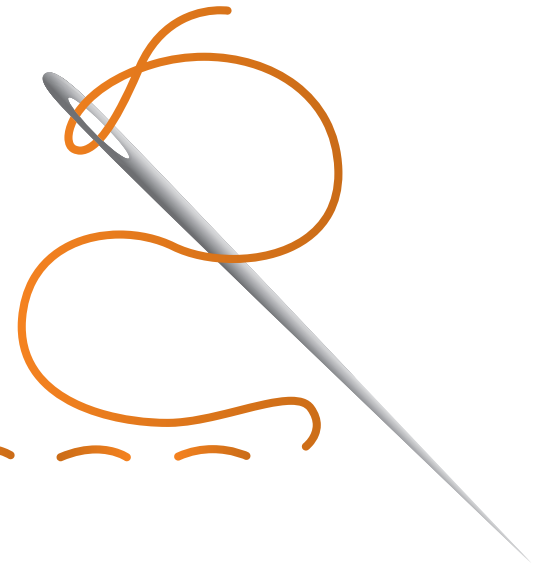


Chapter 4

EARLY INTERVENTION, SPECIAL EDUCATION, SECTION 504 & COMPREHENSIVE SERVICES ACT



Early Intervention, Special Education, Section 504 & Comprehensive Services Act

There are systems of services available for children aged birth to twenty-two with special health care needs and disabilities through a variety of federal and state laws. This chapter will take a very brief look at four of those systems: Early Intervention, Special Education, Section 504 of the Rehabilitation Act of 1973, and the Comprehensive Services Act. Each of these systems serves a different age group, has its own eligibility criteria, and set of supports and services available.

Early Intervention

Under Part C of the federal Individuals with Disabilities Education Act (IDEA), Virginia provides early intervention services for children birth through two years of age who have an identified special health care need, disability, or who are not developing as expected. In Virginia, this system (called the Infant & Toddler Connection of Virginia) is comprised of 39 local lead agencies that plan how community agencies will provide early intervention services. To contact the point of entry in your community, visit www.infantva.org or call 2-1-1.

When a baby is referred to the Infant & Toddler Connection of Virginia, a service coordinator will work with the family to find out if he is eligible for services. A child is eligible for early intervention services if he has at least a 25% developmental delay or has a diagnosed disability that will probably result in a developmental delay.

If your baby is found eligible, the service coordinator will arrange an assessment to help you and a team of professionals learn about his strengths and needs in all areas of development. The information learned through the assessment will be used to write your baby's Individualized Family Services Plan (IFSP). The IFSP will include early intervention services available to meet your baby and family's needs such as:

- Assistive Technology
- Audiology
- Developmental Services
- Family Training, Counseling Or Home Visits
- Health Services
- Medical Diagnosis/Assessment
- Nursing
- Nutrition Services
- Occupational Therapy
- Physical Therapy
- Psychological Services
- Service Coordination
- Social Work Services
- Speech Language Therapy
- Transportation
- Vision Services

Some services are at no cost to you. You may be charged for other services based on your ability to pay – health insurance and Medicaid may pay for most of them. You will not be denied services because you cannot pay for them.

Special Education

Part B of IDEA specifies what Virginia must do to provide a free and appropriate public education for children aged two to twenty-two with developmental delays or disabilities. Because this chapter is intended only to provide a very brief overview of several laws and programs, a great resource, entitled “A Parent’s Guide to Special Education,” is available from Virginia’s Department of Education (www.doe.virginia.gov/special_ed/parents/parents_guide.pdf).

THERE ARE 5 STEPS IN THE SPECIAL EDUCATION PROCESS:

1. IDENTIFICATION & REFERRAL

When you suspect your child has a delay or disability, a request for evaluation is given to the school. The school administrator must decide within three business days whether or not to evaluate your child. If the school decides not to evaluate your child, it must be in writing with the reasons for the decision not to evaluate. Please refer to the end of this chapter for information on how to file appeals.

2. EVALUATION

The school has 65 business days to evaluate your child to determine whether he has a disability as well as the nature and extent of the special education and related services he needs. You are part of the team that decides what information is needed for the evaluation (i.e., health, vision, hearing, social/emotional status, general intelligence, academic performance, communication, motor abilities, and adaptive behavior).

3. ELIGIBILITY

Based on the results of the evaluation, a team, including you, will meet to decide if your child is eligible for special education services. If you disagree with any results of the evaluation, you can request an Independent Educational Evaluation by qualified personnel who do not work for the school.

4. IEP

If your child is eligible for special education, a team, including you, will meet within 30 calendar days to develop an Individualized Education Program (IEP) to meet the needs of your child. The IEP team must consider the strengths of your child, any concerns you have about your child, evaluation results, academic and developmental needs, behavior supports, communication needs, and any assistive technology needs. Related services that could be incorporated in your child’s IEP include: counseling services, interpretation, orientation/mobility services, physical, speech and occupational therapy, school health services, social work services, transportation, and vision services. A useful resource to help you and your child prepare for the IEP meeting is, “It’s About Me: A Step-by-Step Guide for Creating My IEP,” available from the Partnership for People with Disabilities at 804-827-0197.

5. REEVALUATION

At least every three years, a team, including you, will meet to reevaluate your child to determine whether he continues to need special education services.

Section 504

Section 504 of the Rehabilitation Act of 1973 is another federal law that protects children with disabilities, but in a different way. Section 504 prevents schools from discriminating against children with disabilities by removing barriers that keep children with disabilities from doing things that other children can do.

Section 504 applies to children aged five to eighteen who have a physical or mental impairment which substantially limits their ability to learn. Some examples include children with spina bifida, ADHD, diabetes, asthma, and learning disabilities. A parent can request an evaluation from the school. The same evaluation process used for special education is used for determining eligibility for Section 504.

The major difference between Part B and Section 504 is that an instructional education plan is not required. Under Section 504, a plan will be written that includes such services as, but not limited to:

- Accommodations (for example, a notebook of assignments, taking tests in a separate room, a chair near the teacher, a peanut-free environment, monitoring of blood sugar, wheelchair ramp, a tape recorder for notes)
- Counseling
- Health Services
- Sports
- Transportation

Comprehensive Services Act

Under the Code of Virginia, Virginia operates a funding stream to help troubled youth under the age of 21 with serious behavioral or emotional challenges (stemming from a variety of disabilities) and their families stay together. There are two categories of children and youth eligible to receive Comprehensive Services Act (CSA) services:

- **MANDATED** – children and youth eligible for special education who have an IEP requiring services to be provided in a private day placement or residential treatment center; children and youth in foster care; and children and youth at risk for foster care placement.
- **NON-MANDATED** – children and youth served by the juvenile court, a community services board, public schools, or other community agency. These children are not required to receive CSA services unless funding is available.

When a child/youth is referred to the local CSA office, a local team of foster care, special education, mental health, and juvenile justice professionals, as well as a family representative, will meet with the child and family to determine concerns, needs, and service requests. If found eligible, the team, including the child and his family, will write an Individual Family Service Plan (IFSP) that identifies the strengths and challenges of the child/youth and family, professionals already involved, and goals and recommended services to meet the goals. Examples of CSA services include, but are not limited to:

- Evaluations & Assessments
- In-Home Counseling
- Inpatient & Outpatient Mental Health Care
- Mentoring
- Respite Care

Once the plan is approved, state and local government cover the cost of the services. More information on Virginia's Comprehensive Services Act can be found at www.csa.state.va.us.

How To File Appeals

It is important to remember that with all of these systems, you are an important member of the team designing services based on the needs of your child and family. Some teams meet quarterly, but at least annually, to review your child's plan. You do not have to sign any plan with which you are not comfortable. If the plan your child has is not working, you can call a meeting at any time to discuss making changes. You have the right to file appeals. If you want to talk to another parent who has navigated these systems, call 1-877-567-1122.

EARLY INTERVENTION

Written prior notice must be given to you within five calendar days before an agency or early intervention provider proposes or refuses to begin or change the identification, evaluation or placement of your baby, or provide appropriate services. The notice must detail the action that is being proposed or refused, the reason for taking the action, and the complaint procedure if you disagree. There are three methods for resolving disputes, all of which are available at no cost to you:

- **MEDIATION**
Call or write the Infant & Toddler Connection of Virginia to request mediation. The mediator will schedule the time and location of the meeting within 30 days of your request, and will help find a solution to the complaint that is fair and reasonable. If you feel mediation is unsuccessful, you may request a due process hearing.
- **IMPARTIAL DUE PROCESS HEARING**
You must submit a letter to the Infant & Toddler Connection of Virginia requesting an impartial due process hearing. Within 30 days of your request, the hearing must be held and a decision made. You have the right to be advised by an attorney (at your expense). If you are not satisfied with the hearing decision, you have the right to bring civil action in state or federal court and/or file an administrative complaint.
- **ADMINISTRATIVE COMPLAINT**
You must file your complaint with the Infant & Toddler Connection of Virginia within one year of the alleged violation. Within 60 days of your complaint, it will be investigated and a written decision provided.

SPECIAL EDUCATION

If you disagree with your child's identification, evaluation, educational placement, or the provision of a free and appropriate public education, there are three procedures commonly used:

- **MEDIATION**
Call or write the VA Department of Education (VADOE) to request mediation. The mediator will schedule the time and location of the meeting and will help find a solution to the complaint that is fair and reasonable. If you feel mediation is unsuccessful, you may request a due process hearing.
- **COMPLAINT**
You must write a letter to the VA DOE (with a copy to your school division) within one year of the violation and provide a statement of the violation, any relevant documents or supporting information, and a proposed resolution of the problem. The VA DOE must resolve the complaint within 60 calendar days. If you do not agree with their decision, you can file an appeal in writing within 30 days requesting a hearing.
- **DUE PROCESS HEARING**
You must send a request in writing to the VA DOE requesting a hearing. Your request must include the name of your child; his address; the name of his school; a factual description of the problem; and a proposed resolution of the problem. If the complaint is sufficient and not dismissed by the hearing officer (for failure to provide all required information), a resolution session will be held to try to resolve the dispute. After a 30-day resolution period, the hearing officer has 45 days to hold the due process hearing and mail a copy of the decision to you. Please note that if the school requested the due process hearing, not you, there is no requirement that the resolution session be held. If you do not agree with the hearing officer's decision, you have 180 days to file with state or circuit court and 90 days to file with federal court.

Visit www.doe.virginia.gov/special_ed/resolving_disputes/index.shtml for more information, forms and legal advocacy resources. You can also call the VA DOE Ombudsman for special education at (804) 371-7420.

More About How to File Appeals

SECTION 504

For issues related to the child's education, but not related specifically to identification, evaluation, or placement, you should submit a letter of grievance or complaint to the school principal or the school division's Section 504 compliance officer. The principal or Section 504 officer will investigate the situation to arrive at fair resolution.

An impartial hearing may be requested in writing to the school division's Section 504 coordinator or compliance officer by your student (if aged 18 – 22) or by you when there is a disagreement with the decisions made regarding the identification, evaluation, or placement of the student. You and your student may participate in the hearing and be represented by an attorney (at your expense). The hearing officer will provide you with a written decision based on the evidence presented at the hearing.

If you disagree with the decision of the hearing officer, an appeal may be filed with the school division in writing within one week of receiving the hearing decision. Typically, the school division's director of student services will serve as the reviewing officer. If you are still not satisfied with the decision, you may seek a decision through the court system (at your expense) or file a complaint with the Office of Civil Rights at the U.S. Department of Education at 1-202-208-2545.

COMPREHENSIVE SERVICES ACT

If you do not agree with decisions made in regards to your child or youth, you have the right to appeal. Your written appeal request must be submitted to your local CSA management team for their review. Contact your local CSA coordinator or your case manager for any special complaint forms or timelines.

Local Contacts

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