What is an IEP?

An Individualized Education Program (IEP) is required for all students who are determined eligible for special education and related services under the IDEA. The purpose of an IEP is to fill in the gaps a student may have that is preventing them from being in a general education classroom. An IEP has several required components, including present levels of performance, statement of measurable annual goals, special education and related services, and placement. The IEP year in which a student turns 16, the IEP must include a transition plan.

IEP Process

1. Evaluation-
   a. Preschool—if already in DDD or AzEIP system, they will submit a referral for evaluation by age 2 years 6 months
      i. The IDEA has an “in by 3” rule, meaning that if a child is in their system prior to being 3 years, they must have an IEP by the time they are 3.
   b. If a child is enrolled in a general education program in a district, their teacher can do a referral; most school districts have “screening days” where they do quick evaluations and if they feel it is needed, they will more forward with a full evaluation.
   c. For K-12, teachers or parents can request an evaluation and the timeline will be the same
   d. Parents can request an evaluation; the request must be in writing describing exactly why you are requesting the evaluation. They school has 15 school days to respond—they will either do a review of existing data prior to evaluation or respond with a prior written notice declining the request.
   e. School district can say no to a request for evaluation
   f. The school has 60 days to get evaluation done from day of parental consent, which is NOT a letter from parents saying, “I give consent,” school district will provide a form to sign. Evaluation will be complete with an eligibility determination.
      i. There is a provision for a 30-day extension, but both school district and parents must agree
      ii. Autism is not a preschool eligibility for services
   g. After the evaluation, there will be a meeting where they will review the results of the evaluations—parents should provide any outside reports they have to the school (outside diagnosis, treatment plans), give permission to school to contact outside provider(s), and be prepared to sign releases of info

2. Meeting—
   a. The child’s eligibility will be determined by the school district, parents do not have veto power for the determination.
      i. If determined eligible and parents agree, parents will then sign Consent for the Initial Provision of Special Education and Related Services.
1. This is not an IEP but allows school to provide Special Education. If parents do not sign, the school is not required to write an IEP.
   ii. The school then has 30 calendar days to write the IEP
      1. The only time parents must consent is to evaluations and initial consent for initial provisions and can revoke consent at any time. Parents do not have to consent to the IEP.

b. The IEP team will include
   i. Special education teacher
   ii. Parents
   iii. General education teacher
   iv. District representative—there to commit resources
   v. Persons who interpret evaluation results (could be teacher)
   vi. Individuals who have specialized knowledge of child
   vii. And child when appropriate
      1. The IEP meeting the year they turn 16, student must be invited

What is Included in an IEP?

3. Child’s present levels of achievement and performance determine the current goals
   a. The team looks at functional levels of performance—life skills, fine motor, gross motor, and academic
   b. Parents need to be forthcoming and honest; kids behave differently in school and at home. It is important for parents to voice their concerns regarding all aspects, helps the team create a relevant IEP
   c. The team will then draft goals
      i. The idea is to fill in the gaps—what is preventing your child from participating in general education
      ii. The goals should be based on grade level standards, they should be specific, measurable, attainable, relevant, and time-bound
   d. The IEP goals should focus on the skills that impact a student’s ability to participate in general education. That may mean that there is not a goal for every deficit. It is common to see 1-2 goals for each deficit that will help fill the gaps

4. Accommodations/Modifications
   a. Accommodations typically provide students with a different way to demonstrate what they know. They can include assistive technology, special seating, or extended time.
   b. Modifications change what a student is expected to know. They may have to learn only parts of the standards, or the difficulty of the work may be modified to a student’s ability level.

5. Services provided—
   a. How the IEP will be implemented; may be in general education class fully, may be in general education with pullouts, may be in special education class, may be in self-contained class
b. Define how often services will be provided, who the provider is, and where the services will take place  
c. Outside providers are typically not allowed in schools to provide services  
d. Service minutes should be how many minutes—a day, week, or month—are spent working on IEP goals.  
i. This is not the amount of time the child will be in a special education classroom  
e. ABA services are not provided in the same way as outside services, and parents do not get to dictate methodology  
f. Many parents want one-on-one paraprofessionals with their child, in most cases that is not recommended as that creates adult dependency  
6. Placement— the school is required to place child in the least restricted environment (LRE), meaning that the child is with nondisabled peers to the maximum extent possible  
a. There is a continuum of placement  
i. General education classroom  
ii. General education classroom with pull out for related services  
iii. Special education classroom  
iv. Specialized classroom  
v. Alternative educational placement—special school  
vi. Home instruction  
vii. Residential or hospital instruction  
b. The placement section states where on the continuum child will be  
c. Even preschools must have full continuum of education available  
7. Location—the specific school the child will be educated at  
a. The location is entirely the decision of the district, even type of program at is at the discretion of the district  

**Updating and Reviewing an IEP**

8. The team will review an IEP on an annual basis,  
a. If the child is not making progress, the IEP will be reviewed more often  
b. Parents can request an IEP meeting it must be in writing with why they want it, and school must have the meeting within 45 days of the request.  
c. Not every teacher meeting is an IEP meeting  
9. Reevaluations happen every three years, and cannot be done within a year unless everyone agrees it is necessary  
10. After meeting, districts provide prior written notice to parents that will provide notice regarding what district is proposing to do or not to do, why, other options they considered, why they were objected, and all other information taken into consideration.  
a. The district must send that out before implementing changes.  
11. The IEP meeting the year a child turns 16, the school needs to invite DDD if they are eligible, or vocational rehab, but parents must provide consent for these agencies to be invited
a. They are invited for the transition plan that must be included in the IEP beginning that year

**Procedural Safeguards**

12. Procedural safeguards that the IDEA provides families include
   a. Being able to submit a state admin complaint to AZ Dep. of Ed alleging the school failed to comply with the procedural requirements of the IDEA (e.g., timelines, implementation)
   b. Prior written notice
   c. Parental option to request an independent evaluation
      i. This is an option for if you disagree with evaluation results of the district evaluation
         1. The district can say no to an independent evaluation request, but they must file Due process to show their evaluation is correct
   d. Procedural safeguards notice (find a link to the notice on the ADE website)
      i. Must be provided to families when they request evaluation, once a year, when they file a complaint, when they file due process, and anytime they request it
   e. Mediation
      i. Essentially a negotiation meeting between parents and the district to try and come to an agreement
      ii. Before a neutral third party
   f. Due process
      i. Court hearing in front of a judge
      ii. The district will have a lawyer
      iii. Complaints are typically filed when parents disagree with the district’s proposal, and can go back 2 years
         1. Complaints are generally about a denial of FAPE—the standard is an IEP that is appropriately ambitious in light of the child’s unique differences
         2. Parents can also file due process on procedural requirements, but they are not generally a denial of FAPE unless the school denied parents right to participate or denied child educational benefit
      iv. IDEA is big on resolution
      v. Must have resolution meeting between parents and relevant IEP team member, within 15 days of filing a complaint
         1. If agreement is reached, it must be in writing, and parents have three days to revoke
         2. You can also waive resolution and go to mediation instead
13. Discipline under the IDEA
   a. A student can be suspended up to 10 school days without protections kicking in,
      i. state legislature says no suspending anyone under age 7
   b. Typically, starting day 11 of suspension, procedural protections kick in and the school must do a manifestation determination review
      i. A manifestation determination is meant to determine whether the behavior that caused the suspension had a direct and substantial relationship to the disability or the behavior was caused by a failure to implement the IEP
      ii. If the review determines the behavior was not due to their disability, the school can discipline however they see fit, but they still must provide services that allow the child to progress in the general education curriculum, receive special education services, and behavior services so the behavior does not occur again
      iii. If the review determines the behavior was due to their disability, the child goes back to their current placement. The school will need to do a FBA and BIP; if both of those are already done, they must be updated
   c. Parents can file due process if they disagree with the determination, but it will be on a shortened timeline.

Section 504

Section 504 is a provision of the Rehabilitation Act of 1973 that provides services and protections for persons with disabilities from birth to death. If a student is eligible for IDEA services, they are also eligible for protection under Section 504; some students who are not eligible for IDEA services are eligible for Section 504 services.

14. If a student is eligible under Section 504, they will be entitled to protections, but may not need 504 Plan
   a. Section 504 plans fall under the jurisdiction of the Office for Civil Rights, not the Department of Education
      i. Section 504 plans are for students who do not need special education services but has needs that require modifications or accommodations to have equal access to educational activities and programs
      ii. Parental consent is required for an evaluation, but parental participation is not required to create a 504 plan
         1. The school must inform the parents that a 504 plan was created and if it is changed.
   b. Protections
      i. Have similar discipline protections as under IDEA, but if the behavior is not manifestation, the school can still discipline, but does not have to provide services
Under Section 504, parents are not entitled to Independent Educational Evaluations (IEEs) if they disagree with the district’s evaluation.

**Tips for Parents**

Once a child has an IEP, if parents disagree with something the school is or is not doing, always contact the district Special Education Director. Many times, once the SpEd Director is involved, most issues can be resolved without needing to go to mediation or due process.

There is a difference between the medical and education models of therapy. The purpose of therapies in schools is to support the curriculum and the student’s ability to access and participate in the curriculum and should be integrated into the educational goals of the student. The focus of these therapies is to support the student’s achievement of academic and functional goals rather than an intervention for a specific impairment.

Always request a child’s outside providers (BCBA, Speech, OT) be invited to the IEP meetings. The more comprehensive the information available, the more relevant the IEP goals will be. Everyone at the IEP meeting is there for your child, so have everyone there to help write their goals.

Visit the ADE website for more information on the IEP process found in their AZ-TAS documents.

Disclaimer:
This document is not intended to be legal advice. If you need legal advice, please contact an attorney who practices in this area. Further, the law is changing and evolving all the time. This document is up to date as of September 2021 and may not include all recent legal updates and/or changes.