

KID LAW Fact Sheet

Special Education for Children Ages 3-5



Federal and New Jersey laws require schools to provide a Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE) to preschool-age children with disabilities who are eligible for special education. The LRE is the setting where, to the greatest extent possible, the child is educated alongside peers without disabilities and provided an equal opportunity to participate in non-academic and extracurricular activities.

Who is a preschool child with a disability?

A preschool child with a disability is a child between the ages of 3 and 5 who (1) has an identified disabling condition (including hearing and vision impairments) that adversely affects learning or development and requires special education and related services or (2) is experiencing a developmental delay and requires special education and related services. When measured to determine eligibility, a developmental delay is a delay of 33% in one developmental area or 25% in two or more developmental areas.

What special education programs must a district provide for preschool students with disabilities?

The school district must provide special education preschool programs five days a week. One of those days may be used for parent training, with at least four days devoted to instruction, which must provide a minimum of 10 hours of instruction and related services such as speech-language therapy, occupational therapy, and physical therapy. The nature and severity of the child's disability will determine the extent of services needed to ensure FAPE in the least restrictive environment.

Timeline for evaluations and IEP implementation
Within 20 days of receiving a parental request for evaluations, the child study team (CST) should invite the parents to a meeting to discuss eligibility for evaluations. If agreed upon, the parent must give written consent for a multi-disciplinary evaluation, usually involving educational, psychological, and social assessments. The district must pay for all necessary evaluations and has 90 calendar days from the date of the parent's consent to complete the evaluations, meet with the parent to discuss eligibility for services, and, if eligible, develop and implement an Individualized Education Program (IEP). The CST must provide written notice to the parents 15 calendar days before any decision, including eligibility determination, can take effect.

How is it decided whether and what special education services a child will receive?

Initial Evaluation Determination Meeting

The CST comprises a school psychologist, a school social worker, a learning disabilities teacher-consultant, and any other specialists necessary to identify the child's disabling conditions fully. A speech-language specialist must participate in this meeting to determine the potential need for a speech evaluation for preschoolers. Decisions should also be based on information provided by the parents, Early Intervention records, observations from school staff (including if the child is enrolled in a private preschool or daycare setting), current classroom-based assessments, and any available medical reports.

Giving Every Child A Chance

Which school district is responsible for conducting evaluations for my child, who attends a private preschool?

The school district where you reside is responsible for conducting child study team evaluations and developing IEPs for preschoolers eligible for special education, regardless of whether the program will be implemented within the district or in a private preschool. Even if your child attends a private preschool in another district, your district of residence is responsible for the evaluation and, if eligible, the development of an IEP. Limited special education services can be provided in a private preschool or childcare facility.

Eligibility and IEP Development Meetings

A written report, including the results of each assessment, is prepared and provided to the parents 10 calendar days before the eligibility and IEP development meetings, which are usually conducted simultaneously. Parents may also submit assessments for consideration in the IEP development. Suppose the IEP cannot be implemented in the local school district. In that case, the IEP team may use outside agencies or other school districts to provide appropriate preschool instruction and services if the provider is licensed or approved, non-sectarian, and staffed by licensed or certified professionals.

Reevaluations for preschoolers before they enter kindergarten

Preschoolers must be reevaluated by June 30 of the year before they enter kindergarten. During an annual IEP review, if the child is still deemed eligible, the child will be classified under a specific category of disability, and an IEP will be developed for implementation in kindergarten, including all necessary services, supports, and modifications. If the child is not eligible for special education, they may still be eligible for a 504 plan. Parents can request that the district's 504 team develop a 504 plan.

Appealing school decisions

Parents can resolve disputes informally, request a review by the District's Director of Special Education, or file a Due Process Petition or Request for State Mediation to appeal a school decision within 15 calendar days of the district's decision taking effect. For more detailed information, see ACNJ's Basic Guide for Special Education at www.acnj.org.

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