education should know how to use.

Special Education law also requires notice in the form of a written response from the Oregon Department of Education (ODE) if you request a due process hearing. In that situation, ODE must give you written acknowledgment and notice of procedural rights.⁶⁰

WHAT MUST PRIOR WRITTEN NOTICE INCLUDE?

A LEGALLY SUFFICIENT PRIOR WRITTEN NOTICE FROM YOUR CHILD'S SCHOOL DISTRICT MUST:

- » Describe action(s) the school district wants to take or refuses to take.
- » Explain the reason(s) for the district's decision.
- » List and explain any options the school district considered and why those options were rejected.
- » List all evaluations, tests, records, and reports the school district used as a basis for the action or refusal.
- » Detail any other relevant factors that the district considered.
- » State the protections that you have under the procedural safeguards of IDEA and, if the notice is not an initial referral for evaluation, explain how you can obtain a copy of the ODE's Notice of Procedural Safeguards.
- » Include resources for you to contact for assistance in understanding your procedural rights.

A legally sufficient Prior Written Notice must also be written in your native language and be clear enough that most people could understand it. The school district must also try to help you understand the notice if you cannot. If you receive a notice that you cannot understand, you should ask the school district for more information in a letter or an email.⁶¹



Chapter 12: Preparing for Meetings

WHAT CAN I DO TO ADVOCATE FOR MY CHILD?

As a parent of a student with disabilities, you know your child better than anyone else, and you are a critical member of the IEP team.

HOW TO BE AN EFFECTIVE ADVOCATE FOR YOUR CHILD

- » Know your child's rights and your rights as a parent and be assertive about them.
- » Learn everything you possibly can about your child's abilities and disabilities.
- » Seek out other parents and organizations for information, support, and emerging educational practices.
- » Learn to recognize a quality school program.
- » Attend all meetings concerning your child.
- » Keep copies of your child's records.
- » Encourage your child's teachers to keep you informed of progress or problems.
- » Ask questions and share information concerning your child—let the teacher and the school district know how you feel about your child's program.
- » Make sure that whenever you are requesting anything important from the school district, you do so in writing—even if you have already made your request orally. *See Chapter 11: Notice Rules and Prior Written Notice >*

You are a valuable and equal member of the IEP team and any group that makes decisions about your child.

At the beginning of each meeting, express the issues you want to have resolved at the meeting if you have not already done this in writing prior to the meeting. While you may feel intimidated at meetings by the number of school district personnel sitting around the table, **it is crucial for you to be assertive in explaining your positions and concerns.** You will feel more confident at meetings if you take the time to prepare.

HOW CAN I PREPARE BEFORE A MEETING?

- » Visit the classroom to watch your child at school.
- » Review information in your child's records, including evaluation results.
- » Think about your questions and concerns and bring them up at the meeting.
- » If appropriate, talk with your child about their feelings about school, subjects, and classmates.
- » Request in writing that you receive any proposed goals or changes to the IEP two weeks prior to any IEP meeting.
- » Provide areas of concern ahead of time to be added and/or propose your own goals ahead of time, if possible.

HOW CAN I BE MORE EFFECTIVE AT THE MEETING?

- » Bring a friend or advocate to the meeting to take notes so you can concentrate on the discussion.
- » Send any new medical documents or reports from outside specialists that you want the team to consider to the district Special Education Director and the case manager. Send the new reports one to two weeks before the IEP meeting.
- » Tell the team about your observations of your child's positive and negative behaviors, changes in the family or home that might affect your child's learning, how your child learns best, what works as positive reinforcement for your child, and your understanding of your child's self-help skills.
- » Tell the team about your suggestions for goals and objectives, related services, supports, modifications, and placement.
- » If you expect a lot of disagreement, consider requesting a facilitated IEP meeting.⁶²
- » Work towards consensus. There is no majority vote at an IEP meeting.

CAN I RECORD THE MEETING?

Because the process is about reaching agreement, you are free to ask for things that are not normally provided by the district.

You should recognize that there are times when recording can negatively affect the tone and result of an IEP meeting. Instead of recording in such circumstances, consider bringing a friend, relative, or advocate who can take notes and provide support.⁶³

If you decide to record the meeting, Oregon law **requires** you to give notice you are recording the conversation. While consent is not required, insisting on recording the meeting over the school's objection could increase the tension between members of the IEP team.⁶⁴



Chapter 13: Resolving Disagreements

There will be times when parents and school district staff disagree about a student's special education. Disagreements can occur in any area of a student's special education program. There are informal and formal methods parents may use to try to solve problems with the school. In general, it's best to contact the school to try to work out problems as soon as they occur.

WHAT IS MY FIRST STEP?

Talk with your child's teacher or others involved in the dispute. Write a letter or email to the district Special Education Director and the case manager outlining your concerns and what you want done about the problem. Ask for a written response by asking the district to provide Prior Written Notice at the end of your letter or email. Ask for an IEP meeting to work out the problem.

The appropriate person to contact at school districts will vary depending on the size of the district. If the school district has a special education director, contact that person. If there is no special education director in your district, call the district office and ask who deals with special education issues. In some small districts, that contact person may be the principal or superintendent. [See Chapter 14: Writing to School District Administrators >](#)

There are four major tools available for solving special education disputes between parents and districts in Oregon.

In order from the least formal to the most formal, they are:

1. Facilitated IEP meeting
2. Mediation
3. Oregon Department of Education (ODE) complaint
4. Due process hearing

Some disputes are better resolved under other laws. **To see whether your problem may be best addressed under one of these laws, [see ODE's chart >](#).**

WHAT IS A FACILITATED IEP MEETING?

A **facilitated IEP meeting** is a process available when communication between parents and the district has become ineffective and difficult. In these meetings, an impartial facilitator controls the process. Because the facilitator is not a member of the IEP team and cannot make any decisions, the team still makes all the decisions related to the student. The role of the facilitator is to minimize conflicts and help the team stay focused on developing the IEP. Parents can request IEP facilitation as an early dispute resolution tool before communication completely breaks down between team members. The district, however, is not legally required to provide a facilitated IEP meeting.⁶⁵

WHAT IS MEDIATION?

Mediation is another optional and voluntary process available to parents for resolving conflicts or communication problems with a school district. In mediation, parents and the school district agree to use a third, neutral person called a mediator who is impartial, trained in mediation techniques, and has knowledge of IDEA to help them solve problems. Unlike facilitated IEP meetings, however, mediation is provided by the Oregon Department of Education (ODE) at no cost to parents or school district. You can contact the ODE's Mediation Coordinator at (503) 947-5797 to request mediation.

An advantage of mediation over some other more formal ways to resolve disputes is it does not limit the sorts of agreements that might satisfy you and the district. As a result, you should make a list of services or programs that you think would help your child get back on track before the mediation begins. Because the process is about reaching agreement, you are not limited to asking for things that are not normally provided by the district.

Information exchanged in mediation is confidential. Both parties will normally be required to sign a pledge of confidentiality. The mediator helps both parties express their views and attempts to resolve the problem. Neither party must agree to a solution at mediation. If an agreement is reached, however, the mediator then puts the agreement in writing. The participants sign this agreement at the end of the mediation session or shortly thereafter. Parents and school district will receive a copy of the signed mediation agreement. This agreement is "legally binding" and enforceable, but only if you are able and willing to go to U.S. District court where a judge can order you or the district to follow through with the agreements made in mediation. There is no way to make a district comply with a mediation agreement without going to court.⁶⁶

WHAT IS AN ODE ADMINISTRATIVE COMPLAINT?

A special education complaint to the Oregon Department of Education is often called an **ODE complaint** or an **administrative complaint**. It is a formal complaint process that can be used when parents think that the school district or ODE has violated federal laws by failing to provide a free and appropriate education or by failing to follow required procedures.

ODE complaints are limited to issues that have occurred during the 12 months before the complaint was filed. You can include facts about earlier events, however, to explain the situation. ODE's complaint system may result in improved services to a child without going through the expense, time, and trouble of a due process hearing. ODE complaints trigger a state investigation and are best suited to particular sorts of disputes.⁶⁷

HOW DO I FILE AN ODE COMPLAINT?

The process begins when you write and sign a letter of complaint to ODE stating and explaining how you believe a school district has violated federal law. You can only include issues that have occurred in the last calendar year. Once the complaint has been received, ODE will investigate the alleged violations.

To file an ODE complaint, use [Model Letter #4](#) >, or use [ODE's Request for Complaint Investigation Form](#).⁶⁸

Make sure to include how you think the problem(s) should be solved. Request whatever actions are necessary to correct the violation. **You MUST send a copy of your complaint to your child's school district at the same time you file it with ODE.**

HOW LONG DOES THE INVESTIGATION TAKE?

Once received, ODE must respond to your complaint within 10 business days and complete its investigation within 60 days, also giving the school district the chance to respond to your complaint. If there are exceptional circumstances, ODE may extend the time for providing a written decision, called a written order, of its findings.

HOW CAN A COMPLAINT RESOLVE MY DISAGREEMENT?

If the complaint investigation finds violations of the law, ODE has the power to issue orders requiring a school district to:

- » Correct policies and/or procedures.
- » Train personnel.
- » Hold an IEP meeting with an impartial IEP facilitator or conduct evaluations.
- » Provide compensatory education⁶⁹—additional services like tutoring that are necessary to make up for education your child did not receive. (See also Requesting Compensatory Education Due to Covid-19⁷⁰).
- » Take other actions to bring districts into compliance with state and federal special education laws.

ODE's complaint system may result in improved services for your child without going through the expense, time, and trouble of a due process hearing. If you are unhappy with the results, you have 60 days to appeal to a circuit court of proper jurisdiction—this is either Marion County or the county court where your school district is located. You may still ask for a due process hearing or try mediation on the same violations for which you filed your ODE complaint.⁷¹

WHAT IS A DUE PROCESS HEARING?

A **due process hearing** is a formal administrative proceeding that resembles a trial in many ways. In a due process hearing, school districts and parents present witnesses, evidence, and arguments to support their positions. An impartial Administrative Law Judge hears the evidence, decides each issue, and has the power to order corrective action as needed. Because due process hearings are often costly, long, and emotionally draining, it is usually best to try other less formal processes first.⁷²

DO I NEED AN ATTORNEY?

In Oregon, school districts must be represented by an attorney at due process hearings. Although it is not required, for most parents it is a good idea to seek legal advice and representation for a due process hearing. ODE must advise you of low-cost or free legal services. If you win at the hearing, the Administrative Law Judge **may** require the

district to pay for your attorney's fees. There are several factors that affect whether your attorney will be paid for by the district. Consult with a private attorney to obtain more information about due process and fees.

HOW DO I REQUEST A DUE PROCESS HEARING?

The process begins when you or your attorney send a request for a due process hearing to the State Superintendent of Public Instruction. You or the attorney representing your child must also provide notice of the hearing request to the school district. At a minimum, the following information must be included in the request: your child's name, address, school, problem(s) in clear detail, and proposed solutions to the problem(s). You are not entitled to a hearing until you file a request that includes this information. [See Model Letter #4 to request a due process hearing >](#)

You can also contact the ODE Office of Student Learning and Partnerships Dispute Resolution Section at (503) 947- 5689, and request a Due Process Hearing Information Packet for more detailed information. Although an ODE complaint can only address violations that occurred within one year of filing, a Due Process complaint allows you to complain about violations of law that occurred within two years before your complaint is filed. The two-year timeline doesn't apply if you were unable to request a hearing because the school district misrepresented that it had solved the problem or failed to provide you with required information.⁷³

WHAT HAPPENS AFTER I MAKE MY REQUEST?

An Administrative Law Judge (ALJ) is appointed by the Office of Administrative Hearings. By law, the ALJ must be impartial and have knowledge of state and federal special education statutes and regulations. The ALJ will set up a pre-hearing conference, and then notify the parties of the date, time, and location of the hearing. The date, time, and location must be convenient for you.

If you file the hearing request, the school district has 15 days to notify the ALJ of any problems it has with your notice. The same timeline of 15 days applies to you if the district files the hearing request. The ALJ decides within five days whether the notice follows the rules and then notifies both you and the district of the decision in writing.

You can correct problems with your hearing request by sending another request if the district agrees in writing, or if the ALJ agrees, and it is more than five days before the hearing. Keep in mind that sending another hearing request restarts the due process hearing process timelines. The district must send you a written notice of special education action related to the issues raised in your hearing request within 10 days if they haven't done so already. Otherwise, after receiving your hearing request the district has 10 days to address the issues raised in your hearing request.

Before the actual hearing, IDEA has created a settlement meeting called a **resolution session** in which parents and districts can try one last time to work out an agreement to avoid a due process hearing within 15 days of a hearing request. Resolution sessions are not mandatory if both sides agree in writing to waive the meeting.⁷⁴

The school district can only have an attorney present at the resolution meeting if you bring an attorney. It is important to remember that if the district desires a resolution session and schedules it reasonably to allow your participation, your complaint can be dismissed by the ALJ if you fail to attend.

WHAT IS THE STAY-PUT RULE?

You have the right for your child to remain in his or her current placement after requesting a due process hearing. This is called the **stay-put rule**.

Under stay-put, your child stays in the current placement until the Administrative Law Judge decides the issue, or until the parties agree to a different placement.

There are exceptions to the stay-put rule for children who have brought illegal drugs or weapons to school or school events or have caused serious bodily injury to themselves or others. If any of these exceptions applies to your situation, your child is not entitled to stay in the current educational placement while issues are resolved through the hearing process.⁷⁵

WHAT ARE MY DUE PROCESS HEARING RIGHTS?

You have the right to:

- » Have the hearing at a time and place convenient for you.
- » Have either an open or private hearing.
- » Present evidence at the hearing.
- » View all written material supporting the school district's position at least five days before the hearing, just as the school district has the right to view all your evidence five days before the hearing. Evidence which has not been shared with the other party five days before the hearing may be excluded.
- » Ask questions of the school district's witnesses.
- » Demand the attendance of witnesses.
- » Have your child present at the hearing.
- » A written or electronic transcript of the hearing.
- » Written or electronic findings of facts and decisions within 45 calendar days after the end of the resolution period. This timeline may be extended by the Administrative Law Judge (ALJ) at the reasonable request of either party. For example, an ALJ may agree to an extension to get the results of an independent evaluation.
- » Bring an attorney or an advocate to the hearing.

If you win at a due process hearing or on appeal, the school district will ordinarily (but not always) be required to pay your attorney fees.⁷⁶

CAN I APPEAL A DUE PROCESS HEARING DECISION?

In general, you cannot go to court about matters related to your child's special education without first going through a due process hearing and receiving a final written decision and order from an Administrative Law Judge. Once that occurs, however, you do have a right to appeal the due process outcome in state or federal court—but filing an appeal is a complex process that is not something you should attempt without legal advice.

Consult the Oregon Department of Education (ODE) website under Dispute Resolution for additional information on appealing a due process hearing decision.⁷⁷

Chapter 14: Writing to School District Administrators

WHY SHOULD I WRITE TO DISTRICT ADMINISTRATORS?

As a rule, it is important to have a good written record, especially if you feel that your child is not receiving adequate special education services.

Letters or emails to the Special Education Director are important tools that help clarify and resolve disagreements. If disagreements continue, letters or emails may also be useful in due process hearings or ODE complaint investigations. It is a good idea to write to the Special Education Director to confirm agreements or promises of additional services. Your letters or emails should state your understanding of the conversations to assure that you and the school district have the same understanding. Your letters and emails also provide written records of the agreement.

When needed, you can send copies of your letter or email to others in authority to get them involved or keep them informed, but sending your letter or email to the district's Director of Special Education allows you to make sure that the district is accountable for its actions.

Hard copies of written letters and emails serve the same purpose, but emails record the day and time your complaint was sent.

SOME COMMON REASONS TO WRITE LETTERS OR EMAILS TO THE DISTRICT SPECIAL EDUCATION DIRECTOR

- » To request an evaluation.
- » To disagree with the district's evaluation and to notify the district of your intent to obtain an independent evaluation.
- » To request an IEP or a change in the IEP.
- » To express concern about your child's placement and request a new placement.
- » To express concern about or request related services.
- » To request reimbursement for private school.

- » To request an inspection of your child’s records.
- » To consent or to refuse consent for your child’s first evaluation or first special education placement.
- » To request mediation or a due process hearing.

WHO SHOULD GET MY LETTER OR EMAIL?

SEND LETTERS OR EMAILS DIRECTLY TO THE SPECIAL EDUCATION DIRECTOR.

Sometimes it can be useful to send copies to the superintendent, principal, or classroom teacher, but it is essential to contact the district Special Education Director. **Keep a copy of every letter or email that you send.** When you are writing regarding serious complaints, you might want to send the letter by certified mail with return receipt requested. Put both the return receipt and your copy of the letter in the file you are keeping for your child. If you are contacting the Special Education Director by email, you already have a record of having sent the email in your “sent” folder. Also, you can simply request an email response to confirm receipt within a reasonable period (e.g., one week or 10 days.)

Regardless of whether you use a written letter or email to contact the Special Education Director, you should always end with a request for Prior Written Notice if the district is unwilling or unable to do what you have asked.

WHAT IF I DON’T GET A RESPONSE TO MY LETTER OR EMAIL?

Check back with the Special Education Director to see that your letter or email was received. If the district does not respond, send another email or letter by certified mail. If you get a response but it is not satisfactory, check with someone else in the district with more authority. You may want to contact the Oregon Department of Education or resources in the community, including an attorney, to obtain advice or short-term assistance. Mediation and other approaches may also help to solve the problem. An unreasonably extended district failure to respond to a Prior Written Notice request is a violation of special education law that can become a basis for an ODE complaint. [*See Chapter 13: Resolving Disagreements*](#) >

MODEL LETTER #1: REQUEST TO SCHOOL DISTRICT

[Your Name]

[Your Street Address]

[Your City, State, and Zip Code]

[Your Area Code and Phone Number]

[Your E-mail Address]

[Date of the letter]

[Name of Special Education Director (or Superintendent)]

[School District Name]

[School District Address]

[City, State, Zip Code]

Dear [Name of Special Education Director (or Superintendent)]:

My/our child [name of child], is a resident of [name of district]. Currently, [name of child] attends [school, class, program, etc.]. [Name of child] has [brief description of disability] and qualifies for special education services under the Individuals with Disabilities Education Improvement Act (IDEA).

[Describe the problem. If there are several, list and number them separately. Include facts and dates if you have them].

[Describe the steps you have taken to resolve the problem(s): who you talked to, when, what happened, etc. This might include meetings you have had, letters you have written, agreements you thought were made, etc.].

[Make specific requests for solving the problem(s) and include any information that supports your position].

I/we understand that under IDEA, I/we have the right to prior written notice anytime the school district proposes or refuses to initiate or change the identification, evaluation or educational placement, or the provision of a free and appropriate education to my/our student. Please provide me/us with a written response and Prior Written Notice to my/our request by [list date by which you want a response; usually 10 working days is more than reasonable].

Thank you.

Sincerely,

[Your Signature(s)]

[Your Name(s)]

cc: [Student's Name] Permanent School File

**MODEL LETTER #2: FOLLOW-UP LETTER TO A DISCUSSION
WITH THE SCHOOL DISTRICT**

[Your Name]

[Your Street Address]

[Your City, State, and Zip Code]

[Your Area Code and Phone Number]

[Your E-mail Address]

[Date of the letter]

[Name of Special Education Director (or Superintendent)]

[School District Name]

[School District Address]

[City, State, Zip Code]

RE: [Student's Name, Date of Birth] Dear [Name of Person]:

We are the parents of [name of child], who is currently attending [name of school], in the [type of class or grade].

Our understanding of our [meeting or phone conversation] on [date] is: [state your interpretation]. If you have not contacted us within ten (10) days, we will assume our understanding is correct.

Sincerely,

[Your Signature(s)]

[Your Name(s)]

cc: [Student's Name] Permanent School File

MODEL LETTER #3: COMPLAINT TO ODE

[Your Name]

[Your Street Address]

[Your City, State, and Zip Code]

[Your Area Code and Phone Number]

[Your E-mail Address]

[Date of the letter]

[Name of current State Superintendent of Public Instruction]

State Superintendent of Public Instruction, Oregon Department of Education

255 Capitol Street NE

Salem, OR 97310-0203

Dear [Name of current State Superintendent of Public Instruction]:

Our child, [student's name], attends [school your child attends] and has [your child's disability/disabilities]. We are requesting, in accordance with Oregon Administrative Rule 581-015-2030, that the Oregon Department of Education investigate our allegations that the [name of the school district] has violated federal law and regulations. We have outlined the following allegations and have supplied information to support our charges:

[Each allegation should be clearly written, and brief information furnished. Supporting documents such as IEPs, evaluations and/or progress reports should be attached. Keep copies!] (Example: XYZ School District changed my child's placement without informing me or convening an IEP meeting when it reduced his access to the general a general education classroom from four hours per school day to one 20-minute greeting activity and an afternoon 45-minute art class.)

We have sent a copy of this complaint to our child's school district. It is our understanding that the complaint will be investigated and resolved within 60 days of receipt.

As a corrective action we would like [include suggestions for correcting the violations].

We are available on [days and times that are convenient for you] if you wish to discuss these allegations. Should you require us to furnish additional information or materials, please let us know.

Sincerely,

[Your Signature(s)]

[Your Name(s)]

cc: [Director of Special Education in your district]

[Principal of School]

[Current Assistant Superintendent of Student Learning and Partnerships]

MODEL LETTER #4: REQUEST FOR A DUE PROCESS HEARING

TO: [Name of current State Superintendent of Public Instruction]
State Superintendent of Public Instruction, Oregon Department of Education
255 Capitol Street NE
Salem, OR 97310-0203

And: [Name of Special Education Director (or Superintendent)]
[School District Name]
[School District Address]
[City, State, Zip Code]

1. Parent information:

[Your Name]
[Your Street Address]
[City, State, Zip Code]
[Your Telephone Number]
[Your Email]
[Your Relationship to Your Child]

2. Child information:

[Your Child's Name]
[Your Child's Date of Birth]
[Your Child's Street Address or Contact Information]
[Your Child's City, State, Zip Code]
[School or Program Your Child Attends]

3. Legal representation: (if any)

[Attorney Name/Firm]
[Attorney Street Address]
[City, State, Zip Code]
[Attorney Telephone]
[Attorney E-mail]

4. Problem: Describe the problem and the specific actions that the school district or EI/ECSE program has taken or refused to take. Include facts about the problem. Attach more pages as needed.

5. Proposed solution: Describe what you think needs to be done to solve the problem, if you know or have any specific ideas at this time. Attach more pages as needed.

6. Mediation:

- a. Would you agree to try mediation to resolve this dispute? [Answer Yes or No]
If Yes: (For parents): I authorize the school district and ODE to share educational information with the mediator about my child’s identity, educational needs, and information pertinent to the mediation. I understand the mediator will keep this information confidential.

Parent signature: _____ Date: _____

- b. Would you like more written information about mediation? [Answer Yes or No]
- c. Would you like to talk to another parent about mediation? [Answer Yes or No]

7. Scheduling resolution session:

Indicate all dates and times in the next 15-17 days when you would be available to meet for a resolution session. Example: If your hearing request will be received on or about July 10, 2025, identify all dates and times you would be available for a resolution session between July 11 and July 25, 2025.

8. Scheduling pre-hearing conference:

Indicate all dates in the 30-40 days following your hearing request when you would be available for a pre-hearing conference.

Example: If your hearing request will be received on or about July 1, 2025, identify all dates and times you would be available for a pre-hearing conference between August 1 and 10, 2025.

Signature: _____ Date: _____

(Print Name): _____

Signature: _____ Date: _____

(Print Name): _____

Letter courtesy of the Oregon Department of Education (ODE).

Visit the ODE website for the [Due Process Hearing Information Sheet](#) and [Hearing Request Form](#).

NOTE:

It is not necessary that you use this form if the required information is included in your request for a due process hearing. [See Chapter 13: Resolving Disagreements >](#)

ODE CHART – OPTIONS FOR COMPLAINTS NOT WITHIN IDEA

TYPE OF CONCERN	WHERE TO TURN
<p>Discrimination (age, disability, national origin, race, sex, marital status, religion)</p>	<p>File a complaint with school district or program equal educational opportunity or Section 504 compliance officer; ODE review under OAR 581- 021-0049.</p> <p>File a complaint with Office for Civil Rights, U.S. Department of Education:</p> <p>915 Second Avenue, Room 3310 Seattle, WA 98174-1099 Telephone: 206-220-7900 Fax: 206-220-7887</p> <p>TDD: 877-521-2172 E-mail: OCR.Seattle@ed.gov (within 180 days of alleged discrimination)</p>
<p>Section 504 issue related to identification, evaluation, and provision of a free appropriate education or educational placement of student with a disability</p>	<p>Request a hearing under OAR 581-015-0109.</p> <p>File a complaint with district or program equal educational opportunity or Section 504 compliance officer; ODE review under OAR 581-021-0049.</p> <p>File a complaint with Office for Civil Rights, U.S. Department of Education:</p> <p>915 Second Avenue, Room 3310 Seattle, WA 98174-1099 Tel: 206-220-7900 Fax: 206-220-7887</p> <p>TDD: 877-521-2172 E-mail: OCR.Seattle@ed.gov (within 180 days of alleged discrimination)</p>

<p>School records violation</p> <p>Complaint about inaccurate, misleading, or private information in the child’s educational record</p> <p>Violations of the Family Education Rights and Privacy Act (FERPA)</p>	<p>File a complaint with the custodian of student records at the school district or program.</p> <p>Request an amendment to the child’s educational record under OAR 581-021-0300 to 0320.</p> <p>File a complaint with the Family Policy Compliance Office:</p> <p>U.S. Department of Education 400 Maryland Ave SW Washington, D.C. 20202-5920</p>
<p>Complaint about specific teacher or administrator</p> <p>Serious violations that may affect teacher or administrator licensure</p>	<p>School district/program complaint procedure.</p> <p>Contact Teacher Standards and Practices Commission:</p> <p>465 Commercial St NE Salem, OR 97301</p>
<p>Complaint about ODE school standards (including TAG)</p>	<p>Use the school district complaint procedure; ODE appeal under OAR 581-022-1940.</p>
<p>Complaint about district use of shortened school day without parental consent or other SB 819 violations</p>	<p>File a complaint with ODE by emailing ODE.SB819Complaints@ode.oregon.gov.</p> <p>For answers to your SB 819 questions, visit ODE and Disability Rights Oregon online.</p>

Resources

These agencies provide additional information to parents, students and advocates about rights under special education law:

FACT OREGON

Phone: (888) 988-3228 | Fax: (503) 227-0346

Email: info@factoregon.org | Website: www.factoregon.org

FAMILY CENTER ON TECHNOLOGY AND DISABILITY (FCTD)

Phone: (202) 884-8068 | Fax: (202) 884-8441

Email: fctd@fhi360.org | Website: www.fctd.info

NATIONAL DISSEMINATION CENTER FOR CHILDREN WITH DISABILITIES (NICHCY)

Phone/TTY: (800) 695-0285 | Fax: (202) 884-8441

Email: nichcy@fhi360.org | Website: www.nichcy.org

OREGON DEPARTMENT OF EDUCATION (ODE)

Phone: (503) 947-5600 | TDD: (503) 378-2892 | Fax: (503) 378-5156

Website: www.ode.state.or.us

OREGON DEPARTMENT OF HUMAN SERVICES, DEVELOPMENTAL DISABILITY SERVICES

Phone: (503) 945-5811 or (800) 282-8096 | TTY: (800) 282-8096

Email: ODDS.INFO@state.or.us | Website: www.oregon.gov/DHS/dd

OREGON TECHNOLOGY ACCESS PROGRAM (OTAP)

Voice: (541) 440-4791 | Fax: (541)957 4808

Website: www.otap-oregon.org

ACCESS TECHNOLOGIES, INC. (ATI)

Email: info@accesstechnologiesinc.org | Website: www.accesstechnologiesinc.org

Salem, OR

Phone/TTY: (503) 361-1201 | Phone/TTY: (800) 677-7512 | Fax: (503) 370-4530

Portland State University

Voice/TTY: (503) 725-8395 | Fax: (503) 725-6397

THE ARC OF OREGON

Phone: (877) 581-2726 or (503) 581-2726 | Fax: (503) 363-7168

Email: info@arcoregon.org | Website: www.arcoregon.org

OREGON DEPARTMENT OF HUMAN SERVICES, DEVELOPMENTAL DISABILITY SERVICES

Phone: (503) 945-5811 or (800) 282-8096 | TTY: (800) 282-8096

Email: ODDS.INFO@state.or.us | Website: www.oregon.gov/DHS/dd

OREGON DEPARTMENT OF HUMAN SERVICES, OFFICE OF VOCATIONAL REHABILITATION SERVICES (OVR)

Phone: (503) 945-5880 or (877) 277-0513

TTY: Please use the text or video relay service of your choice. Fax: (503) 947-5010

Email: vr.info@state.or.us | Website: www.oregon.gov/DHS/vr

Parents may need to seek legal advice about their child's rights and services under IDEA and other federal laws. Contact your private attorney or these resources:

DISABILITY RIGHTS OREGON (DRO)

Phone: (503) 243-2081 or (800) 452-1694 | Fax: (503) 243-1738

Email: welcome@droregon.org | Website: www.droregon.org

YOUTH, RIGHTS & JUSTICE (YRJ)

Phone: (503) 232-2540

Email: info@youthrightsjustice.org | Website: www.youthrightsjustice.org

OREGON LAW CENTER (OLC) / LEGAL AID SERVICES OF OREGON (LASO)

OLC website: www.oregonlawcenter.org

LASO website: lasoregon.org

OREGON STATE BAR – LAWYER REFERRAL SERVICE

Phone: (503) 684-3763 or (800) 452-7636

Website: www.osbar.org

These agencies work in partnership with Disability Rights Oregon to increase the integration and inclusion of all Oregonians with developmental disabilities in their communities.

OREGON COUNCIL ON DEVELOPMENTAL DISABILITIES (OCDD)

Phone: (503) 945-9941 or (800) 292-4154 | Fax: (503) 945-9947

Email: ocdd@ocdd.org | Website: www.ocdd.org

UNIVERSITY CENTERS FOR EXCELLENCE IN DEVELOPMENTAL DISABILITIES EDUCATION, RESEARCH, AND SERVICE (UCEDDS)

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Glossary

Assistive technology (AT)—Any kind of technology that makes it easier for someone with a disability to maintain or improve functional independence in activities like learning, working, walking, or speaking.

Assistive technology service—Any service that directly helps a student with a disability use equipment to maintain or increase capabilities. This includes evaluation services.

Augmentative and Alternative Communication (ACC)—Any system that supplements or replaces speech as the primary mode of communication. Examples are sign language, picture-based systems such as PECS, written language, and electronic devices such as “button boxes” that allow the user to visually choose words or phrases which are then vocalized by the device. Many ACC systems can now be loaded onto laptops.

Behavior plan (BP) or Positive Behavior Plan—A comprehensive plan outlining specific steps to promote a child’s success and participation in daily activities and routines. It is a set of instructions for the adults who work with your child. It is **not** a plan for what your child is required to do. The IEP team uses the information from the FBA to develop the behavior plan.

Continuum of placement—The scope of placements where an IEP can be implemented, ranging from less to more restrictive.

Due process hearing—A formal administrative proceeding that resembles a trial in many ways. An administrative law judge hears the evidence from both sides and decides the issue.

Extended School Year (ESY) services—Special education services continued during the summer and/or other times that school is not in session so a child can maintain the skills learned during the regular school year, as identified on the IEP goals.

Evaluation—The assessment of a child’s abilities and disabilities. This includes observations of the child, medical information, information provided by the parents, and testing by specialists. Testing may include health, vision, intelligence, hearing, communication, and motor assessments.

Expulsion—Long-term exclusion from school.

Facilitated IEP meeting—An impartial facilitator controls the IEP meeting process when communication between parents and the school district has broken down. This allows the IEP team to make decisions regarding the IEP. IEP facilitation is not a part of IDEA—school districts are not legally required to provide a facilitated IEP meeting.

Free Appropriate Public Education (FAPE) includes all the following components:

- » Instruction that is specially designed to meet a child’s unique needs, based upon a complete evaluation of the child.
- » All related services necessary to help the child benefit from special education are provided.
- » The child must be educated with students who do not experience disabilities as much as possible. Unless the child’s IEP and individually determined needs require otherwise, the child must also be educated in the school the child would attend if they didn’t have disabilities.
- » All the above must be provided at no cost to the parents.

Functional behavior assessment (FBA)—An assessment conducted to determine the cause, or function, of problem behaviors that must be completed before a child’s team can develop an effective behavior plan.

PARENT TIP:

The telltale sign of a good FBA is that you will recognize your child when you read it. A poorly conducted FBA process often results with a list of bad behaviors and statements such as: “Behavior X occurs without warning in all settings and at all times during the school day,” or “student seeks to avoid tasks.”

Early Childhood Special Education (ECSE)—Free, specially designed instruction to meet the unique needs of a pre-school child with a disability, three years of age until the age of eligibility for public school.

Early Intervention (EI)—Services for children with disabilities from birth until three years of age, by means of an individualized family service plan (IFSP).

Individualized Educational Program (IEP)—A written plan with goals and objectives based on the strengths and needs of the child developed by a team that includes representatives of the school district, the child’s teachers, and the child’s parents. All participants have equal status in the decision-making process. Other persons who have a direct interest in the child’s educational welfare may participate at the request of school district personnel or parents. The IEP is written together by the school district personnel and parents. Each child’s IEP must be complete before determining placement and must be reviewed annually. IEPs may be reviewed or revised more often at the request of parents or school district personnel.

Individualized family service plan (IFSP)—A written plan developed by a team based on the needs of the family and the child, listing the goals and services to be provided by Early Intervention.

Interim Alternative Educational Placement (IAEP)—A temporary setting where your child can be placed for up to 45 days for violations related to drugs and weapons at school, or for students whose behavior poses a risk of serious harm.

Least Restrictive Environment (LRE)—The educational placement closest to a regular education environment that allows for interaction with students who do not have disabilities while addressing the specific needs of the individual child with a disability.

Manifestation Determination—A team process used to decide if a student’s behavior or misconduct is directly related to a disability or the result of staff failure to implement the student’s behavior plan. If the answer to either question is yes, the student cannot be disciplined for that behavior.

Mediation Determination—A process in which parents and the school district agree to use a neutral person called a mediator to help resolve conflicts and/or communication problems. The mediator is impartial and trained in mediation techniques, has knowledge of IDEA Mediation, and is provided by ODE at no cost to parents or the school district.

Oregon Department of Education (ODE) complaint—A formal process used to solve special education disputes between parents and school districts regarding issues that have occurred during the last calendar year.

Physical restraint—Restriction of a student’s movement by one or more persons holding the student or applying physical pressure upon the student.

Placement—The combination of the package of services and the setting necessary to educate a child according to IEP goals and objectives. Placement is more than a physical location. Placement is determined annually upon completion of the IEP, and is reconsidered whenever the IEP is revised, or at the request of parents or school district.

Present Levels of Academic Achievement & Functional Performance (PLAAFP)—A complete, accurate, and easy to understand description of a child’s abilities, strengths, weaknesses, and parental observations, hopes, and concerns. This is a critically important part of the IEP. When properly completed, you should be able to read the PLAAFP and recognize your child as they are at the time it is written. It should be a good current description of your child rather than a collection of annually repeated comments such as “John is a happy child who loves to play with Legos.”

Related services—Special services necessary for a child to benefit from the educational program. Related services include, but are not limited to transportation, speech therapy, audiology, occupational therapy, physical therapy, hearing and vision services, psychological services, vocational services, social work services, therapeutic re-evaluation, rehabilitation counseling, and medical diagnostic and evaluation services.

Resolution session—A settlement meeting in which parents and the school district try one last time to work out an agreement to avoid a due process hearing within 15 days of a hearing request. The school district cannot have any attorney present at the resolution meeting unless parents bring an attorney.

Seclusion—Involuntary confinement of a student alone in a room from which the student is prevented from leaving.

Special Education—Education designed to meet the unique needs of a child with a disability. Special education may include classroom instruction, physical education, vocational education, transition services, and other specially designed instruction that the child needs.

Stay-put rule—The right for a child to remain in their current placement after requesting

a due process hearing until an administrative law judge has decided the issue, or the parents and school district agree to a different placement.

Supplementary aids and services—Supports that are necessary to carry out the IEP. This may include expert consultation, computers, large print books, classroom or individual instructional assistants, and assistive technology services.

Suspension—Short-term exclusion from school.

Transition services—Coordinated activities designed to help a student move from high school to post-secondary education, vocational training, supported employment, independent living, and other adult services. These activities must be based on the student's needs, preferences, and interests and include vocational evaluation, community experiences, job development, and daily living skills instruction.

Special Education Laws and Where to Find Them

Individuals with Disabilities Education Improvement Act

The Individuals with Disabilities Education Improvement Act (IDEIA or IDEA 2004) can be found beginning at 20 U.S.C. § 1400. Federal regulations are at 34 C.F.R. § 300. The IDEA used to be called the Education for All Handicapped Children Act (EAHCA or EHA) or P.L. 94-142.

- » U.S. Department of Education: www.ed.gov
- » IDEA: www.ed.gov/laws-and-policy/individuals-disabilities/idea
- » U.S. Government Printing Office: www.gpo.gov

Oregon Special Education Law

- » State special education law can be found beginning at Oregon Revised Statutes, ORS Chapter 343 on the Oregon State Legislature website: www.oregonlegislature.gov.
- » State regulations can be found beginning at Oregon Administrative Rules, OAR Chapter 581 on the Oregon Secretary of State website: www.sos.state.or.us

Family Educational Rights and Privacy Act (FERPA)

The Buckley Amendment is the short name for a federal law known as the Family Educational Rights and Privacy Act (FERPA). This law gives parents and guardians of students under 18 years of age, and all students over 18, the right to see, correct, and generally control access to student records. This law can be found beginning at 20 U.S.C. § 1232g. Regulations are found at 34 C.F.R. § 99.

Under FERPA, parents have the right to:

1. Review and get a copy of their student's educational records;
2. Have school records explained by school officials; and
3. Change or explain records that are inaccurate, misleading or a violation of student rights.

For more information, contact:

Family Policy Compliance Office | U.S. Department of Education

Phone: 800-USA-LEARN or 800-872-5327

Website: www.ed.gov

Section 504 of the Rehabilitation Act of 1973

Section 504 prohibits discrimination by schools and other entities that receive federal funds from discrimination based on disability. Complaints under Section 504 (29 U.S.C. § 794) may be made to the school district or the U.S. Department of Education, Office of Civil Rights, Region X in Seattle.

- » U.S. Department of Education website: www.ed.gov
- » Regulations are found beginning at 28 C.F.R. § 41.1.
- » Electronic Code of Federal Regulations (e-CFR): www.ecfr.gpoaccess.gov

Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA) prohibits discrimination based on disability in a broad range of programs, activities, and services, whether or not federal funds are involved.

The ADA applies to employment, public services, transportation, public accommodations, and telecommunications. Both the ADA and Section 504 include accessibility standards. This law begins at 42 U.S.C. § 12101.

The ADA's Title II (Subtitle A) applies to local and state government, including public schools. Title II regulations are at 28 C.F.R. Part 35. The U.S. Department of Justice has technical assistance manuals and publications that interpret ADA laws and regulations, as well as yearly supplements.

- » U.S. Department of Justice ADA website: www.ada.gov

All school districts were required to complete an ADA self-evaluation by January 26, 1993. The self-evaluation must include a review of physical barriers to program access, and necessary steps to make programs accessible. If structural changes are necessary, school districts with 50 or more employees must do a written transition plan that provides for removal of

program barriers. The self-assessment and transition plan are public documents. School districts with 50 or more employees must also have a grievance procedure and a 504/ADA compliance officer.

- » Complaint forms under Title II of the ADA/Section 504 can be found on the [ADA website](#).
- » For more information about filing complaints and general information about the ADA, contact:

U.S. Department of Justice, Civil Rights Division

Phone: (800) 514-0301 | TTY: (800) 514-0383

Email: ADA.complaint@usdoj.gov

These laws also may be found at law libraries. Each county courthouse has a law library that is open to the public. Federal publications and other information products are made available for free public use in federal depository libraries throughout the United States. In addition to the publications, trained librarians are available to assist in their use. For a list of federal depository libraries in Oregon, visit the U.S. Government Publishing Office at www.gpo.gov.

Senate Bill 819 (SB 819)

Senate Bill (SB) 819 is a new law that the State of Oregon enacted in July 2023. It directly impacts and increases the rights of children with disabilities to attend a full school day. The statute will eventually be codified as an Oregon Revised Statute with a unique numerical name.

- » Complaints can be filed with ODE by emailing ODE.SB819Complaints@ode.oregon.gov.
- » More information can be found by visiting [ODE](#) and [Disability Rights Oregon](#) online.

Abbreviations / Acronyms

ADA	Americans with Disabilities Act	IDEIA	Individuals with Disabilities Education Improvement Act
ADD	Attention Deficit Disorder	IDELR	Individuals with Disabilities Education Law Report
ADHD	Attention Deficit Hyperactivity Disorder	IEP	Individualized Education Program
ALJ	Administrative Law Judge	IFSP	Individualized Family Service Plan
AT	Assistive Technology	LRE	Least Restrictive Environment
CASA	Court-appointed Special Advocate	OAR	Oregon Administrative Rules
C.F.R.	Code of Federal Regulations	ODE	Oregon Department of Education
DRO	Disability Rights Oregon	ORS	Oregon Revised Statutes
ECSE	Early Childhood Special Education	PLAAFP	Present Levels of Academic Achievement and Functional Performance
EI	Early Intervention Services	SLD	Specific Learning Disability
ESD	Education Service District	U.S.C.	United States Code
ESY	Extended School Year		
FAPE	Free Appropriate Public Education		
FAS	Fetal Alcohol Syndrome		
FBA	Functional Behavior Assessment		
FERPA	Family Educational Rights and Privacy Act		
IDEA	Individuals with Disabilities Education Act		
IDEA 2004	Individuals with Disabilities Education Improvement Act		

Legal Citations

A legal citation is a method of identifying the exact location of a law or regulation. It is normally made up of three parts:

1. The volume number;
2. The abbreviation of the name of the book; and
3. The section or page number.

34 C.F.R. § 300.300 WOULD BREAKDOWN LIKE THIS:

1. Volume 34
2. Code of Federal Regulations
3. Section 300.300

20 U.S.C. § 1400 WOULD BREAKDOWN AS:

1. Volume 20
2. United States Code
3. Section 1400

Endnotes

- 1 While we may make references to students enrolled in private school, this guide is designed to be used as a reference by parents of students who attend public schools in Oregon. Parents of private school students should consult the Oregon Department of Education (ODE) online at oregon.gov/ode. There is a section on *Special Education for Parentally Placed Private School Students*.
- 2 The Education for All Handicapped Children Act is also known as Public Law 92-142.
- 3 IDEA was revised in 1997, and most recently in 2004, and is now called the Individuals with Disabilities Education Improvement Act (IDEIA). Although IDEIA changed some parts of IDEA, many people still call the new law IDEA. This revised guide refers to IDEA and addresses all the major changes to the earlier law.
- 4 20 U.S.C. § 1412(a)(1), 34 C.F.R. § 300.101, OAR 581-015-2040.
- 5 20 U.S.C. § 1401(14), 34 C.F.R. § 300.22, OAR 581-015-2000(15).
- 6 20 U.S.C. § 1401(3), 34 C.F.R. § 300.8, OAR 581-015-2000(4).
- 7 29 U.S.C. § 794 (Section 504), 42 U.S.C. § 12101 (ADA)
- 8 34 C.F.R. § 300.8(c)(9), OAR 581-015-2165.
- 9 OAR 581-015-2390.
- 10 At the time of this guide's publication (April 2025), eligibility to receive special education ended when a student received a regular high school diploma or at the end of the year during which they reached age 21. However, Oregon has considered—and may eventually revise—state law to continue special education until the end of the school year during which the student reaches age 22.
- 11 20 U.S.C. § 1415(b)(2), 34 C.F.R. § 300.519, OAR 581-015-2320.
- 12 20 U.S.C. § 1412(a)(1), 34 C.F.R. § 300.17, OAR 581-015-2040.
- 13 34 C.F.R. § 300.154(e), OAR 581-015-2535.
- 14 20 U.S.C. § 1401(1) and (2), 34 C.F.R. § 300.5 and 6, OAR 581-015-2000(2) and (3).
- 15 34 C.F.R. § 300.105, OAR 581-015-2055.
- 16 *Endrew F. v. Douglas County School District RE-1*, 137 S. Ct. 988 (2017). The importance

of the Endrew case is that it ended a gradual erosion of what is meant by FAPE in many courts. In the decades that followed the passage of IDEA and the statutes that preceded it, many courts adopted a theory that the requirement for FAPE could be satisfied by any combination of educational services and supports that allowed a student to make any progress at all. In the Endrew decision, the US Supreme Court ended that interpretation of FAPE by requiring an IEP “reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”

17 20 U.S.C. § 1412(a)(3), 34 CFR § 300.111, OAR 581-015-2080.

18 20 U.S.C. § 1414, 34 C.F.R. § 300.301-300.311, OAR 581-015-2105 through 581-015-2115.

19 20 U.S.C. § 1414(a)(1)(C), 34 C.F.R. § 300.301(c)&(d), OAR 581-015-2110(5)(a)&(c).

20 20 U.S.C. § 1414(c)(5)(A), 34 C.F.R. § 300.305(e), OAR 581-015-2105(1)(d).

21 34 C.F.R. § 300.502, OAR 581-015-2305.

22 20 U.S.C. § 1414(a)(1)(D), 34 C.F.R. § 300.300, OAR 581-015-2090, OAR 581-015-2095(3).

23 20 U.S.C. § 1414(b)(1), 34 C.F.R. § 300.304(a), OAR 581-015-2110(2).

24 20 U.S.C. § 1414(b)(4)(B), 34 C.F.R. § 300.306(a)(2), OAR 581-015-2120(6).

25 20 U.S.C. § 1415(b)(1), 34 C.F.R. § 300.501, OAR 581-015-2300.

26 20 U.S.C. § 1415(b), (e), (f), 34 C.F.R. § 300.151-300.153 and 300.506-300.518, OAR 581-015-2030 and 581-015-2335 through 581-015-2385.

27 20 U.S.C. § 1414(b)(4) and (5), 34 C.F.R. § 300.306, OAR 581-015-2120.

28 OAR 581-015-2130 through 581-015-2180.

29 20 USC § 1414(c)(5)(A), 34 CFR § 300.305(e), OAR 581-015-2105(1)(d), OAR 581-015-2120.

30 34 C.F.R. § 300.300(b)(4), OAR 581-015-2090(4).

31 20 U.S.C. § 1414(d), 34 C.F.R. § 300.320, OAR 581-015-2200.

32 34 C.F.R. § 300.322(e), OAR 581-015-2190(3).

33 20 U.S.C. § 1414(d)(1)(B)-(d)(1)(D), 34 C.F.R. § 300.321, OAR 581-015-2210.

34 34 C.F.R. § 300.322(d), OAR 581-015-2195(3).

35 20 U.S.C. § 1414(d)(3)(D), 34 C.F.R. § 300.324(a)(4), OAR 581-015-2225(2)(a).

- 36 A complete list is found at Oregon Administrative Rules (OAR) 581-015-2200 on the Oregon Secretary of State website. See also 20 U.S.C. § 1414(d)(1)(A), 34 C.F.R. § 300.320, OAR 581-015-2200 & 2205. See Oregon Special Education Law, p. 73.
- 37 34 C.F.R. § 300.323(d), OAR 581-015-2220(3).
- 38 20 U.S.C. § 1415(c)(1), 34 C.F.R. § 300.503(a)(1), OAR 581-015-2310.
- 39 20 U.S.C. § 1414(d)(1)(B), 34 C.F.R. § 300.321, OAR 581-015-2210.
- 40 34 C.F.R. § 300.322(f), OAR 581-015-2195(5).
- 41 34 C.F.R. § 300.322(e), OAR 581-015-2190(3).
- 42 20 U.S.C. § 1415(b), (e), (f), 34 C.F.R. § 300.151-300.153 and 300.506-300.518, OAR 581-015-2030 and 581-015-2335 through 581-015-2385.
- 43 20 U.S.C. § 1412(a)(5), 34 C.F.R. § 300.114-300.117, OAR 581-015-2240.
- 44 20 U.S.C. § 1414(e), 34 C.F.R. § 300.327, OAR 581-015-2250(1)(a).
- 45 34 C.F.R. § 300.116, OAR 581-015-2250.
- 46 34 C.F.R. § 300.327, OAR 581-015-2245.
- 47 20 U.S.C. § 1412(a)(5), 34 C.F.R. § 300.114, OAR 581-015-2240 and 581-015-2250.
- 48 20 U.S.C. § 1412(a)(10)(C), 34 C.F.R. § 300.148, OAR 581-015-2515.
- 49 20 U.S.C. § 1414(e); 34 C.F.R. § 300.116, OAR 581-015-2250.
- 50 20 U.S.C. § 1414(a)(1)(D)(i)(II), 34 C.F.R. § 300.300(b), OAR 581-015-2090(2), (4).
- 51 20 U.S.C. § 1415(b)(3), 34 C.F.R. § 300.503(a), OAR 581-015-2310(1).
- 52 20 U.S.C. § 1415(b), (e), (f), 34 C.F.R. § 300.151-300.153 and 300.506-300.518, OAR 581-015-2030 and 581-015-2335 through 581-015-2385.
- 53 34 C.F.R. § 300.106, OAR 581-015-2065.
- 54 20 U.S.C. § 1415(k), 34 C.F.R. § 300.530-300.536, OAR 581-015-2400 through 581-015-2425.
- 55 20 U.S.C. § 1415(k)(5), 34 C.F.R. § 300.534, OAR 581-015-2440.
- 56 20 U.S.C. § 1401(34), 34 C.F.R. § 300.43, OAR 581-015-2000(38).
- 57 20 U.S.C. § 1414(d)(1)(A)(i)(VIII), 34 C.F.R. § 300.320(b), OAR 581-015-2200(2).

- 58 20 U.S.C. § 1401(34), 34 C.F.R. § 300.43, OAR 581-015-2000(38).
- 59 20 U.S.C. § 1415(m), 34 C.F.R. § 300.520, OAR 581-015-2325.
- 60 20 U.S.C. § 1415(b)(3), 34 C.F.R. § 300.503, OAR 581-015-2310.
- 61 20 U.S.C. § 1415(c)(1), 34 C.F.R. § 300.503(b), OAR 581-015-2310(3).
- 62 See <https://www.oregon.gov/ode/rules-and-policies/Documents/FIEP%20Procedures%20Final.pdf>
- 63 Use of tape recorders at IEP Meetings, Op. Att’y Gen., DOJ File No. 581020-581020-02, (2002).
- 64 ORS 165.540(1)(c); Project Veritas v. Schmidt, , No. 22-35271, __ F.4th __ (9th Cir. 2025).
- 65 See <https://www.oregon.gov/ode/rules-and-policies/Documents/FIEP%20Procedures%20Final.pdf>
- 66 20 U.S.C. § 1415(e), 34 C.F.R. § 300.506, OAR 581-015-2335
- 67 34 C.F.R. § 300.151-300.153, OAR 581-015-2030.
- 68 See <https://www.oregon.gov/ode/rules-and-policies/Documents/complaintreqform.pdf>.
- 69 See <https://www.droregon.org/disability-rights-oregon-resources/requesting-compensatory-education-due-to-covid-19>
- 70 See <https://www.nseai.org/blog/understanding-compensatory-education>
- 71 34 C.F.R. § 300.152(b)(2), OAR 581-015-2030(13).
- 72 20 U.S.C. § 1415(f), 34 C.F.R. § 300.507-300.518, ORS § 343.165, OAR 581-015-2340 through 581-015-2385.
- 73 20 U.S.C. § 1415(b)(6) and (7), 34 C.F.R. § 300.507-300.508, OAR 581-015-2345 and 581-015-2350.
- 74 34 C.F.R. § 300.510, OAR 581-015-2355.
- 75 20 U.S.C. § 1415(j), 34 C.F.R. § 300.518, OAR 581-015-2360(5)(a).
- 76 See generally 20 U.S.C. § 1415(f)-1415(j), 34 C.F.R. § 300.511-300.518, OAR 581-015-2360 through 2385.
- 77 20 U.S.C. § 1415(i)(2), 34 C.F.R. § 300.516.

Disability Rights Oregon upholds the civil rights of people with disabilities to live, work and engage in the community. Serving as Oregon's federally mandated Protection & Advocacy system since 1977, the nonprofit works to transform systems, policies, and practices to give more people the opportunity to reach their full potential.

For more information, visit us online at droregon.org.



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