

## Parents' rights in special education

*Parents' rights are guaranteed by the Individuals with Disabilities Education Improvement Act (IDEIA) and Vermont Special Education Regulations. In this fact sheet, we summarize parental rights regarding children ages 3 through 21 who are eligible for special education.*

### **Consent**

As parents you have the right

- to give your written consent before the school conducts any new tests or measures to determine whether your child is, or continues to be, eligible for special education
- to give your written consent before your child first receives special education services
- to revoke your consent for evaluation any time before the school completes new tests and measures (Any tests or measures the school has already completed become part of your child's education record.)
- to revoke your consent for special education services at any time, even after the IEP has been implemented

Although you have the right to refuse written consent for your child's first evaluation, the school may ask for mediation or a due process hearing to find out whether your child should be evaluated. If you fail to respond to the school's request for a reevaluation, the

school may conduct the reevaluation if it can show it took reasonable steps to obtain your consent.

Before giving your consent, the school should explain fully why it needs your approval. The school must give you information in your native language or in another method of communication used by you. Your consent is voluntary.

### **Notice**

Written notice from the school is required and provides parents with important information regarding the special education process. Your rights include

- notification by the school before it begins (or refuses) to provide special education services to your child
- notification before the school plans (or refuses) to change your child's identification, evaluation, special education services, or education placement
- notification of each evaluation method, test, record, or report the school uses to make its decision

Parents' rights enable you to participate fully in your child's special education program.

- notification about your rights, including the right to file an administrative complaint, a due process complaint, or request mediation if you disagree with the school about your child's identification, evaluation, education program, or placement

A notice must describe the

- action that the school is planning to take and its reason for taking this step
- reasons why the school is taking (or refusing) to take action
- choices the school considered in taking (or refusing) to take action
- other reasons that led to the school's decision. (In VT, schools are required to use special education form 7 or 7a for this purpose.)
- information about where you can get help understanding your rights.

The school must make sure that any notice it gives you is written in your native language or that it uses the communication method that you use, such as sign language.

### ***Education records and confidentiality***

Under the Family Educational Rights and Privacy Act (FERPA), you have the right

- to see your child's education records. The school must give you the records within 45 days of your request or anytime before a meeting to talk about your child's evaluation, eligibility for special education, or Individualized Education Program (IEP)
- to request copies of your child's records. You may be asked to pay for copies themselves (not the time it took to make them) unless the charge would prevent you from getting copies
- to know where your child's records are kept, to know what information your child's records contain, and to have information explained to you
- to request that the records be changed if you believe they are wrong, misleading, or violate your privacy
- to ask for a hearing if the school refuses to change the records as you have requested
- to have information in your child's records changed if, as the result of a hearing, it is determined that the information is wrong, misleading, or violates your privacy
- to see information only about your child if records include information about other

children as well

- to add a written statement to your child's records describing why you disagree with any of the information
- to know when the school plans to destroy information in your child's records
- to consent to have others not involved in your child's education program see the records, know who these individuals are, and how they used the information

### ***Evaluation***

When your child is evaluated for special education, your rights include

- to have a complete evaluation of your child's strengths and needs, including educational performance and functional skills
- to attend and participate in Evaluation and Planning Team (EPT) meetings, including meetings to decide your child's special education eligibility, and to bring someone with you to Evaluation and Planning Team meetings
- a written evaluation plan that includes information you provide about your child
- to have more than one measure used in determining eligibility for special education and to have all areas regarding your child's suspected disability evaluated. (Tests must be given in your child's native language.)
- to receive a copy of the evaluation plan and report
- a reevaluation every three years by the anniversary date of your child's last evaluation, unless you and the school agree that a reevaluation is not needed
- to request a reevaluation of your child more frequently, but not more often than once a year, unless you and the school agree otherwise
- notice that no new information will be used to evaluate your child for special education. You retain your right to a complete evaluation of your child if you believe that new information is needed to determine eligibility.

The school has 60 days from the time you give your written consent to complete its evaluation and issue a report. If the evaluation will take longer than 60 days, the school must give you written notice about the delay and the expected completion date.

### ***Independent evaluation***

An independent educational evaluation is an evaluation conducted by a qualified individual who is not an employee in your child's school. You have the right

- to an independent evaluation at the school's expense if you disagree with its evaluation of your child, unless the school asks for a due process hearing to show that its evaluation was appropriate
- to information from the school about where to get an independent evaluation
- to have independent evaluation results considered by the Evaluation and Planning Team when a decision is being made about your child's special education eligibility, program, or placement
- to an independent evaluation at your own expense if the school's evaluation is considered appropriate
- to have independent evaluation results considered during mediation or a due process hearing
- to have a hearing officer order an independent evaluation at no cost to you as part of a due process hearing

Although you have the right to an independent evaluation paid for by the school, that evaluation must meet the school's guidelines, unless those guidelines make it impossible for you to get an appropriate evaluation.

### ***Individualized Education Program (IEP)***

As parents, you have the right to

- participate in meetings to develop your child's Individualized Education Program (IEP)
- notice of the IEP meeting time and place, the reason for the meeting, and who will attend. You should be notified of the meeting early enough so you can participate.
- have the meeting held at a time and place that is convenient for you and your child's team
- participate in the IEP meeting by other means, such as the telephone or video conference, if you cannot attend in person
- request a meeting to change or improve your child's IEP. With the school, you can agree in writing not to hold an IEP meeting to make changes to the IEP. When this happens, the school will record the changes to the IEP and

give you copies of these changes.

- receive a copy of your child's written evaluation report and to review your child's records before the IEP meeting
- bring a friend, advocate, or someone else with you to your child's IEP meeting
- be informed regularly of your child's progress toward annual goals

Parents and schools can agree to excuse an IEP team member from a meeting

- when the curriculum or related services the team member is responsible for is **not** being discussed or changed
- when the team member whose curriculum or related service **is** being discussed provides written information to the team regarding IEP services before the meeting takes place

### ***Least restrictive environment (LRE)***

Least restrictive environment means your child with disabilities has the right to be educated in your neighborhood school with his or her nondisabled classmates to the greatest degree possible. Parents have the right

- to a variety of support services and accommodations to assure that your child will do well in the regular classroom, such as one-to-one tutoring and adjustments in homework assignments and/or grading procedures
- to a variety of education placements for your child, such as preschool or day care settings, regular classes, and special education classes
- to participate in the decision regarding your child's educational placement based on his or her individual needs
- to have your child participate in in-school and after-school activities with nondisabled children

### ***Private school placement***

If your child receives special education services in a private school as part of his or her IEP, you have the same rights as though your child attended public school.

If the local school district offered your child a free appropriate public education (FAPE) and you decide to place your child in a private school on



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600 Blair Park,  
Suite 240,  
Williston, VT 05495  
1-800-800-4005  
You can also contact us via e-mail at [info@vtfn.org](mailto:info@vtfn.org). And don't forget to visit our website at [www.vtfn.org](http://www.vtfn.org).

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your own, the school district does not have to pay the cost of special education and related services. If you disagree with the school, you have the right to request a due process hearing.

A school district may have to pay the cost of special education and related services at a private school if you remove your child from his or her IEP placement and a hearing officer decides that the school district did not offer your child a free appropriate public education.

Reimbursement for private school placement may be reduced or denied if

- you fail to tell the school that you are rejecting the IEP placement and enrolling your child in private school
- you fail to notify the school in writing within 10 days of your decision to remove your child from the public school
- the school notified you before you enrolled your child in a private school that it wanted to evaluate your child and you did not make your child available for the evaluation (You do not have to follow the above two rules if by doing so your child would experience serious emotional or physical harm or if you were not told about these requirements.)

The school district where the private school is located is required to find, identify, and evaluate any child with a disability in private schools, including religious schools. If you put your child in a private school, your child no longer has a right to a free appropriate public education.

If your child is home schooled, the school district may, but is not required to, provide special education or related services to your child.

Note: In Vermont, private schools may also be referred to as independent schools.

### **Transferring rights at 18**

One year in advance, the school must notify you and your child of the transfer of special education rights to your child at age 18.

If the court has appointed you or someone else as legal guardian, special education rights will not transfer to your child at age 18.

As the parent of an 18-year-old child with a disability, you will continue to be informed of meetings. You may attend meetings only with your son's or daughter's permission.

If you claim your child as a dependent on your federal income tax return, or if your child gives written permission, you will continue to have the right to review and request copies of his or her education records.

### **Resources**

For help understanding your rights, contact any of the following resources. Also available from VFN are additional fact sheets describing parents' rights to disagree and the Individualized Education Program (IEP).

Vermont Family Network  
help for families navigating the education system  
(802) 876-5315 • 1-800-800-4005  
[info@vtfn.org](mailto:info@vtfn.org) • [www.vtfn.org](http://www.vtfn.org)

Vermont Department of Education  
help with special education issues for schools and families  
(802) 828-5114 ( v/tty )  
[www.state.vt.us/educ/](http://www.state.vt.us/educ/)

Disability Law Project  
legal support for special education services  
(800) 747-5022 Burlington/Champlain Valley  
(800) 789-4195 Central Vermont  
(800) 769-7459 Addison/Rutland/Bennington Area  
(800) 769-6728 Northeast Kingdom  
(800) 769-9164 Windham/Windsor Area  
(800) 889-2047 Statewide  
All phones ( v/tty ).