

## Special Education: Federal Law vs. State Law

By Peg Rosen

Every student who gets special education is covered by the Individuals with Disabilities Education Act (IDEA). That federal law spells out what all states must do to meet the needs of students with disabilities. But in many areas, IDEA leaves room for states to interpret the rules and pass their own laws on how to apply them.

State laws can't contradict IDEA, and they can't provide *less* than the federal law requires. But they can offer *more* protections to kids and parents. This table shows examples of what IDEA provides for, and how states can add their own special education laws to meet students' needs.

	Federal Law (IDEA)	State Laws
Who is eligible for special education	IDEA says students who have one of 13 types of disabilities may qualify for special education. To be eligible, the disability must "adversely affect" their educational performance.	States must follow IDEA, but they can have guidelines on who qualifies for each disability type.  For example, qualifying under the category of " <u>specific learning disability</u> " can differ by state. States can even allow it to vary by school district within the state. States may also use different models for deciding if your child is eligible. That's why a learning issue that qualifies as a "specific learning disability" in one state may not in another.
<u>Free appropriate public education</u>	IDEA says every child with a disability is entitled to a free and appropriate education.	States must provide FAPE, but they have leeway in what instruction or services to provide. For instance, states can decide on the types of educational programs to use. And many different programs could be "appropriate."

<p><b>(FAPE) and <u>least restrictive environment</u> (LRE)</b></p>	<p><b>Kids with disabilities must also receive special education in the LRE. There must be a continuum of placements available, from self-contained to inclusion classrooms.</b></p>	<p><b>States must educate children with disabilities in the LRE. But states can choose how to structure their schools as long as they provide special education in several types of placements.</b></p>
<p><b>Procedural safeguards</b></p>	<p><b>This is the area where IDEA is the most detailed. IDEA lays out the process and steps that schools and parents go through for evaluation, IEP meetings and dispute resolution.</b></p> <p><b>For example, it requires schools to complete an evaluation within 60 days.</b></p>	<p><b>IDEA lets states make the process even more protective for parents. But they can't make it <i>less</i> protective.</b></p> <p><b>A common example is time limits. For example, instead of the 60-day time limit for evaluations, Washington state law gives schools just 35 days to complete one after parental consent.</b></p>
<p><b>Early intervention</b></p>	<p><b>IDEA provides for early intervention for kids with <u>developmental delays</u> or specific health conditions. But it doesn't actually define "delay," state who is eligible or spell out who pays for what services.</b></p>	<p><b>Each state decides what constitutes a delay, who is eligible for services and who pays for what.</b></p> <p><b>Some states are more generous than others. Some pay for physical therapy or family training. Others require parents to cover some costs.</b></p>
<p><b>Age of eligibility</b></p>	<p><b>IDEA says educational services must be provided to students with disabilities who are in school until the age of 21.</b></p>	<p><b>States must meet the federal minimum of 21, but they may pass laws that exceed it. Michigan, for instance, provides services until the age of 26.</b></p>
<p><b>Age of transition services</b></p>	<p><b>Federal law says schools must start transition planning for after high school at the age of 16.</b></p>	<p><b>Some states choose to start earlier. In Massachusetts, for instance, schools must provide transition services starting at age 14.</b></p>

How can you find out about your state's special education laws? Many states offer handbooks or guides. Check online, contact your school district or state department of special education, or visit your state's Parent Training and Information Center (PTI).

Learn more about your child’s rights in special education. Understanding both the federal and state laws will help you discuss services for your child at school.

## About the Author



### **Peg Rosen**

Peg Rosen has written for numerous digital and print outlets, including ParentCenter, WebMD, *Parents*, *Good Housekeeping*, *More*, *Fitness* and *Martha Stewart*.

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