

# Traveling the Special Education Highway

A Parent's Guide to a Successful Journey

Arizona Department of Education  
Exceptional Student Services

Revised 2019

# TRAVELING THE SPECIAL EDUCATION HIGHWAY

The Individuals with Disabilities Education Act of 2004 (IDEA '04) requires schools to provide parents of a child with a disability a copy of the procedural safeguards notice (PSN) so they can learn about parental rights and special education procedures. Traveling the Special Education Highway is a guide and is not intended to replace the PSN.

For more information about parental rights and special education procedures, contact:

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# Child Find

## A Continuous Search

Public schools must regularly conduct Child Find activities to identify, locate and evaluate children with delays or disabilities who need early intervention or special education and related services, including children who are:

- birth through age 21;
- advancing from grade to grade;
- highly mobile (including homeless and migrant children);
- attending private schools;
- home-schooled; and,
- wards of the State.

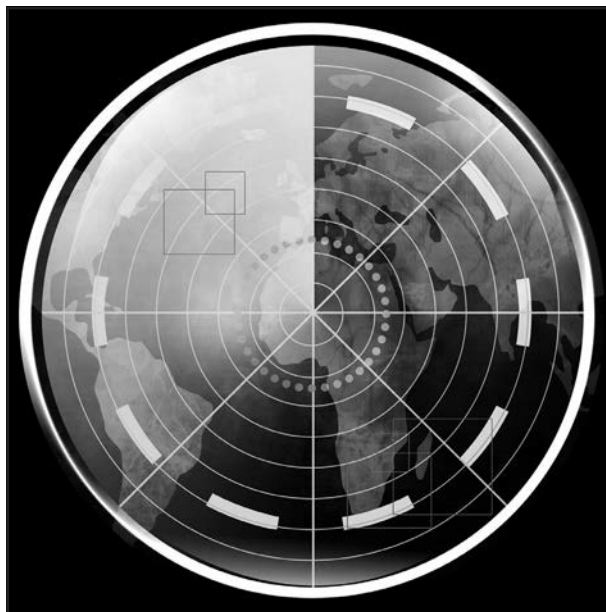
### Referral

Schools districts (including charter schools) conduct public awareness activities to inform you about early intervention and special education services for children who may not be reaching developmental milestones or making academic progress. Schools also provide contact information so you can speak to someone about the concerns you have regarding your child. After you contact the school they will do one of the following:

- begin the informal screening process;
- refer you to the Arizona Early Intervention Program (AzEIP) for infants and toddlers; or,
- refer you to the school district you live in for preschool services if your first contact was with a charter school or a high school district.

### Screening

The screening process for children ages 3 through 21 will be completed by the school district within 45 calendar days. If a concern is identified through the screening procedures or through a review of records, the school is required to notify you of the concern within 10 school days and inform you of their plans and procedures to follow-up on the students needs.



# Notices and Consent

## Watch for Road Signs

### Prior Written Notice

Prior Written Notice (PWN) is a document the school must give you when they propose or refuse to initiate or change your child's:

- identification;
- evaluation;
- educational placement; or,
- provision of a Free Appropriate Public Education (FAPE)

The PWN must be written in a language that is understandable to the general public and be provided in your native language or the mode of communication you use, unless it's not realistic to do so. The PWN must:

1. describe the action the school proposes or refuses to take;
2. explain why your school is proposing or refusing to take the action;
3. describe any other options that were considered and the reasons why those options were rejected;
4. describe each evaluation procedure, test and records the school used to make their decision;
5. tell you how you can obtain a description of the procedural safeguards if the action that your school is proposing or refusing is not an initial referral for evaluation;
6. include resources for you to contact for help in understanding the notice; and,
7. provide a description of other reasons why your school proposed or refused the action.

### Procedural Safeguards Notice

The Procedural Safeguards Notice (PSN) provides you with a full explanation of special education rules and procedures used to ensure your rights, and those of your child. Those rights are protected throughout the special education process. Knowledge of your rights will help you understand the process and make informed decisions.

The school must provide you with a copy of the PSN:

- at least once a year;
- when your child is initially referred for an evaluation;
- in accordance with discipline procedures;
- when you file a State complaint (the first complaint in a school year);
- when you, or the school, files a due process complaint (the first due process complaint in a school year); or,
- upon request.

### Meeting Notice

The school must provide you with a written meeting notice when any group gathers to make decisions about the identification, evaluation, or educational placement of your child in special education, as well as the provision of FAPE. You will be invited to all these meetings.

### Parental Consent

Consent means that you have been fully informed of all information that pertains to the activity the school needs your permission to complete and that you agree in writing to that action. Your consent is voluntary and may be withdrawn at any time. If you revoke consent, the revocation is not retroactive; it does not cancel an action that occurred after the consent was given and before the consent was revoked.

The request for consent must:

- be written in your native language or other method of communicating;
- describe the activity; and,
- list the records (if any) that will be released and to whom. Consent is required before any of the following five instances can occur:

Consent is required before any of the following five instances can occur:

1. initial evaluation to determine if your child requires special education and related services;
2. reevaluation of your child;
3. placement of your child for the first time in a special education program;
4. access to your child's public benefits or private insurance regarding FAPE; or,
5. release of any personally identifiable information about your child.

Consent is not required before the school district:

- reviews existing data as part of your child's evaluation or reevaluation; or,
- gives your child a test or other evaluation that is given to all children unless consent is required from the parents of all children.

## Revocation of Parental Consent

If, at any time after the initial provision of special education and related services, you revoke your consent in writing for the continued provision of special education and related services, the school district

1. may not continue to provide special education and related services to your child, but must first provide you with Prior Written Notice before ceasing the provision of special education and related services;
2. may not use dispute resolution procedures, including mediation or due process hearings, in order to obtain agreement or a ruling that the services be provided to your child;
3. will not be considered to be in violation of the requirement to make FAPE available to your child; and,
4. is not required to convene an IEP team meeting or develop an IEP for your child.

Also, if you revoke consent for special education and related services after the initial provision of those services to your child, the school district is not required to amend your child's education records to remove any references to special education.

## Private School Placement

If you elect to place your child in a private school or facility, the public school does not have to pay for the cost of private education, including special education and related services, if they make a Free Appropriate Public Education Agency (FAPE) available to your child. However, the school district in which the private school is located must include your child in the group of private-schooled students who will be considered for provision of limited services under IDEA '04. You must notify the school in writing, within timelines determined in IDEA '04, if you decide to remove your child and place him/her in a private school.

## Consent and Access to Educational Records

The Family Educational Rights and Privacy Act (FERPA) is a federal law that allows you to have access to your child's records and also limits access to your child's records without your consent. FERPA states the school must allow you to inspect and review any educational records relating to your child, including all records regarding the identification, evaluation, educational placement and provision of FAPE. In no case may the school delay this review more than 45 calendar days after you have made your request. The school is also required to tell you who, if anyone other than you, including authorized school personnel, have examined your child's records, the date the access was given, and the purpose for which the person was authorized to review the records.

## Electronic Mail

If your school district offers parents the choice of receiving documents by email, you may choose to receive the following by email:

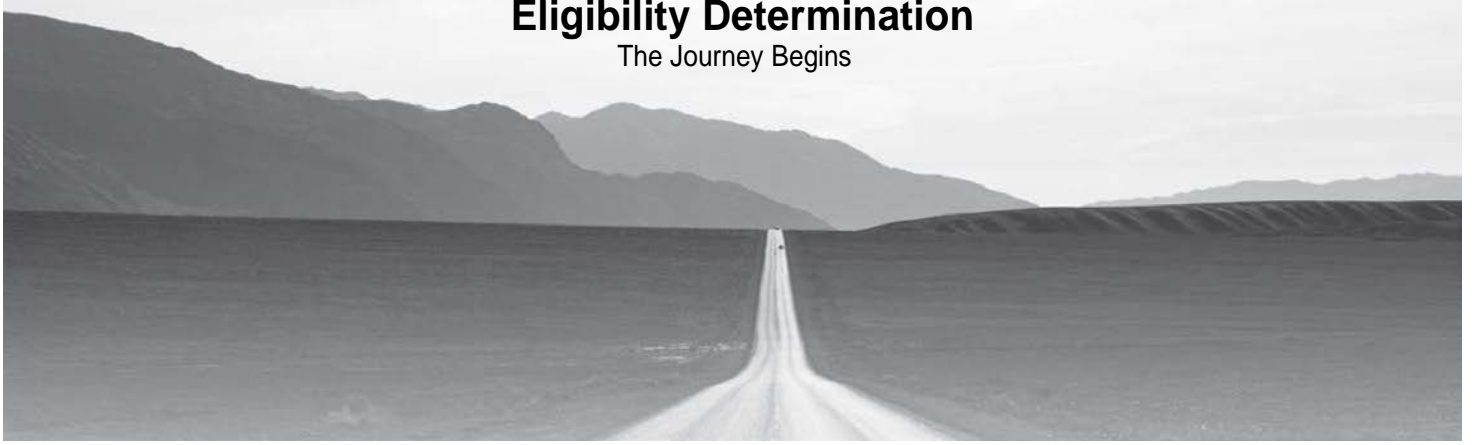
1. Prior Written Notice;
2. Procedural Safeguards Notice; and,
3. notices related to a due process complaint.





# Eligibility Determination

The Journey Begins



The Multidisciplinary Evaluation Team (MET), consisting of you and a group of qualified professionals, will review existing data and additional evaluation results to determine if your child is eligible for special education and related services. The evaluation will consist of a variety of assessment tools and strategies to gather academic, functional, and developmental information about your child. Your child has a right to be evaluated in his/her native language, or other mode of communication, by a qualified professional in all areas of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, adaptive behavior, communication, and motor abilities. Your child's initial evaluation must be completed within 60 calendar days from the date you give informed written consent to determine special education eligibility. You will receive an explanation and copy of the evaluation.

Your child may be eligible in one or more of the following disability categories:

- Autism (A)
- Developmental Delay (DD)
- Emotional Disability (ED)
- Hearing Impairment (HI)
- Mild Intellectual Disability (MIID)
- Moderate Intellectual Disability (MIOD)
- Multiple Disabilities (MD)
- Multiple Disabilities with Severe Sensory Impairment (MDSSI)
- Orthopedic Impairment (OI)
- Other Health Impairments (OHI)
- Preschool Severe Delay (PSD)
- Severe Intellectual Disability (SID)
- Specific Learning Disability (SLD)
- Speech/Language Impairment (SLI)
- Traumatic Brain Injury (TBI)
- Visual Impairment (VI)

## Independent Educational Evaluation

If you disagree with an evaluation obtained by the school, you have the right to request an Independent Educational Evaluation (IEE). When you make the request, the school will give you information about where the evaluation can be obtained and the criteria that applies to an IEE. The school must either ensure that the IEE is provided at public expense (at no cost to you) or file for a due process hearing to show their evaluation was appropriate. If the due process hearing decision is that the school's evaluation is appropriate, you still have a right to an IEE at your own expense and have it considered as part of the MET process. Although the team is required to consider the information provided by an independent evaluator, the team is not required to include the findings or follow the recommendations.

# Individualized Education Program

## A Road Map to Success

After the Multidisciplinary Evaluation Team (MET) determines eligibility, the Individualized Education Program (IEP) Team will develop an appropriate education program for your child.

### Parent

As an equal member of the IEP Team, you have the right and the responsibility to be involved in all meetings regarding the process of identification, evaluation, placement and the provision of FAPE for your child.

- Meetings should be scheduled at a time and place that is agreeable for all team members.
- The school must notify you early enough to make sure you can attend.
- The meeting notice will indicate the purpose, time and location of the meeting and who will be in attendance.
- If you can't attend the meeting the school will use other methods to ensure your participation (i.e., conference call).
- You may bring anyone to the IEP meeting who can provide support or additional information and expertise about your child.
- Informal and unscheduled conversations, or preparatory activities that will be discussed at a later meeting, can occur without your attendance.



"Parent" as defined by IDEA '04 is the biological or adoptive parent, unless their rights have been restricted by a court, and includes legal guardian, foster parent, or a responsible adult with whom the child lives who is acting as a parent.

### Student

The team may decide your child's participation in the IEP meeting is appropriate at any age. One year before your child reaches the age of majority (age 18) the school will inform you about the transfer of rights to your child. You will retain the right to participate in meetings; however, all other rights transfer to your child unless he/she has a court appointed legal guardian.

### Surrogate Parent

There are times when a surrogate parent is required to represent the child's special education interests. The need for a surrogate parent is determined by the child's school and is requested only when the:

- parent cannot be identified;
- parent cannot be located after several attempts;
- child is a ward of the state and no parent can be identified or located; or,
- child is an unaccompanied youth as defined by federal law.

When the school determines a surrogate is necessary, the school makes an application for appointment to the Arizona Department of Education. Once appointed, the surrogate parent represents the child in all matters relating to the identification, evaluation, placement and the provision of FAPE.

### School Staff

IEP members from the school will include:

- not less than one special education teacher;
- not less than one regular education teacher if the child is, or will be, participating in a regular education environment;
- a school district representative who is knowledgeable about district resources, the general curriculum, and is qualified to provide or supervise special education;
- an individual qualified to interpret evaluation results; and,
- a member of the IEP team may be excused from attending the meeting, in whole or part, if the parent and school agree in writing prior to the meeting.



## Purpose of an IEP

- Describes your child's current academic achievement and functional performance.
- Describes measurable academic and functional goals for one year.
- Describes what special education your child needs.
- Serves as a commitment from the school to provide listed special education services.
- Serves as a monitoring and compliance tool to ensure State and Federal requirements are met.

## Additional Functions of the Individualized Education Program (IEP)

### Measurement of Progress Toward Annual Goals

The IEP will include a description of how your child's progress toward meeting the annual goals will be measured and how you will be notified of his or her progress; for example, periodic reports will be provided (i.e., intermittent, quarterly, or concurrent with the issuance of report cards).

### Description of Related Services (this list does not include all related services):

- speech therapy
- physical therapy
- occupational therapy
- audiology services
- orientation / mobility training
- Braille
- interpreter for hearing impaired students
- specialized transportation
- school health services

### Decision about Accommodations and Alternate Assessments

As part of the IEP Team, you will discuss what accommodations will be necessary to measure your child's academic achievement and functional performance on State and school district assessments. The Team may decide your child will take an alternate assessment.

### Determination of the Least Restrictive Environment (LRE)

IDEA '04 states that to the maximum extent appropriate, children with disabilities should be educated with children without disabilities. Schools are required to provide a variety of placement options and IEP Teams must consider

all options when determining your child's placement for special education and related services. LRE refers to the educational setting best suited to address your child's learning needs.

The following questions should be taken into consideration when determining placement in the LRE.

- Is placement based on your child's IEP goals and the services necessary to implement the IEP?
- Would your child attend this school if he or she did not have a disability?
- Will there be harmful effects on your child or on the quality of services that he or she needs?
- Will the placement provide your child the opportunity to participate with peers without disabilities, to the maximum extent appropriate, in nonacademic and extracurricular services and activities?
- Has the team committed enough opportunities, time and resources to determine that your child's IEP requirements cannot be met in an age-appropriate regular education classroom with accommodations, supplementary aids and services?

### Discussion of Extended School Year (ESY) Services

ESY services are provided to prevent the loss of a student's learning progress (both academic achievement and functional performance) from the regular school year. Decisions about whether your child is eligible for ESY services are made based on information collected throughout the school year. Related services (speech, occupational, physical therapy, etc.) are also considered. Eligibility for ESY services is determined at least annually. The ESY decision is documented in the IEP and a Prior Written Notice (PWN) is completed to notify parents of the decision.

## Determination of Transition Services

The IEP should include measurable post secondary goals addressing training/education, employment and, where appropriate, independent living skills. These goals and transition services should be based upon on your child's preferences, interests, and strengths as determined by an age appropriate transition assessment. Planning for transition should begin no later than the first IEP to be in effect when your child turns 16, or younger if the IEP Team determines that is appropriate, and will be updated annually.

## Review and Revision of the IEP

Your child's IEP must be reviewed periodically, but not less than once a year, to make sure the goals are being achieved and related services are appropriate. Your participation in the annual or review IEP meeting is very important to discuss your child's academic and developmental goals and progress, anticipated needs, and other special considerations. The IEP document will be revised to include current information, updated goals, and related services.

### Practical IEP Tips

#### Before the IEP Meeting

- Review progress reports and other documentation.
- Review the previous and current IEP.
- Think about your child's strengths and needs.
- Ask for a copy of the draft IEP before the meeting.
- Review your parental rights and responsibilities.
- Take a list of the things you want to discuss to the meeting.
- Familiarize yourself with grade level (general education) academic standards.



#### During the IEP Meeting

- Express your questions, concerns and ideas.
- Ensure that your child's strengths and needs are considered.
- Ask questions to clarify anything you do not understand.
- Be an active participant in talking about your child's goals.
- Ensure the suggestions, which are proposed or refused, are documented.
- If any issues are left unresolved, request another IEP meeting.
- Request a copy of the IEP document before leaving the meeting.
- Write down any questions you have that were not answered in the meeting.

#### After the IEP Meeting

- Review the IEP on a regular basis and monitor your child's progress towards his or her goals.
- If you don't understand how progress towards IEP goals was measured, request clarification from the educator or therapist who has written the progress report.
- Request an IEP review meeting if your child is not making progress toward IEP goals.
- Discuss with your child his/her progress report(s), strengths, needs, barriers to learning, and IEP goals.
- Communicate with your child's teacher or others from the IEP Team when you have questions or concerns.
- Contact a Raising Special Kids Family Support Specialist if you need further assistance (1-800-237-3007).



# Reevaluation for Continued Eligibility

Consider a New Path

## Reevaluation

Your child will be reevaluated when you and the public education agency:

- determine continued special education eligibility at least once every three years, unless you and the Individualized Education Program (IEP) Team agree that additional data isn't needed to determine continuation of special education and related services (reevaluation may not occur more than once a year, unless you and the school district agree otherwise);
- determine testing is necessary; or,
- when you, or your child's teacher, requests an evaluation.

As part of the reevaluation:

- the IEP Team, including you, must review existing data (input and evaluations you provide, assessments, and classroom observations) and then determine whether additional data is needed;
- when additional data is needed by the Multidisciplinary Evaluation Team (MET) you will give informed written consent (your child may be reevaluated without your consent, if the school district has taken reasonable, documented attempts to get your consent);
- a decision is made by the MET on whether or not to continue special education and related services
  - special education services will stop if your child is no longer eligible
  - a new IEP will be written if your child is still be eligible;
- you will receive an explanation and copy of the results; and,
- you will receive Prior Written Notice (PWN) if the school district proposes any change to your child's identification, evaluation, placement, or provision of a Free Appropriate Public Education (FAPE).

# Discipline Procedures

## Keep Your Eyes on the Road

School personnel may consider unique circumstances on a case-by-case basis to determine whether a change of placement is appropriate if your child violates a school code of student conduct.

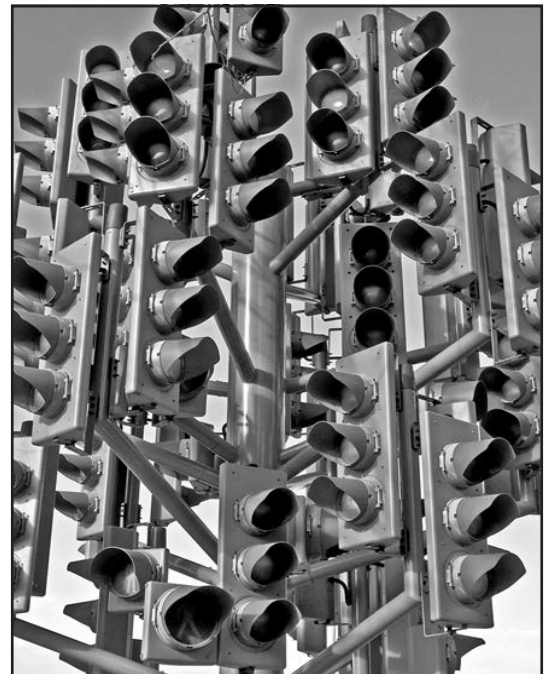
- The school may move your child to an interim alternative educational setting or suspend your child for a single conduct violation or separate incidents of misconduct for not more than 10 school days in a row.
- Once your child has been removed from his/her current placement for a total of 10 school days in the same school year, the school district must provide services.
- The services will enable your child to continue to participate in the general curriculum, although in another setting, and work on IEP goals.
- A functional behavioral assessment and behavioral intervention plan must be provided, as appropriate.
- If removal is a change of your child's placement, the IEP Team will determine appropriate services.
  - PWN is required for a change in placement
  - A manifestation determination will decide if the behavior was a result of your child's disability
  - Dispute Resolution is an option if you don't agree with the school's decision.

### Additional Authority of School Personnel

The school is permitted, under IDEA '04, to remove your child from their special education placement to an interim alternative educational setting (determined by the IEP Team) for up to 45 days, if he/she has engaged in any of the following behaviors:

- carrying or possessing a weapon to or at school, on school premises, or to or at a school function;
- possessing or using or selling illegal drugs or a controlled substance while at school, on school premises, or at a school function; or
- inflicting serious bodily injury upon another person while at school, on school premises, or at a school function.

Nothing prohibits the school from reporting a crime committed by a child with a disability to appropriate authorities. The school reporting the crime will ensure that copies of the special education and disciplinary records of your child are transmitted for consideration by the appropriate authorities. These records will be provided only to the extent that is permitted by the Family Educational Rights and Privacy Act (FERPA).





# Exiting Special Education

The Journey's End



EXIT

There are a number of reasons for which your child may no longer be eligible to receive special education and related services.

1. The MET determined through reevaluation your child is no longer a child with a disability.
  - You will receive Prior Written Notice (PWN) and a copy of the Procedural Safeguard Notice (PSN).
  - You can appeal the schools decision to terminate special education and related services through Dispute Resolution procedures.
  - A discussion may be held with the Multidisciplinary Evaluation Team (MET) regarding eligibility for Section 504 of the Rehabilitation Act of 1973. Section 504 provides reasonable accommodations in the regular classroom for students whose disability significantly affects one or more life activities, such as learning.
2. He/she graduated with a regular high school diploma.
  - You, or your child if he/she has reached the age of majority (18 years), will receive a summary of the students academic achievement and functional performance, including recommendations on how to assist your child to meet his/her postsecondary goals.
3. He/she has exceeded the age of eligibility for FAPE.
  - Arizona allows a student with a current IEP to continue through the end of the school year in which he/she turns 22.



# Dispute Resolution

## Safely Moving Through a Roadblock

### The Informal Dispute Resolution Process

Effective communication is very important when questions or concerns arise regarding your child's special education program.

#### Practical Dispute Resolution Tips



- It is important to document your concerns and the efforts you make to resolve the problem. Attempt to address the issue with the teacher(s) first.
- Find out if the school or district has their own system for addressing parent complaints.
- Contact the individual at your child's school one level above the person with whom you have already discussed your concerns. Continue to follow the chain-of-command until you are satisfied with how the dispute has been resolved.
- Contact a Raising Special Kids Family Support Specialist to help you make use of effective self-advocacy skills (1-800-237-3007).

### The Formal Dispute Resolution Process

The Arizona Department of Education, Exceptional Student Services (ADE/ESS) provides parents and schools with procedures to resolve disputes when informal methods are unsuccessful.

1. Mediation
  - is a less adversarial, voluntary, no cost, approach to dispute resolution;
  - a process initiated by contacting the ADE/ESS, Dispute Resolution Unit; and,
  - a procedure facilitated by a trained, objective, third party who will assist all parties to come to a mutually agreeable solution.
2. State Complaint
  - is a formal ADE/ESS investigation of the issue(s);
  - a process which requires a signed written complaint, including required information, be sent to the ADE/ESS, Dispute Resolution Unit; and,
  - involves an ADE/ESS complaint investigator who has 60 days to examine the alleged violations and issue a Letter of Findings.
3. Due Process
  - is the most formal of the dispute resolution options;
  - you, the school district, or an attorney for either party, must submit a signed, written request for a special education due process hearing to the ADE/ESS Dispute Resolution Unit; and,
  - the request will be forwarded to the Arizona Office of Administrative Hearings and assigned to an Administrative Law Judge, who will manage the case, conduct the hearing, and decide the case within 75 days (30 days for resolution period and 45 days for hearing decision).



# Documentation

## Log Your Journey

It is helpful to have your child's paperwork organized and easily accessible. Two suggested formats are a three-ring binder with dividers or a box with folders.

Include the following items:

- ✓ Calendar log of meetings and appointments
- ✓ Communication log of calls, letters, and email
- ✓ Developmental records, reports, and evaluations
- ✓ A list of your child's strengths, needs, and interests
- ✓ School records, past and current IEPs, report cards, progress notes, and samples of your child's work
- ✓ Medical records and reports
- ✓ Adaptive and/or medical equipment list and instruction manuals
- ✓ Birth certificate, Social Security card and other legal documents
- ✓ Directory of names and phone numbers
- ✓ Resources: disability-specific articles, special education and disability laws



# Resources

## Roadside Assistance

### Raising Special Kids

5025 E. Washington St., #204, Phoenix, AZ 85034

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[www.raisingpecialkids.org](http://www.raisingpecialkids.org)

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Raising Special Kids is Arizona's Parent Training and Information Center.

Parent Training and Information Centers serve families of children with the full range of disabilities under Part D of the Individuals with Disabilities Education Act (IDEA). Services are offered to assist families at no charge to:

- better understand the nature of their children's disabilities and their educational and developmental needs
- communicate effectively with personnel responsible for providing special education, early intervention, and related services
- participate in decision-making processes and the development of individualized education programs (IEPs) under Part B
- obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families
- understand the provisions of IDEA for the education and early intervention services for children with disabilities; in the least restrictive environment and with access to the general education curriculum

Information, training on special education topics, and individual consultations are provided to help parents understand their child's special education program, how they can actively participate in the process, and their rights and responsibilities under the Individuals with Disabilities Education Act (IDEA).

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[www.azed.gov/specialeducation/](http://www.azed.gov/specialeducation/)

The mission of ADE/ESS is to promote the development and implementation of quality education for students with disabilities. The ESS website includes numerous links to special education law, publications, presentations, and public reports.



