

# EDUCATION

## CHAPTER 3

Education is seen by most people as the key to opening the doors of opportunity. For people with disabilities, these doors were often closed before the enactment of laws that guaranteed a right to education for children with disabilities.

### **EDUCATIONAL RIGHTS FOR STUDENTS WITH DISABILITIES**

The right to a “Free Appropriate Public Education” (FAPE) has been guaranteed to children with disabilities in the United States since the creation of the Education of All Handicapped Children Act in 1975. Now known as the Individuals with Disabilities Education Act (IDEA), it is the most significant law dealing with the education of children with disabilities. It guarantees FAPE to children with disabilities who need special education and related services in order to receive educational benefits. A child who qualifies under this Act is entitled to receive FAPE under its own unique written plan, an Individualized Education Program (IEP).

A free appropriate public education (FAPE) is defined to include regular and special education and related services which:

- ...are provided at public expense, under public supervision and direction, and without charge to the parent;
  - ...meet the educational standards of the State Education Agency pertaining to the education of students with disabilities;
  - ...includes preschool, elementary school, secondary school education; and,
  - ...are provided in conformity with the Individualized Education Program (IEP).
- (MO State Plan for Special Education, p. 28)

Another significant federal law that establishes educational rights for children with disabilities is the Rehabilitation Act of 1973, specifically Section 504 of this Act. This law prohibits discrimination, based on disability, in all programs and services (including schools) that receive federal dollars. Children with disabilities who do not qualify for special education services under IDEA may qualify for accommodations for their disabilities within a school setting under Section 504. The written plan that identifies the services each child receives is usually referred to as a “504 Plan” or an “Accommodation Plan.”

In order to fulfill the requirements of federal law regarding children with disabilities in school, the Special Education Process has been developed. Each state establishes its own state law and a plan to implement IDEA. Each state also has provisions in its laws to coincide with Section 504. Parents need to become familiar with the special education process so that they can participate in

the process to help develop and implement the plan that best meets their child's unique needs. Parents are viewed as the guardians of their child's right to education and as their child's most important teacher. This chapter gives a very basic overview of the special education process as it occurs in Missouri under IDEA and Section 504.

### MISSOURI STATE PLAN FOR IDEA

In Missouri, the State Plan for Special Education is developed and implemented by the Department of Elementary and Secondary Education (DESE). It is available on the Internet at <http://dese.mo.gov/divspced/stateplan/FY2004/> or a written copy can be obtained by writing to DESE at P.O. Box 480, Jefferson City, MO 65102-0480. Missouri state laws that relate to the special education process can be found in the Revised Statutes of Missouri (RSMo), Chapter 162.

### THE SPECIAL EDUCATION PROCESS

#### Identification

Special education always begins with the need to identify whether or not a child has a disability and is in need of special education, accommodations or related services in order to benefit from education.

**Early Intervention Services:** For children from birth to age three, a program known as "First Steps" is available to provide early identification of disabilities and services to lessen or reduce developmental delays. This program involves an Individualized Family Service Plan (IFSP) that is designed to help a family get services for their child that identify a disability and prepare a child for education. Information about First Steps programs can be found by calling toll-free 1 (866) 583-2392 or on the Internet at: <http://dese.mo.gov/divspced/FirstSteps/NewFSpage/index.html>.

**Child Find:** Every school district must conduct a "Child Find" each year. The purpose of the Child Find is to locate, identify and evaluate every child who is in need of special education and related services. The public is notified through media and other sources about the need to identify all children with disabilities and how to obtain an evaluation. This is also done by screening all children entering kindergarten. In addition, any person suspecting that a child has a disability may notify the school and request that the child be evaluated for special education services. It is advisable to put the request in writing.

#### Evaluation

If there is reason to suspect that a child has a disability or if the parents request an evaluation, the school district in which the child resides must perform an evaluation to determine if the child needs special education and related services. The parents must consent in writing to this initial evaluation. The evaluation should include screening in all areas related to the disability, including, if appropriate:

- Health
- Vision

- Hearing
- Social and emotional status
- General intelligence
- Academic performance
- Communicative status
- Motor abilities.

This evaluation should be sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not they are commonly linked to the identified disability. For example, a child with mental retardation may also need an assessment of hearing if problems related to that child's hearing have been noted. The evaluation should review existing information (such as reports from doctors or the IFSP) plus any additional testing that is needed. Input from the parents about the child is an essential part of the evaluation plan and information for the evaluation.

The school district must provide the parent with a written Notice of Intent to Evaluate within at least thirty (30) calendar days of the referral date. The evaluation must be completed and a decision about eligibility must be made within 45 calendar days following the parent notice or consent. A written Evaluation Report must be developed which describes the information used in the evaluation and the basis for the decision about whether or not the child has a specific disability and is in need of services.

### **Independent Educational Evaluation**

If a parent disagrees with the results of the initial evaluation (or any subsequent re-evaluations), they may request, in writing, that an Independent Educational Evaluation (IEE) be conducted at public expense by a qualified examiner who is not an employee of the school district. Each school district should have a policy that governs IEEs which parents would be wise to consult before arranging for outside evaluation. The district is then obligated to consider the results of the IEE in any decision made regarding this child's education. When a parent requests an IEE, the school must either agree to it or take the parents to a due process hearing to show that their evaluation is appropriate.

### **Eligibility for IDEA**

If the evaluation determines that a child needs special education and related services due to one of the following disabilities:

- Mental retardation,
- A hearing impairment including deafness,
- A speech or language impairment,
- A visual impairment including blindness,
- Serious emotional disturbance,
- An orthopedic impairment,

- Autism,
- Traumatic brain injury,
- Another health impairment (such as attention deficit disorder),
- A specific learning disability,
- Deafness-blindness,
- Multiple disabilities
- Young child with a developmental delay (ages 3 to 5)...

...the child is considered eligible for services under IDEA and an Individualized Education Program (IEP) team is assembled and must meet within thirty (30) days of the date that the child was determined eligible.

### **The IEP Team**

The Individualized Education Program (IEP) team for each child must include the following members:

1. The parents of the child;
2. At least one regular education teacher (if the child is, or may be participating in regular education);
3. At least one special education teacher, or provider of special education for the child;
4. A representative of the school or public agency (the Local Educational Agency or LEA) who is:
  - a. qualified to provide or supervise specially designed instruction for the child,
  - b. knowledgeable about the general curriculum,
  - c. well-informed about and able to commit the resources of the school or public agency;
5. An individual who can interpret the evaluation results in terms of instructional needs.
6. The team may also include:
  - a. other individuals who have knowledge or special expertise regarding the child, at the discretion of the parents or the school. This can include related services personnel such as speech, physical or occupational therapists. It can also include educational advocates or other professionals or support people who work with the family;
  - b. the child, if appropriate.

### **Written Notice**

Written notice must be given to the parents a reasonable time before all IEP meetings. The purpose, time, and location of the meeting must be included in the notice, as well as the names of the individuals invited by the district. In addition, written notice must be provided to the parents when the school proposes or refuses any action that will affect the identification, evaluation, placement, or provision of educational services to a child. These notices must be understandable

to the parents. They must include an explanation of the reason for an action or decision that the school proposes or refuses, the information the decision was based upon, and other options that were considered. Copies of the notices must be kept in the child's educational file. If the school verbally proposes or refuses any action, parents should ask for a written notice of action. The IDEA also provides that any IEP meeting must be scheduled at a reasonable time and place for the parents to attend.

### **Contents of the IEP**

Before special education and related services are provided to a child, and within thirty (30) days of the determination of eligibility, a meeting must be held to develop an individualized program for the child. This document must be accessible to each teacher and related services provider responsible for implementing the program. A copy must be given to the parents and one must also be placed in the child's permanent education records.

Required contents of an IEP:

- **Statement of the child's Present Level of Educational Performance (PLEP)** describes how the child's disability affects his or her progress in the general curriculum (the same curriculum as for non-disabled children). For pre-school children (ages 3 to 5), the statement should describe how the disability affects their participation in appropriate activities.
- **Annual Goals** must include benchmarks or short-term objectives. These must include how the child will be involved in and progress in the general curriculum. They must describe how the plan will meet the child's other educational needs that result from the disability. For example, Suzie's Annual Goal may be to master fourth grade map reading skills at 80% accuracy. A series of three benchmarks may be to pass weekly curriculum-based tests with a grade of at least 60%, 70% and 80% respectively. The benchmarks can be looked at as a series of achievements progressing up to the achievement of the Annual Goal.
- **Statement of the special education and related services as well as the supplementary aids and services that will be provided to the child.** There must also be a statement of the program modifications or supports for school personnel that will be provided for the child. For example, if Suzie has a learning disability involving visual recognition, she could be provided specially designed colored maps to accompany the curriculum and perhaps be given additional time to take the weekly tests. She may get extra help from a resource teacher, or her classroom teacher may need training in teaching map reading skills to a child with Suzie's disability. Often, specialized computer programs can be used to assist students with learning challenges. Physical, occupational, speech or other therapies can be provided as related services. Transportation, including specialized equipment needs, should be included in an IEP if the child needs it to access education.
- **Statement explaining the extent to which the child will not participate with non-disabled children in regular education classes and activities.** (An underlying principal of IDEA is that the child will fully participate with non-disabled peers in all

classes, non-academic activities and extra-curricular activities to the greatest extent possible for that child.)

- **Statement of the extent to which the child will participate in any State or district-wide assessments of achievements and what modifications are needed for the child to participate.** For example, Suzie may need extra time to complete the test and an answer sheet that is not separate from the test booklet. Some students can participate in the testing if the tests are read to them. In Missouri, the Missouri Assessment Program (MAP) plus other tests for different grade levels are required statewide. If the IEP team determines that the child will not participate in the standard assessment, there must be an explanation of why it is not appropriate for that child and how that child will be assessed. Alternative tests may also be given to students who, because of their disability, cannot take the standard test.
- **Projected dates** for the beginning of all services and modifications along with their anticipated frequency, location and duration. There should also be a statement as to how the child's progress toward his or her goals will be measured and how the parents will be informed of that progress. These are usually found in the IEP as part of a summary table or written into the goals and objectives section.
- **Transition needs** for the student must be included in the IEP as well. (Beginning at least by age 14 or younger if appropriate.) These are activities that will enable the student to move from school to post-secondary activities, such as college or a job. By age 16 (or younger if appropriate), a statement of the transition services that will be provided must be in an IEP along with identification of other agencies that need to be involved (for example, Vocational Rehabilitation).
- **Statement of the placement considerations and decisions:** This should include all possible placements and why those more inclusive with non-disabled peers were rejected, if applicable. The regular education classroom setting in the school closest to the child's home should be considered first. All movement away from that placement in terms of programming and location should be based upon the unique needs of that child and the supports and services available to serve him or her. Placements can range from full time in the regular education classroom to education in the child's home or an outside facility.
- **Statement of the child's eligibility for Extended School Year services (ESY):** ESY services include services under a child's IEP that are needed by the child beyond the regular school year of the district. This can include breaks during the school year or over the summer. Summer school and ESY are not the same thing. ESY services are intended to reinforce learning connected to the annual goals in the IEP, not to learn new skills. Services may be needed to prevent difficulty a child may experience retaining previously learned information or skills (Regression) or to reduce the time it takes to "re-learn" after a break (Recoupment). ESY may include such services as speech or occupational therapy.

The IEP must also reflect consideration of certain special factors and include services to address them, if appropriate. These include behavioral interventions (strategies and supports for a child whose behavior impedes learning); language needs of a child with limited English proficiency; Braille needs for a child who is blind or visually impaired; communication needs, particularly for

the child who is deaf or hearing impaired; and the need for assistive technology devices and services.

The finalized IEP document should include a listing of the individuals who attended the IEP meeting and their roles (indicating attendance only, not necessarily their agreement).

A sample IEP form that has been developed by Missouri DESE is available on the Internet at [www.dese.mo.gov/divspeced/Compliance/IEP/IEP\\_FORM.pdf](http://www.dese.mo.gov/divspeced/Compliance/IEP/IEP_FORM.pdf). It would be helpful to a parent preparing for an IEP meeting to become familiar with this form and some of the options available. There are many other helpful resources available to assist people to participate meaningfully in the special education process. See the list at the end of this chapter.

### **IEP Implementation**

The special education and related services determined in the IEP for each child must begin as soon as possible following the IEP meeting. Unless a different start date is indicated in the document, i.e., the start of the next school year, services should not be delayed more than one (1) to five (5) days. The reasons for any delay must be documented. At the beginning of each school year, there should be an IEP in effect for each child with a disability who qualifies under IDEA.

### **IEP Revisions and Reviews**

Each child's IEP must be reviewed at least annually by the IEP team. The entire IEP should be reviewed at that time, including the Present Level of Performance and the Goals and Objectives. At any time during the school year, if there is any need for changes in an IEP, the team is required to meet and re-draft the IEP. Meetings are appropriate to address lack of progress toward annual goals or advancement in the general curriculum, to address information arising out of new evaluations, to consider new information available to the team from the parents or other sources, or to address the child's anticipated needs or other matters.

### **Re-evaluation**

Every child with an IEP must be re-evaluated at least once every three years. Re-evaluations can also be conducted whenever conditions warrant a re-evaluation or if the child's parent or teachers request it. The same procedures must be followed for a re-evaluation as for an initial evaluation. Existing evidence can be used for the re-evaluation if it is still relevant. For example, a child's IQ need not be re-tested if the testing from the previous evaluation continues to appear valid. The team should consider the need for re-evaluation in each area based upon the child's needs, their progress and the validity of existing information.

During the re-evaluation, the IEP team determines if the child continues to be eligible for special education services under IDEA. If the parents disagree with the re-evaluation plan or results, they continue to have the same right to seek an Independent Educational Evaluation as described above.

### **Least Restrictive Environment**

A hallmark of the laws that guarantee educational rights to children with disabilities is their insistence on inclusion of those children with their non-disabled peers. In renewing the IDEA in 1997, the first finding stated by Congress is that "Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to



society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities." [20 USC § 33.1400 (c)(1)]. The federal law states that each public agency (school or other governmental body such as the juvenile authorities) must ensure that "to the maximum extent appropriate, children with disabilities in public and private institutions or other care facilities, are educated with children who are not disabled..." [20 USC § 1412 (a)(5)(A)]. Special classes, separate schools or the removal of children with disabilities from the regular education classroom should only occur when the nature and severity of the disability is such that education in the regular classroom with supplementary aids and services cannot be achieved satisfactorily. Note that this consideration is based upon the disability of the child, not the availability or cost of the services. IEP teams must consider if the child could be educated in the regular classroom with such services and supports as classroom aides, tutors, readers, etc., before they remove the child to a special education classroom.

### **Discipline - Suspension - Expulsion**

Despite IDEA's commitment to inclusion, there are times when students with disabilities may be removed from school for disciplinary reasons. Any suspension of ten (10) days or less per school year can be administered as discipline without triggering special procedures. However, once that limit is reached, further suspension or removal from the educational setting requires careful deliberation. The ten days can be consecutive or accumulate in a pattern (for example, a child who is consistently sent home at noon time for twenty days during the school year). Once that limit is reached, further suspension constitutes a change of placement for a child with a disability and triggers a review by the IEP team.

If a school is considering long term suspension (over the ten day limit) or expulsion of a student with a disability or if the school is proposing to change the child's placement to an alternative educational setting for disciplinary reasons, the IEP team must convene on or before the tenth day of suspension and conduct a Manifestation Determination. The team makes a decision about whether or not the behavior for which the discipline is being proposed is related to the child's disability.

If the IEP team determines that the problem behavior is related to the child's disability, then the team must review the functional behavior assessment and behavioral intervention plan for the child, if they exist, to determine if they are appropriate. If they are not appropriate, the team should modify the plan to address the behavior that is causing the problem. If a child does not already have a behavioral plan, the IEP team should conduct a functional behavioral assessment and develop a plan to address the problem behaviors. Subsequently, if any further removals are considered or if any member of the team believes that further modifications are necessary, the team shall meet to modify the plan and/or its implementation. If the team determines that the problem behavior is not related to the child's disability, disciplinary procedures applicable to any child may be applied to the child with a disability. However, the child must still receive FAPE.

When a child with an IEP is suspended or removed from school for over ten days, the IEP team must make the placement decision and FAPE should still be provided to the child. This means that the child should still be able to progress in the general education curriculum and receive the

services required in the current IEP, including services and modification to address problem behaviors.

### **Weapons or Drugs**

For conduct involving the possession or use of a weapon or illegal drugs, a district may remove a child with a disability to an interim alternative educational setting for no more than forty-five days.

### **Dangerous Behavior**

For a child whose current placement is substantially likely to result in injury to the child or others, an expedited due process hearing can be held. The hearing officer may order a change of placement to an alternative educational setting for no more than forty-five (45) days.

During the course of the above processes, the school has specific responsibilities and the parents and child are afforded additional safeguards. (See Missouri State Plan for Special Education, p.60-62.) When a child who does not have an IEP is subject to discipline, and the question is raised at that time about whether or not the child is a child with a disability, there are also special processes available to address the need for evaluation and possible eligibility for services.

Another important Congressional finding in IDEA is that “over twenty (20) years of research and experience has demonstrated that the education of children with disabilities can be made more effective by...strengthening the role of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home” [20 USC 33 § 1400(c)(5)]. To this end, the IDEA provides specific rights to parents throughout the IEP process. Parents are integral participants in the evaluation of their child and in the design and implementation of their child’s unique plan. They must give their consent to the evaluation and initial placement of their child, participate in the IEP meetings and help the school to understand the unique needs of their child. Parents have a right to see and understand all of the documents and data collected and used in their child’s education. This includes the right to have procedures and programs explained to them in a language and manner that they can understand.

There are specific rights called Procedural Safeguards written into the law, which the schools or agencies must present and explain to the parents of a child with a disability at these times: initial referral for evaluation, with notification of an IEP meeting, upon re-evaluation, and upon a request for a due process hearing. Missouri’s Procedural Safeguards are printed by DESE and a copy should be given to parents at all of the above times. You can find a copy on-line at [www.dese.mo.gov/divspced/Compliance/Guidance/ProcSafe\\_Aug2001.pdf](http://www.dese.mo.gov/divspced/Compliance/Guidance/ProcSafe_Aug2001.pdf) or you can contact DESE by phone at (573) 751-0699. There are also many valuable resources to assist parents to meaningfully participate in the Special Education Process available on the DESE website ([www.dese.mo.gov/divspced](http://www.dese.mo.gov/divspced)) in the Parent Resources section and by contacting the resources listed at the end of this chapter.

**Surrogate Parents**

If no parent, legal guardian, or person acting as a parent (i.e., stepparent or grandparent with whom the child resides) can be identified, or if the child is a ward of the State, a trained surrogate parent will be appointed to act as the child's parent in the IEP process.

**Due Process**

The law allows students and parents who disagree with any school or public agency's decisions regarding special education and related services certain procedures to resolve their complaints. These are called Due Process procedures because they relate to the processes due to citizens under the law to grieve their complaints and to access administrative and legal remedies to resolve them. Under IDEA, the disagreement must involve the identification, evaluation, educational placement or the provision of a free, appropriate public education (FAPE) to a child. The following due process procedures are available.

**Resolution Conference**

Parents may request in writing that the Superintendent of the District or his/her designee conduct a resolution conference. This conference is an informal, administrative proceeding. The parents have the right to review all educational records before the conference. Both the parents and the school may call witnesses, question witnesses, and present any written or oral information about the disagreement. The resolution conference, if requested, must be held not more than ten (10) days after written request by the parents. The review may be delayed if the both parties agree upon an extension. Parents do not have to request a resolution conference before proceeding to mediation or an impartial due process hearing.

**Mediation**

If the parents or school request an impartial due process hearing, they will first be asked by DESE if they wish to participate in formal mediation. Both the parents and the school must agree to mediation before it is conducted. Mediation can occur without a hearing request, but DESE will not pay the costs for such mediation. When a due process hearing request is involved, mediation will be provided by DESE at no cost to either party. The parties (the parents and the school) must mutually agree to a trained mediator from the list maintained by DESE. Mediation must be scheduled within fifteen (15) days from the selection of the mediator at a time and place mutually agreed upon. It must be completed within thirty days of the agreement to mediate. No attorney and no more than three (3) people may accompany either party to the mediation. Discussion during mediation is confidential and may not be used as evidence in a subsequent due process hearing. A successful mediation results in a written agreement that resolves the dispute between the two parties. The mediation process does not delay the time lines for the due process hearing which has already been requested, unless one or both of the parties requests and obtains an extension of the due process hearing in order to proceed with the mediation.

**Impartial Due Process**

Upon a written request to DESE for an impartial due process hearing, a panel must be chosen (within 15 days of the request), the hearing completed, and a written decision rendered within forty-five (45) days of the date of the request. The panel consists of three members: The chair of

the panel must be an attorney and is appointed by DESE. The parent and the school each choose a hearing officer from DESE's list of trained hearing officers. If either party does not make their choice within ten (10) days of the request for the hearing, DESE will appoint that member.

An impartial due process hearing is a formal, administrative proceeding. Parties may be accompanied and advised by counsel (attorney) or other specially trained individuals. Each party may present evidence and confront, cross-examine and compel (subpoena) witnesses. All evidence to be presented at a hearing must be disclosed to the other party at least five (5) business days before the hearing. A written or electronic, verbatim transcript of the hearing is kept and the parties have a right to obtain a copy at no cost. The hearing panel must render a written decision within forty-five (45) days of the date of the request for due process. The hearing panel chair may grant an exception to this time line if it is requested by either party. Appeal of the decision of a hearing panel can only be done by filing a legal action in state or federal court. Representation by an attorney is required for such an appeal.

### **Child Complaints**

If an individual or organization believes that a requirement of IDEA has been violated, a written, signed complaint may be filed with the Missouri Department of Elementary and Secondary Education (DESE). Within sixty (60) days of the receipt of the written complaint, DESE must conduct an investigation into the complaint and provide a written decision to the complainant, which includes its findings of facts and the reasons for the decision. DESE is then responsible for assuring compliance with that decision. DESE may provide technical assistance activities, conduct negotiations or require corrective action in order to achieve compliance.

Issues for which a child complaint can be filed must state that a provision of IDEA has been violated. Child complaint issues can include, but are not limited to, complaints regarding a child's placement, the evaluation, related services, content or implementation of the IEP, problems related to a due process hearing, access to records, confidentiality of records or disciplinary procedures. The complainant should state in the complaint what provisions of the law he/she believes have been violated and how the violation(s) occurred. Documentation of the complaint issues should be provided to DESE. In its investigation of the complaint, DESE will interview both the complainant and the school or agency against whom the complaint is made. DESE will also review all relevant information submitted by both parties.

### **Private Schools and Other Educational Placements**

Children with disabilities who attend private (including parochial) schools or who are home-schooled have different rights to educational services depending upon how their attendance at that school was determined. (See Missouri State Plan for Special Education, Section VIII. Pages 87-92). IDEA provisions for children being educated outside of the public school system include children:

1. Placed in a private school by a public agency: When an public agency through an IEP team makes the decision that a child's placement will be in a private school, the child should be provided with all special education and related services in conformity with the IEP at no cost to the parent. This would include the cost of the tuition at the private school.

2. Enrolled in a private school when FAPE is not an issue: If parents decide to enroll their child with a disability in a private school without seeking special education and related services from the public school district, that child is not entitled to receive FAPE from the district. Procedural safeguards such as due process for the child and the parents are not available. However, the district still has a responsibility to identify, locate and evaluate these children. The district provides some special education and related services to children in private schools, consistent with funding provided under IDEA. Each district consults with representatives of the private school children and determines which services will be provided based upon funding and the needs of the children. A Services Plan is then developed for each child that describes the specific special education and related services that will be provided for the child. The Services Plan, to the extent appropriate, must meet the requirements specified for an IEP with respect to the services provided, and be developed, reviewed, and revised consistent with requirements for IEPs.
3. Enrolled in a private school when FAPE is an issue: If parents decide to enroll their child with a disability in a private school because they believe that the public school district has failed or refused to provide FAPE to their child, special provisions apply. The parents are required to notify the district before the enrollment if they intend to seek reimbursement for educational costs. The disagreement between the parents and the school regarding FAPE and the question of financial responsibility are subject to the due process procedures of IDEA.

### 504 PLANS

The Rehabilitation Act of 1973 and subsequent amendments contain the first civil rights law prohibiting discrimination based on disability in federally funded programs and activities. Because almost every educational program in the United States, and definitely all public school programs, receive federal dollars for education, these programs cannot discriminate against a person with a disability. The federal regulations written to implement this law now grant the right to a free appropriate public education (FAPE) to all students with a disability in schools, based upon this section. IDEA only extends this right to students who meet criteria for certain diagnoses; Section 504 applies to any student with a disability. A disability is defined as a physical or mental impairment that substantially limits one or more major life activities. The procedural safeguards, due process provisions, and right to an Independent Educational Evaluation that IDEA provides are not guaranteed under Section 504.

Children who do not qualify for services under IDEA, but who do have a disability or are regarded or treated as a person with a disability, should receive FAPE under a plan that is individually designed to meet their needs. This is often referred to as "504 Plan" or an "Accommodations Plan." Schools must provide appropriate evaluations for these students. Usually a multi-disciplinary team is assembled to develop and agree upon the plan. Each school must have a grievance process in place for disagreements about services under Section 504. The agency that monitors compliance with 504 in Missouri is the U.S. Department of Education Office for Civil Rights. They can be contacted at (816) 268-0550 or by e-mail at [OCR\\_KansasCity@ed.gov](mailto:OCR_KansasCity@ed.gov). This office investigates complaints filed under Section 504. Detailed

information about schools' obligations and students' rights under Section 504 is contained in a DESE publication called: Student Access: Section 504 of the Rehabilitation Act of 1973. This can be found on DESE's website at:

[http://www.dese.state.mo.us/divspeced/Compliance/compliance\\_guide/STUDENT\\_ACCESS.pdf](http://www.dese.state.mo.us/divspeced/Compliance/compliance_guide/STUDENT_ACCESS.pdf).

### **OTHER LAWS**

There are a number of other laws that deal with educational services to students, including students with disabilities. A very brief description of these laws follows:

1. **Family Educational Rights and Privacy Act (FERPA):** This is a federal law designed to protect the privacy of parents and students in the educational system. The right to access educational records is defined in this law. It is administered by the Family Compliance Office of the U.S. Department of Education. They can be reached by phone at (202) 260-3887. The website can be found at:  
<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.
2. **The Americans with Disabilities Act (ADA):** The ADA was signed into federal law in 1990. It prohibits discrimination based on disability in employment, programs and services provided by state and local government, as well as goods and services provided by private companies and commercial facilities. Virtually all schools are subject to most of the ADA requirements, including architectural accessibility and the need to provide reasonable accommodations so that people with disabilities can access programs and services. Educational rights for persons with disabilities at higher educational institutions (universities, colleges and trade schools) are protected under this law. ADA enforcement is provided by the U.S. Department of Justice. The toll free number for further information is (800) 514-0301. The website can be found at  
<http://www.ada.gov>.
3. **The Technology-Related Assistance for Individuals with Disabilities Act Amendments of 1994 (Public Law 103-218):** Commonly known as the Tech Act, this federal law provides assistance to states to expand the access of persons with disabilities to assistive technology devices and services. Most of the educational access provisions of the Tech Act are now written into the IDEA and enforced by DESE. Additional information regarding assistive technology in Missouri can be obtained from the Missouri Assistive Technology Project. The phone number for the Project is (816) 373-5193. The website can be found at: <http://www.at.mo.gov>.
4. **No Child Left Behind Act of 2001 (NCLB).** The implementation of this law is still under development. It does not specifically deal with students with disabilities; however, it proposes to ensure that every child receives a quality education through improving performance and accountability of schools, providing expanded choices for parents and students in poor performing schools, and adding flexibility for state and local education agencies on how federal education dollars are spent.

## RESOURCES

There are many other helpful resources to learn about education and related services for persons with disabilities. The following list is just a beginning!

Missouri Protection and Advocacy Services

925 South Country Club Drive, Jefferson City, MO 65109.

Phone: (800) 392-8667 Website: <http://www.moadvocacy.org>

Missouri Department of Elementary and Secondary Education

P.O. Box 480, Jefferson City, MO 65102

Phone: (573) 751-0699 Website: <http://www.dese.state.mo.us>

Missouri Parents Act (MPACT) - (A parent training center resource)

One West Armour Boulevard, Suite #302, Kansas City, MO 64111

Phone: (800) 743-7634 Website: <http://www.ptimpact.com>

Center for Innovations in Education (CISE) - (a resource for educating diverse learners)

UMC, 601 Business Loop 70 West, Suite 152, Columbia, MO 65211

Phone: (800) 976-CISE Website: <http://www.cise.missouri.edu>

National Dissemination Center for Children with Disabilities (Formerly NICHCY) -  
an information clearinghouse for children and youth with disabilities

P.O. Box 1492, Washington, DC 20013

Phone: (800) 695-0285 Website: <http://www.nichcy.org>

Note: This website has an excellent resource for letter writing with sample letters:

<http://www.nichcy.org/pubs/parent/pa9.pdf>

WrightsLaw: a website of information about special education and advocacy for children with disabilities Website: <http://www.wrightslaw.com>

Office of Special Education and Rehabilitative Services - U.S. Department of Education, 400 Maryland Ave., S.W., Washington, DC 20202

Phone: (202) 205-5465 Website: <http://www.ed.gov/about/offices/list/osers/osep>

Families and Advocates Partnership for Education (FAPE) Coordinating Office

PACER Center, 8161 Normandale Boulevard, Minneapolis, MN 55437-1044

Phone: (952) 838-9000 Website: <http://www.fape.org>