



Summary of Significant Changes to

Individuals with Disabilities Education Improvement Act: IDEIA 2004

This is a summary of the most significant changes to the Individuals with Disabilities Education Improvement Act (IDEIA) 2004. Virginia law may provide more rights than Federal law.

IEP Process

- **Short-Term Objectives** – Individual Education Plan (IEP) teams no longer have to create short-term objectives for meeting each child's IEP goals. These objectives are now required only for students who are taking alternate assessments. Though law does not require short-term objectives, a parent can ask that they be included in a child's IEP.
- **Transition** – Transition services now begin at age 16.
- **IEP Attendance and Participation** – With a parent's permission, team members may choose not to come to the meeting; however, they must come if the team is talking about their part of the IEP. A parent can also give permission for members to attend by phone.

- Transfers Between School Districts (In-State and Out-of-State) – The new school must follow the IEP from the old school until a new IEP is in place.

Due Process

- Procedural Safeguards Notice – The new law does not require that schools give parents “Procedural Safeguards Information” as often as the old law. Parents may request a copy at any time.
- Statute of Limitations – Parents have two years from the date of an IDEIA violation to use their due process rights. This is true whether they knew or should have known that violation took place.
- Due Process Complaint Notice Requirements – A parent must notify the school and the Virginia Department of Education (VDOE) of a complaint to file a due process hearing. This is a Due Process Notice. The new law lists things that must be in the notice.
- Resolution Session – Parents must go through a “resolution session” with the school. A resolution session is a meeting to try to resolve the case. The parents and the school can agree not to have this meeting. This meeting happens before a due process hearing.

- Attorney's Fees – A parent or the parent's attorney may have to pay the school's attorney fees. This can happen if a parent's due process request was unreasonable, unfounded, or brought for a bad reason, such as to make trouble.
- Qualifications for Hearing Officers – There are now detailed requirements for Hearing Officers.

Discipline

- Manifestation Determination Review – If a student got into trouble, the school had to show that the behavior was not a part of the child's disability under the old law. The parent, school, and relevant members of the IEP team must agree the behavior is a part of the child's disability under the new law.
- Case-By-Case Determination – If a student with a disability violates the code of conduct, the school may decide to change the child's placement. They may now consider any rare events on a case-by-case basis. This means that the school should consider all facts.

Important Notice

The state laws are still in effect. VOPA believes that if state law gives a child more rights than Federal law, state law applies.

Please contact VOPA at our toll-free number (800) 552-3962 for more information.

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