

# The Paper Chase: Managing Your Child's Documents Under the IDEA

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## Introduction

If you've got kids with special educational needs, you can be overwhelmed by the paperwork in no time at all. From the beginning of school to the time your child either graduates or "ages out" of entitlement to special ed services, the accumulation of IEP's, evaluations, progress reports, correspondence, notes, journals, samples of your child's work, and medical records, will fill several drawers of a file cabinet or take up most of your shelf space.

You might be tempted to throw out papers when they get out of hand, but this may be a mistake. Even the oldest documents in your child's history can sometimes help you make a case for increased or different services under IDEA.

Make sure you understand the relative importance of different documents and organize them sensibly.

Here are some guidelines to help you manage them.

## Which Documents Are Keepers?

Here's a list of the different documents that you'll see over the course of your child's special needs education. You should keep them all!

**1. Individualized Educational Programs (IEP's) and other official service plans.** In addition to IEP's, you may have Individualized Family Service Plans (IFSP). These are service plans that govern early intervention programs for kids before they're old enough to receive special education services, or plans that are written by agencies other than the local school system (such as a department of mental health or mental retardation).

**2. Evaluations by the school system and by independent evaluators.** Depending on your child, these will include educational, psychological and/or neuropsychological, speech and language, occupational therapy, and physical therapy evaluations.

**3. Medical records.** You probably don't need to keep all medical records with your child's IDEA documents. Keep only those that relate to the disability or disabilities that affect his ability to learn or to access school programs and facilities. As with any other kind of document, when in doubt, keep it!

**4. Progress reports and report cards.** These are the formal documents where the school system periodically describes how your child is doing.

**5. Standardized test results.** School systems often administer standardized tests (such as the California Achievement Tests) to all students. These tests can provide a helpful comparison to the progress reports written by your child's teachers.

**6. Notes on your child's behavior or progress.** These will include notes from you to the teacher, from the teacher to you, or journal entries between you and your child's service providers. Sometimes notes from a concerned teacher tell a different story than the formal report the teacher develops at the request of her supervisor when the TEAM convenes.

**7. Correspondence.** Save any correspondence between you and teachers, special education administrators, TEAM chairpersons, and evaluators. Don't forget emails -- print them out and include them in your correspondence file. Also save correspondence from the school system that's addressed to you or to all special education parents describing issues that affect your child. This may include letters describing new programs, changes in programs or services, school system policies for children with special education needs, or budget issues.

**Note:** Do you use certified mail, return receipt requested, when you send letters or notices to the school system? Sometimes this is necessary, but more often, this just adds unnecessary delay to the delivery of the letter or notice.

It's better to hand-deliver the document and ask for a receipt. Remember that in most courts and administrative forums, a letter mailed in ordinary first-class mail is presumed to have been delivered within three days of its mailing.

**8. Notes from conversations and meetings** with school personnel, evaluators, the child's TEAM, or other interactions relating to your child's program or needs. Be certain to take excellent notes at key meetings or, better yet, bring someone with you whose only task is to take notes (especially at TEAM meetings). These notes can help enormously when, months later, you try to remember exactly what various people said or what agreements were reached.

**Note:** Should you tape TEAM meetings? Do you have the right to tape them? The answer to both questions is "probably not." Under the laws pertaining to discrimination on the basis of handicap, you may have the right to tape a meeting if it's necessary to accommodate a disability (for example, if one or both parents have a language processing disorder). You may also have the right to tape a meeting if it's conducted in a language other than the parents' first language. Generally, the right to tape a meeting hasn't been determined to exist under IDEA.

Ordinarily, if you ask in advance to tape a TEAM meeting, the school system should let you as a courtesy, and will usually tape the meeting also. You need to consider, however, that having a tape recorder may inhibit the participants and create a feeling of hostility at the meeting. Again, it's usually better if someone takes excellent notes.

**9. Documents relating to discipline and/or behavioral concerns.** These include notices of detention and suspension (both in and out of school), letters describing the concerns of service providers or school administrators about behavior, records of behavioral assessments, and records of behavioral plans for addressing behavioral issues.

**10. Formal notices of meetings scheduled to discuss your child.** When you get a notice like this, jot down the date you received it. Sometimes the question of whether a school system has met time requirements is important under IDEA. (It is sometimes a good idea to keep copies of the envelopes in which such notices arrive. Check the date of the notice or letter and the date of the postmark. It could be significant if the postmark is later than the date on the notice.)

**11. Samples of schoolwork.** You don't need to keep every scrap of writing or drawing that your child produces, but it can be helpful to keep examples each year. You can compare these to show how much progress he's made in different academic areas.

**12. Invoices and cancelled checks.** Save the ones from services that you provide for your child's educational development. For example, if you hire a speech and language pathologist for an hour of therapy each week to supplement the school system's services, keep a record of any payment. Eventually, you can seek reimbursement for this expense. (You must be able to prove that it was necessary because the school's services weren't allowing your child to progress effectively.)

**13. Public documents.** These help explain how your school system works with children like yours. They include newspaper articles featuring special education administrators, school committee members, or superintendents talking about reorganizing special education programs, cutting expenses, or new teaching approaches.

Remember that except in rare cases, you don't need to keep drafts of any documents. The drafts may lead to confusion if you ever need to seek services for your child through the due process system. This is one area where you can and most often should lighten your document load.

## Your Child's School Records

Visit the school or special education office every once in a while to look at your child's student records. You want to be sure that you have all the documents the school has. Find out if you have documents that the school doesn't. You can also find out about the rules and regulations in your state for accessing your child's records. In general, all states must provide access under a federal law called the Buckley Amendment (the *Family Educational Rights and Privacy Act of 1974*, 20 U.S.C. §§ 1221, 1232g).

Typically, you have the right to see the records, wherever they are kept, and to have copies provided to you. You may also have the right to ask that a certain document be removed. If your request is denied, you can appeal the decision.

## What Documents Should You Create?

Why is it important to create documents? One reason is that you may have to tell your child's story to another person -- an evaluator, an advocate or lawyer, or a hearing officer -- in order to get help. Documenting events as they occur will help you tell the story accurately. A second reason is that documents can help clarify understandings you reach with people -- particularly with service providers or school administrators. A third reason is that documents that are written when something happens support you when you need to prove that the event happened the way you say it happened.

### Keep a Journal

It can take years for parents to realize that they should have kept better notes of meetings, telephone calls, and important events in their child's educational career. If your young child has a disability in need of special education, get ahead of the game by developing this habit now.

Your notes may be important later when you need an accurate description of what key people said at a TEAM meeting, at a parent meeting, or in an evaluator's office.

Some parents keep a journal with dates, short descriptions of events or conversations, and the names of people who were involved. This doesn't mean you need to include every tiny detail of your child's life, but a well-kept journal can help you explain to others (or to yourself) how you got to the current situation.

Try to record these events:

- Dates of meetings with school personnel
- Dates you received key documents (such as notices of TEAM meetings)
- Dates you sent or delivered key documents
- Dates you gave school personnel important information (such as "1/7/99: Told Mary's teacher that she'd been spending three hours every night trying to do 15-minute math assignments").
- Dates on which your child was suspended or disciplined

### Create Agreements

Some documents are designed to record understandings reached with others. The most formal example of this is a contract signed by the parties who agree to its terms. (Note: An IEP is really a contract. It records an agreement reached between parents and school systems that governs: 1) the types of services to be delivered to a child for a specific period of time; 2) the location of those services; and 3) the identity of service providers. It's signed by each party.

Even without an "official" agreement, you can create your own document to help prove that an understanding was reached. Here's an example:

Your special education director tells you that the school system will hire an expert on inclusion techniques. You'll be given the chance to meet with the expert about your child. Follow up this conversation with a friendly letter to the director. In the letter, thank her for taking the time to discuss your concerns about the classroom, and describe your understanding of the steps she promised to take. End your letter by asking the director to respond immediately if you have misunderstood anything.

This letter may not "prove" that the director said what you claim she said, but if she doesn't send back a response, there's an implication that she did say those things.

### **Other Documents**

There may be other documents that can help your child. Has your child been tested repeatedly over the years, with steadily declining results? You may want to create a chart of test results to focus the TEAM on that history.

Have the people who work with your behaviorally-involved child wondered what precipitates his aggressive outbursts? Keep a record of the things that are said and done immediately before such explosions -- whether witnessed by you or told to you. You may be able to solve the mystery, and focus your child's service providers on developing a plan to work with these behaviors.

### **Meeting Your Lawyer**

When parents ask an attorney or lay advocate for advice on their child's rights under IDEA, the first thing the adviser must do is review all the relevant documents. How should you organize them?

Special education lawyers will ask you to send copies of all your child's documents in chronological order before you meet. This gives the lawyers a chance to read them and get a full picture of your child and what has been done for her in the special education system. Unless the lawyer or advocate asks, don't try to organize your documents by category (IEP's in one file, evaluations in another, correspondence in another). The most efficient way for the lawyer to understand your child's history is to see the development step by step.

Because you may present documents as exhibits at a hearing or in court, don't write comments on them. (You can make notes with post-its.)

You should also give the lawyer a chronology of the events that have led you to consult with him. This doesn't have to be extremely detailed. Shoot for an outline that gives some perspective on what led to your child's current situation.

Finally, you should give your lawyer or advocate a list of all the key people that have been involved with you or your child. Include their full names, addresses, and phone numbers if you can.

### **Formal Discovery**

If your search for services leads to a formal due-process proceeding, you'll have whatever "discovery" rights are available under the rules in your state. Usually these rules allow parties to have the opposing parties produce documents that are either relevant to the issues the hearing officer must decide or may lead to relevant evidence.

Here are some of the documents lawyers will typically ask school systems to produce in formal discovery:

- Descriptions of proposed programs;
- Copies of your child's proposed daily or weekly schedule under the proposed IEP;
- Copies of the daily or weekly schedules of proposed service providers;
- Copies of curricula, materials, behavioral plans, that govern the classrooms where your child would be placed;
- Resumes and information on the certification, training, and experience of proposed service providers;

- Profiles of other students with whom the school system proposed to place the child;
- IEP's of the other students (with their names blacked out);
- Reports of any program or fiscal audits of the school system and of the particular program in which the school system proposes to place your child;
- Annual or other reports that the school system files with the state education agency about special education programs; and
- Minutes taken by school system personnel at any key meetings about your child (especially TEAM meetings).

## **Conclusion**

In this article, you learned how to organize your child's records, what records to keep, and how to create documents.

You learned that to get help for your child, you may have to tell your child's story to another person -- an evaluator, an advocate or lawyer, or a hearing officer. If you document events as they happen, your records will help you tell your child's story accurately.

You learned to use documents to clarify the understandings you reach with special education service providers and school administrators. Finally, you learned that documents that you write at the time an event happens can provide support if you need to prove that the event happened.

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