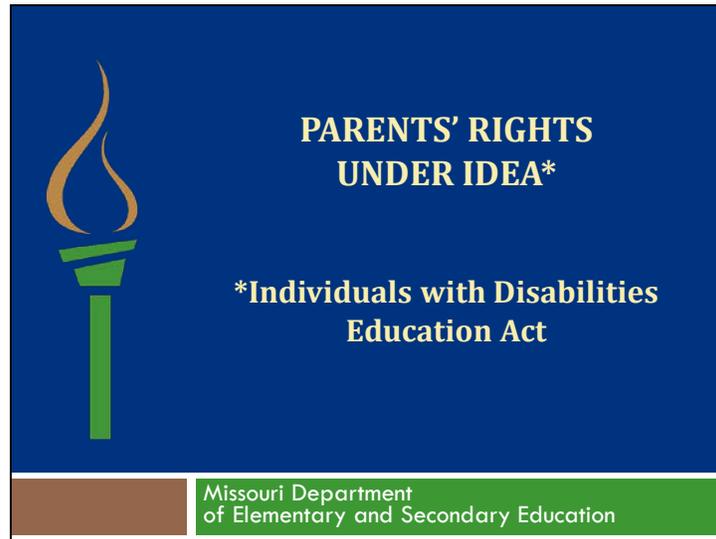


Slide 1



The Individuals with Disabilities Education Act (IDEA) is a federal law that requires schools to serve the educational needs of students with disabilities. The law ensures a free appropriate public education (FAPE) for students with disabilities in all fifty states and US Territories. This presentation will tell you a little bit about your rights as a parent or guardian of a student who has a disability under IDEA.

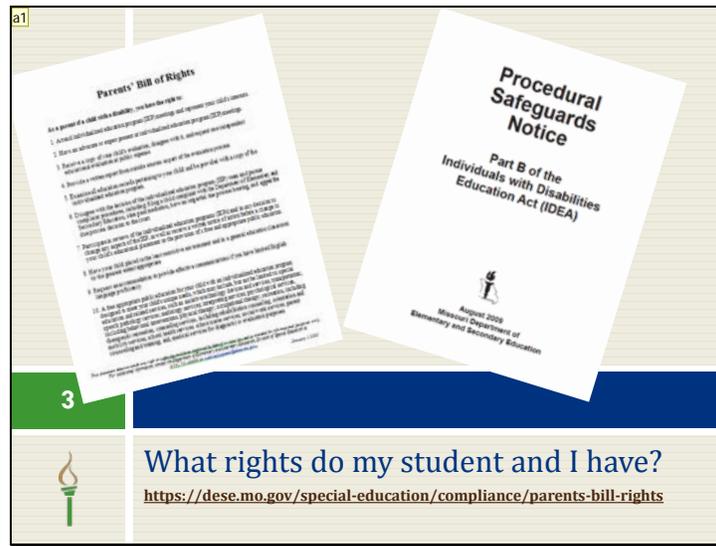
Key Principles in IDEA

2

- Procedural Safeguards
- Free Appropriate Public Education
- Appropriate Evaluation
- Individualized Education Program
- Least Restrictive Environment
- Parent Participation



There are a number of key principles in the Individuals with Disabilities Education Act (IDEA) concerning the education of students with disabilities. During this session, we will discuss answers to questions, like: What are my rights as a parent under IDEA? What is a Free Appropriate Public Education? Does my student need to be tested for special education? What is an Individualized Education Program? Where does my student receive their special education classes? How can I get more involved in my student's education?

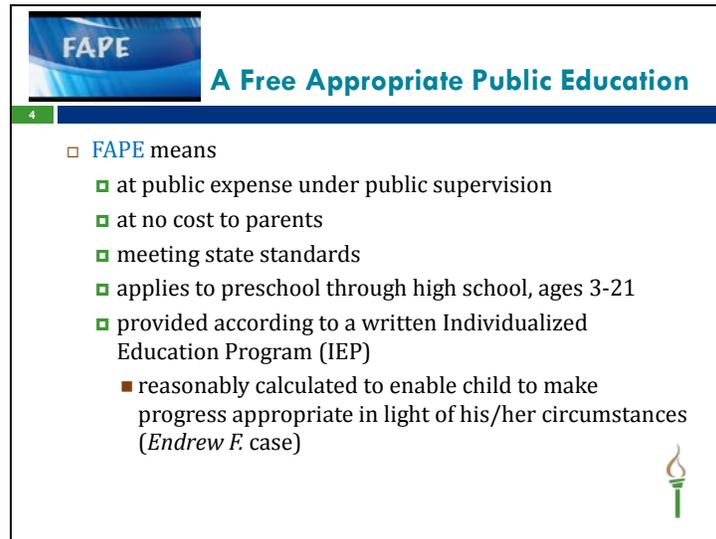


Both the Parent’s Bill of Rights and Procedural Safeguards Notice discuss rights you and your student have under the Individuals with Disabilities Education Act or IDEA.

The Procedural Safeguards Notice is designed to help you understand your rights and the rights of your student. It also gives you a way to resolve disputes. At least once a year the school district must give you a copy with a complete explanation of the rights and protections under the law. You may be given the Procedural Safeguards Notice several times during a year because the school district is required to give it to you when you or the school requests an initial evaluation, when a State complaint is filed, when a due process complaint is received, in accordance with discipline procedures and when you request a copy of it. The Procedural Safeguards Notice contains an explanation of all the safeguards related to independent education evaluation, prior written notice, parental consent, access to student records, the opportunity to present and resolve complaints, mediation, due process, child complaints, placement, civil actions, and lawyers’ fees. That sounds like a lot of information, and it is, but we’ll talk about each of these things. Not only do we want you to know about them, but IDEA requires that this information be written in a language that is understandable and provided in your native language or in another mode of communication that you use, unless it is clearly not feasible to do so. You may receive the procedural safeguards notice in person, in the mail or through email.

The Office of Special Education at the Missouri Department of Elementary and Secondary Education developed a Parents’ Bill of Rights in 2009. School districts must provide you with the Bill of Rights whenever the Procedural Safeguards Notice are provided. Copies of these rights in English, Spanish, American Sign Language, Braille, and other languages are available by calling 573 751 0699, going to the link at the bottom of this slide.
<https://dese.mo.gov/special-education/compliance/parents-bill-rights>

Slide 4



FAPE A Free Appropriate Public Education

- FAPE means
 - at public expense under public supervision
 - at no cost to parents
 - meeting state standards
 - applies to preschool through high school, ages 3-21
 - provided according to a written Individualized Education Program (IEP)
 - reasonably calculated to enable child to make progress appropriate in light of his/her circumstances (*Endrew F. case*)



At the beginning, we mentioned a Free Appropriate Public Education or “FAPE.” Let’s break it down; IDEA defines free to mean that specialized instruction, or teaching, as well as specialized services like speech, physical, occupational, or language therapies are provided as part of a student’s public education; as a parent, you are only required to pay the same fees as any other student attending a public school. All students are entitled to an appropriate program that is designed to meet individual student needs based on the Individualized Education Program developed by their IEP team. Students have the right to be educated under public supervision by the public school system. Most students are educated in the public school although some students may be educated in a different setting. Finally, education must be provided to every eligible school-age student with a disability.

The Supreme Court recently stated in *Endrew F. v. Douglas County School District* that students with disabilities are required to receive more than just “some educational benefit” and that “the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances”. This was the first time in 35 years that the court clarified the legal standard of a Free and Appropriate Public Education.

**You have the right to...
an Evaluation of Your Student**

5

- Child Find
 - A school district is responsible to identify, locate, and evaluate any student who is suspected of having a disability and needing special education and related services.
 - The school district must hold an eligibility staffing to determine if the student is eligible for services within sixty (60) calendar days following consent from the parent.



You have the right to an evaluation of your student.

As part of the school district’s responsibilities under IDEA, school districts must identify, locate and evaluate students who may be in need of special education in their district. This is known as “Child find,” under IDEA and includes students who are homeless, foster children, in the custody of public welfare agencies and students attending private schools. Before special education and those “related services” we talked about earlier can be initiated, school districts must conduct a full and individual initial evaluation.

Either you, as a parent of the student, or a school district may initiate a request for an initial evaluation to determine if the student is a student with a disability. The school district decides whether or not to evaluate the student, based on evidence of a suspected disability. If the school decides that your student should be evaluated for possible special education eligibility, the district must request your informed consent, or permission, in order to proceed with the evaluation. The school district must provide a written notice to you that describes any evaluation procedures they plan to conduct. Initial evaluation must be conducted within the timelines and consist of procedures to determine if the student is a student with a disability as defined in the Missouri State Plan as well as to determine the educational needs of the student. Once you consent to the evaluation, the district has sixty (60) calendar days to complete the evaluation and hold an eligibility meeting to determine if the student is eligible to receive services. The school district must provide you with a copy of the evaluation report. If you repeatedly fail or refuse to produce the child for the evaluation or change school districts after the sixty (60) calendar day timeline begins, the timeline no longer applies. Situations like school breaks for summer or holidays and student illness extend the timeline.

If the school decides there is not enough evidence of a “suspected disability” and denies your request for an evaluation, the school must give you a written notice of its decision. This written notice is referred as “Prior Written Notice” and must include

- **A description of the action proposed or refused by the district**
- **An explanation of why the district proposed or refused to take the action and a description of all student information used as a basis for the decision**
- **A statement that parents have protection under the Procedural Safeguards**

You have the right to...
Request an Evaluation for your Student

- You may ask to have your student evaluated under IDEA by calling or writing the student's school district .
- If the school district also suspects the student of having a disability, an evaluation is conducted at public expense, but you must give consent.
 - You may include information about outside resources.
 - Evaluation must be done within 60 days of your consent.
- If the school district does not agree, it must provide the decision in writing with reason refused.
 - If refused, review your district's special education policy.
 - You may contact MPACT (Parent Information Center)  for guidance, information, and possible next steps.

You have the right to...

Request an Evaluation for your Student

You can ask the school to *evaluate* your student. You may make the request to your student's teacher, or call or write the director of special education or the principal of your student's school. Describe your concerns with your student's educational performance and request an evaluation under IDEA, to see if a disability is involved.

The public school may also be concerned about how your student is learning and developing. If the school thinks that your student may have a disability, then it *must evaluate your student at no cost to you*. The school must ask your permission and receive your written consent before it may evaluate your student. Once you provide consent, the evaluation must be conducted within 60 days. The evaluation may include information from outside sources that you provide.

However, the school does not *have* to evaluate your student just because you have asked. The school may not think your student has a disability or needs special education. In this case, the school may refuse to evaluate your student. It must let you know this decision in writing, as well as why it has refused. This is called giving you *prior written notice*.

If you have questions about understanding the evaluation process, you may want to get in touch with MPACT, Missouri's Parent Training and Information (PTI) center. MPACT is a resource for parents to learn more about special education, their rights and responsibilities, and the law.

Eligibility Categories Under IDEA

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- Autism
- Deaf-blindness
- Deafness
- Developmental delay
- Emotional disturbance
- Hearing impairment
- Intellectual disability
- Multiple disabilities
- Orthopedic impairment
- Other health impairment
- Specific learning disability
- Speech or language impairment
- Traumatic brain injury
- Visual impairment, including blindness



Understanding how the term *disability* applies to being eligible for special education services is one of the most important ideas in IDEA.

The law defines students with disabilities as those students, ages, three (3) to twenty-one (21), who have been properly evaluated and meet criteria for eligibility under one or more of the following categories: Intellectual Disability, Hearing Impairments and Deafness, Speech or Language Impairments, Visual Impairments including Blindness, Emotional Disturbance, Orthopedic Impairments, Autism, Traumatic Brain Injury, Other Health Impaired, a Specific Learning Disability, Deaf Blindness, or Multiple Disabilities and, who because of that disability, require special education and related services. The State of Missouri also defines a child with a disability to include children ages three (3) through five (5) who have been properly identified as a Young Child with a Developmental Delay.

It is important to understand that a student must meet both conditions in order to be determined eligible for special education services. The student must meet criteria under a categorical eligibility AND need special education (specialized instruction) and related services. A student may be a student with a disability, but not need special education services. These students may still need some special help and may have their needs met through differentiated instruction in the general education curriculum by the classroom teacher, or through accommodations in the general education setting described in a Accommodation Plan under Section 504 of the Rehabilitation Act.

Each school district must conduct a full and individual initial evaluation, before providing special education and related services to a student with a disability. The Missouri State Plan for Special Education has additional information about definitions and criteria for eligibility.

You have the right to...
Receive Prior Written Notice (Notice of Action)

- when the school district proposes to initiate or change the identification, evaluation, or educational placement of your student
- when the school district proposes to initiate or change the provision of **FAPE** to your student
- when the school district refuses to initiate or change the identification, evaluation, or educational placement of your student
- when the school district refuses to initiate or change the provision of **FAPE** to your student



You have the right to...

Receive Prior Written Notice (Notice of Action)

Parental rights under IDEA include the right to receive prior written notice from the school district each time that the school proposes to take (or refuses to take) certain actions with respect to your student. *Prior written notice* serves as a vehicle of communication between schools and families. It is very important that you are always well informed about whatever action the school intends to take (or intends *not* to take) about your student. Through prior written notice, the school can make sure you are up to date on what it's proposing or refusing to do and have time to consider the action and respond if you disagree.

What if you do not give consent?

- ❑ An initial evaluation cannot be conducted without parent consent.
- ❑ A reevaluation with testing also cannot be conducted without consent.
- ❑ Any reevaluation in which actual testing is not needed may be done without consent. The parent would need to resolve any issues by using the dispute resolution process.
- ❑ The school district cannot provide special education or related services for the first time without your consent.
- ❑ You may revoke consent in writing after your student has begun to receive services.



But what if you don't give consent? As we said, the school district must obtain your consent prior to conducting an initial evaluation.

If you refuse to consent to your student's reevaluation with assessment, the school district may, but is not required to, pursue your student's reevaluation by using various procedures to resolve the dispute such as mediation, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your student's reevaluation.

The district can proceed with an evaluation without assessment, if the district provides you with a Written Notice and waits at least 10 days.

If special education and related services are proposed for your student, and you do *not* give your consent, the school district may *not* provide any special education services as part of his or her public education.

If you wish to take back or cancel your consent after your student has started receiving special education and related services, you must do so in writing. Withdrawal of consent does not undo an action that has occurred after you gave your consent and before you withdrew it. The school district is not required to amend or remove any references that your student received special education and related services in the student's education records. Special education records are kept for 3 years after services were stopped.

Consent \neq Agreement

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An oral agreement is *not* sufficient when parental consent is required.

Consent must be in writing.



It's important to recognize that there is a difference between your *consent* as a parent and your *agreement* as a parent. In the school life of your student, there are occasions when you and the school system can agree to take certain actions for the benefit of your student. Usually, this is done orally, and that's sufficient. But an oral agreement is *not* sufficient when parental consent is required. *Consent must be in writing.*

You have the right to...
Obtain an Independent Evaluation

11



- Who pays for the IEE?
- What else should a parent know about IEEs?
- Where are IEEs in IDEA's regulations?

<https://www.govinfo.gov/content/pkg/CFR-2019-title34-vol2/pdf/CFR-2019-title34-vol2-sec300-502.pdf>



You have the right to...
Obtain an Independent Evaluation

You may have heard about an Independent Educational Evaluation (IEE) and may have some questions about IEEs.

You, as the parent of a student with a disability, have the right to request an Independent Educational Evaluation (IEE) if you don't agree with the school's evaluation of your student. An IEE is conducted at public expense. If you request an independent evaluation, the school district provides you with a list of qualified evaluators, locations and the specific requirements needed from the independent evaluation. The evaluator is not employed by the school district. You have a right to one IEE at public expense each time the school conducts an evaluation and you disagree with the results of the evaluation. The school district must consider the results of the IEE if it meets school districts' requirements.

You have the right to...
Provide Consent

12

- when the school district is proposing to conduct an initial evaluation to determine if your student is a student with a disability and needs special education services
- when the school district is proposing to provide initial special education and related services for your student
- when the school district is proposing to conduct a reevaluation when testing is conducted of a student with a disability



You have the right to... Provide Consent

It is required for the school district to seek consent from the parent before it can take certain actions. The consent is obtained when the school district provides Prior Written Notice of Action in these situations:

- **when the school district is proposing to conduct an initial evaluation to determine if your student is a student with a disability and needs special education services with or without testing**
- **when the school district is proposing to provide initial special education and related services for your student**
- **when the school district is proposing to conduct a reevaluation when testing is conducted of a student with a disability**

Because the Written Notice of Action form is used for several things, it can be confusing. Read it carefully and be sure to ask questions about anything that is not clear. It is a two-page document where the first page describes specific actions proposed or refused with the reasoning behind the proposed action. Your signature in the top portion of page 2 of the Written Notice of Action gives permission to the school district to start evaluations, reevaluations, and initial services immediately. The bottom section of this same page is used to approve a waiver of a 10-day waiting period. Without the signature on the bottom section, the action proposed or refused on page 1 of the Written Notice of Action takes place after 10 days.

You have the right to...
Participate in Eligibility and IEP Meetings to Represent Your Student's Interests

13

- regarding whether your student is a student with a disability and eligible to receive special education and related services
- regarding provision of a Free and Appropriate Public Education (FAPE) for your student
- regarding development, review, or revision of IEP
- regarding a decision related to educational placement



You have the right to...

Participate in Eligibility and IEP Meetings to Represent Your Student's Interests

The involvement of parents in all decisions about their student will help result in services that are individualized to meet the unique needs of students and in the development of a closer, more collaborative relationship with schools. The contributions that parents make to the process are important because they help ensure the educational success of the student.

Parents are to be included as members of any decision making team for their student, including decisions about eligibility, initial evaluation and reevaluation, development of an individualized education program (IEP) for the provision of a Free Appropriate Public Education (FAPE), and educational placement.

If neither parent can be present in a meeting about educational decisions for their student, the school can use other methods to ensure their participation. These methods could include individual or conference telephone calls or video conferencing. If the school cannot reach the parent, or if the school cannot convince the parents that they should come to the meeting, the meeting can be held without the parent, but the school must document at least two attempts by two methods to reach the parent.

Other than the requirement that the student *must* be invited to attend the IEP meeting if transition planning is going to be considered at the meeting—who decides when and how a student may participate in an IEP meeting? In reality, parents and students often make this decision together. It's not uncommon for parents and even teachers to encourage students to take part in developing their own IEPs. Some students in elementary school come to the meeting just to learn a little about the process or to share information about themselves.

As students get older, it may be a good idea to encourage them to take a more active role. By the age of 16, the school district will invite the student to participate in their IEP meeting. Active participation allows them to have a strong voice in their own education and can teach them a great deal about self-advocacy and self-determination. Older students may even *lead* the IEP meeting, and specific materials exist to help them get ready for such a role.

So, what's in an IEP? Certain things are required by IDEA:

Each student's IEP must include: how the student is doing in school and how the student's disability affects involvement and progress in the general curriculum; what the parents and school team think the student can accomplish in a year; how teachers will measure the student's progress toward their annual goals; what instruction and related services need to be provided to the student reach their goals; are there other aids and services needed; are changes to the program or supports needed for school staff; how much of the school day is the educated separately from nondisabled student; is the student able to join in extracurricular or other nonacademic activities such as lunch or clubs; is the student able to participate in state and district-wide assessments; are modifications to tests needed; when services and modifications begin, how often they will be provided, where they will be provided, and how long they will last.

Any student can be involved in developing their IEP and IDEA actually requires that any IEP meeting where transition services will be discussed, the student must be invited. Transition services are ones that are designed to help the student plan for adulthood and life after high school. At the age of 18, which is the age of majority in Missouri, rights transfer from the parent to the student, unless the student is not competent and a guardian has been appointed by the courts. So when your child turns 18, unless the student has a guardian, the student is the educational decision-maker and will receive all notices required under IDEA.

Both you and the school may invite other individuals who know or have special experience with your student be *members* of the IEP team. For example, related services personnel like a speech language therapist or physical therapist, may be invited if they have knowledge or special expertise about your student; the same is true of a teacher, specialist, friend, or family member. It's not necessary to demonstrate or prove the person's knowledge or special expertise regarding the student.

What is a Least Restrictive Environment?

15

- Students with a disability should have every opportunity to be educated with non-disabled peers



Once the IEP team has decided *what* services a student needs, a decision must be made about *where* services will be provided. Where the student's IEP is carried out is called *placement*. You have the right to be part of the group that decides the student's placement.

In deciding placement, the group must make sure that the student has the maximum opportunity to learn with students who do not have disabilities—in academic, nonacademic, and extracurricular activities. This part of IDEA is called *Least Restrictive Environment* or LRE.

In IDEA, a least restrictive environment (LRE) means that a student who has a disability should have the opportunity to be educated with non-disabled peers, to the greatest extent possible. The Least Restrictive Environment isn't a place, it's a principle that guides your student's educational programming. The goal of the IEP team is to provide the services required by the student in an environment with his or her peers. The determination of where your student spends their time and how they receive services impacts the relationships they develop at school and in the community. As a member of the IEP team, you'll be involved in figuring out your student's LRE, least restrictive environment.

You have the right to...
Inspect and Review Educational Records

16



A student's educational record is one that contains information directly related to a student and is maintained by an educational agency, institution, or a party acting for the agency or institution.

Family Educational Rights and Privacy Act (FERPA)



IDEA guarantees you, as parents, the right to inspect and review educational records of your student.

Another law, the Family Education Rights and Privacy Act (FERPA) gives parents certain rights with respect to their student's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. The Family Educational Rights and Privacy Act (FERPA) defines "student records" as those records that contain information directly related to a student and which are maintained by an educational agency.

Parents or eligible students have the right to request that a school correct records which they believe to be wrong. If the school decides not to amend the record, the parent or student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or student has the right to place a statement with their view about the contested information.

Generally, schools must have written permission from the parent or student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions:

- School officials with legitimate educational interest;**
- Other schools to which a student is transferring;**
- Specified officials for audit or evaluation purposes;**
- Appropriate parties in connection with financial aid to a student;**
- Organizations conducting certain studies for or on behalf of the school;**
- Accrediting organizations;**
- To comply with a judicial order or lawfully issued subpoena;**
- Appropriate officials in cases of health and safety emergencies; and**
- State and local authorities, within a juvenile justice system, pursuant to specific State law.**

You have the right to...
Disagree with Decisions Made by the School System

17

- the identification of the student as a “student with a disability”
- the student’s evaluation
- the student’s educational placement
- the special education and related services that the school provides to the student

What if you cannot agree??????



You have the right to...

Disagree with Decisions Made by the School System

You may really disagree with some of the decisions that the school district has made. Do you have any options? What if you really think your student has a disability and the school won’t evaluation? What if the school wants to educate your student at a school different from the one that same age neighbors attend? What if you think your student needs speech therapy and the school disagrees?

You have the right to...
Use Mechanisms for Resolving Disputes

18

Informal Approaches

- IEP review
- Facilitated IEP meeting
- Mediation

Formal Approaches

- Filing a state complaint
- Due process



You have the right to...
Use Mechanisms for Resolving Disputes

There are times when you and the school simply do not agree on some issue affecting a student's education. You may try informal approaches to resolving the conflict, such as reviewing and revising the student's IEP, holding a facilitated IEP meeting, or trying mediation where you and the school sit down with a third person who is impartial (called a mediator), talk openly about the areas of disagreement, and try to reach an agreement.

The law and its regulations include more formal ways through which parents and schools can resolve disagreements. These include:

Due process complaints, where you communicate in writing with the school system and describe the provision of IDEA that you feel the school has violated. Filing a due process complaint is the first step in the process by which you ask for a due process hearing.

Resolution processes, which begin when the school system receives your due process complaint and includes a resolution meeting between parents and specific members of the IEP team who have knowledge of the facts identified in the parents' due process complaint or,

Filing State complaints, in which you communicate in writing with the State Education Agency (SEA) and describe the provision of IDEA that you feel the school has violated. In the majority of cases, the SEA must resolve your complaint within 60 days.

Help from Parent Information Centers

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Missouri PTI
Missouri Parents Act (MPACT)
7421 Mexico Rd, Suite 200
St. Peters, MO 63376
(800) 743-7634 (V/TTY)
<http://www.missouriparentsact.org>

<http://www.parentcenterhub.org>

Families with a student who has a disability often need information about the disability of their student, about early intervention (for babies and toddlers), school services (for school-aged students), therapy, local policies, transportation, and much more. Every State has at least one Parent Training and Information Center (PTI) to offer families just this kind of information. Many States also have a Community Parent Resource Center (CPRC), which offers the same type of support and training to parents of students with disabilities. For a quick read on what PTIs and CPRCs do, and how they can help parents and families of students with disabilities you may “double click” on the link: <http://www.parentcenterhub.org>

The Parent Training and Information Center (PTI) for our state is Missouri Parents Act or MPACT. This center is a great resource for information and training for parents. Their services are provided at no cost to families. Again, you may “double click” on the link: <http://www.missouriparentsact.org>

Let’s take some time now and discuss some of the specific rights you and your student have under IDEA.

Additional Resources

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- [Center for Parent Information and Resources](#)
- [Missouri Parents Act \(MPACT\)](#)
- [Family Education Rights and Privacy Act \(FERPA\)](#)
- [MO DESE](#)



In addition to the resources discussed throughout this presentation, other ways of going deeper into the topics of special education can be found by “clicking” on the links listed here.

Slide 21



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Contact Us

Office of Special Education, Compliance
secompliance@dese.mo.gov
573-751-0699

The Department of Elementary and Secondary Education does not discriminate on the basis of race, color, religion, gender, national origin, age, or disability in its programs and activities. Inquiries related to Department programs and to the location of services, activities, and facilities that are accessible by persons with disabilities may be directed to the Jefferson State Office Building, Office of the General Counsel, Coordinator - Civil Rights Compliance (Title VI/Title IX/504/ADA/Age Act), 6th Floor, 205 Jefferson Street, P.O. Box 480, Jefferson City, MO 65102-0480; telephone number 573-526-4757 or TTY 800-735-7966; email: civilrights@dese.mo.gov.