



IEPs: An Intersection Between Family Law and Special Needs Law

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I. What an IEP Is: Purpose, Benefits and Whom It Serves

For many family-law practitioners, the individualized education program (IEP) enters the case only indirectly – through a custody dispute, an argument over educational decision-making, or a disagreement about extraordinary child expenses. Yet behind these familiar litigation flashpoints lies one of the most significant federal civil-rights frameworks affecting children: the Individuals with Disabilities Education Act (IDEA).¹ Understanding what an IEP is, what it provides, and whom it serves is essential and helpful for practitioners navigating cases involving children with special educational needs.

At its core, the IDEA guarantees children with disabilities the right to a free appropriate public education (FAPE) tailored to their unique needs.² The central mechanism by which this right is delivered is the IEP: a written, individualized plan developed collaboratively by educators, specialists, and parents to provide specialized instruction and related services designed to allow the child to make meaningful educational progress.³

The IDEA applies to children who meet statutory eligibility criteria under one of 13 disability categories, including specific learning disability, autism, emotional disturbance, or speech or language impairment.⁴ Eligibility requires not only the presence of a qualifying disability but also a finding that the disability adversely affects the child's educational performance such that special education and related services are necessary. Thus, the IEP framework is designed to serve children whose educational needs cannot be met through general education alone.

The benefits provided through an IEP are both substantive and procedural. An IEP may provide specialized instruction, speech and language therapy, occupational therapy, behavioral supports, counseling, assistive technology, transportation, and other related services necessary for the child to access education.⁵ These services are individualized and must be reasonably calculated to enable the child to make progress appropriate in light of the child's circumstances, as articulated by the Supreme Court in *Endrew F. v. Douglas County School District*.⁶ In that case, the court rejected the notion that minimal progress satisfies the statute, emphasizing instead that the

IDEA demands an educational program “appropriately ambitious” in relation to the child’s potential.⁷

Procedurally, the IDEA provides safeguards that distinguish it from most other educational frameworks. Parents are entitled to participate in the development of the IEP, receive written notice of proposed changes, consent to evaluations, and challenge school decisions through administrative due-process hearings.⁸ In New York, these disputes are adjudicated before an impartial hearing officer (IHO), with appeals available to a state review officer.⁹ The administrative structure resembles litigation, often involving expert testimony, documentary evidence, and findings regarding the adequacy of the child’s educational program.

For practitioners of family law, it is important to recognize that the IEP often operates at the intersection of education, family dynamics, and financial realities. The services it provides may shape a child’s daily life, educational trajectory, and developmental progress. It can also influence custody decisions, relocation disputes, and the allocation of educational and therapeutic expenses. Understanding the IEP and its purpose, structure, and legal force thus provides the necessary foundation for addressing the broader legal

issues that arise when special education needs intersect with family law practice.

II. Divorce Proceedings, IEPs and Separation Agreements

When a child receiving special education services is the subject of a divorce or custody proceeding, the individualized education program should not be treated as a secondary matter. The Individuals with Disabilities Education Act requires a legally authorized “parent” to make educational decisions, consent to evaluations and services, and participate in the IEP process.¹⁰ Divorce often creates uncertainty regarding who may exercise this authority. Family law practitioners should consider incorporating the IEP into custody orders and separation agreements.

In practice, disputes concerning IEP decision-making and educational costs regularly intersect with divorce and custody litigation. Addressing these issues directly within separation agreements helps reduce parental conflict and limits future litigation. For family law practitioners, incorporating special-education considerations into divorce proceedings is not merely advisable, but it is often necessary to protect both the

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child's educational development and the long term stability of post-divorce family arrangements.

III. Transition to Adulthood and Post-IEP Services

For families of children receiving special education services, the transition to adulthood represents a critical turning point. While the IDEA provides robust educational protections through the individualized education program, those protections are not indefinite. In New York, eligibility for IDEA services generally ends when a student either graduates with a regular high school diploma or reaches 21 years old.¹¹ As a result, long term planning for continued support becomes essential well before the child exits the school system.

Recognizing this, federal law requires that IEPs include transition planning beginning no later than age 16. These transition provisions must set forth measurable post-secondary goals and identify the services needed to assist the student in moving from school to post-school activities, including employment, vocational training, and independent living where appropriate.¹² In practice, this transition planning often involves coordination with adult service agencies that operate outside the IDEA framework.

In New York, one of the primary agencies involved in this transition is Adult Career and Continuing Education Services-Vocational Rehabilitation (ACCES), a program administered by the New York State Education Department. ACCES-VR provides vocational counseling, job training, employment placement, and related services to individuals with disabilities seeking to enter or remain in the workforce.¹³ Although ACCES-VR does not continue the IEP itself, it frequently serves as the next stage of support for students aging out of the system.

This transition to adulthood has implications in the family law context. Consider incorporating these issues into divorce judgments and separation agreements, especially when it is likely that the child may need continued parental support upon reaching maturity. This could include transitioning from an Article 17-A guardianship under the Surrogate's Court Procedure Act to an Article 81 guardianship under the Mental Hygiene Law.¹⁴ Planning for adulthood may also involve consideration of special-needs trusts and public-benefit eligibility.

IV. The Continuing Evolution and Uncertain Future of the IEP Framework

The Individuals with Disabilities Education Act and the individualized education program remain the central legal framework governing the education of children with disabilities. The statute itself has not been substantially amended in recent years, and the governing standard articulated in *Endrew*, requiring an educational program reasonably calculated

to enable appropriate progress, continues to guide administrative and judicial decision-making. In this respect, the legal core of the IEP framework remains stable.

Nevertheless, the practical landscape surrounding special education has entered a period of uncertainty, largely driven by recent federal policy developments. The current administration has pursued a broader effort to restructure or reduce the role of the U.S. Department of Education, including proposals to shift federal education functions to other agencies and to return greater authority to the states.¹⁵ While formally dismantling the department would require congressional action, policy initiatives aimed at redistributing its functions have already raised concerns among educators and advocates regarding the administration and enforcement of special education law.¹⁶

For practitioners, the practical takeaway is one of cautious continuity. The IDEA and the IEP remain the operative legal framework and their significance in family law matters, particularly in custody, support, and educational decisions, remains unchanged. However, because the administration and enforcement environment continues to evolve, practitioners should remain attentive to legislative and policy developments that may affect how special education rights are implemented. Awareness of these developments ensures that practitioners remain prepared to protect both the educational interests of children with disabilities and the stability of family law arrangements in which those interests play an important role.

Endnotes

1. 20 U.S.C. §§ 1400 *et seq.*
2. 20 U.S.C. § 1400(d)(1)(A).
3. 20 U.S.C. § 1414(d).
4. 34 C.F.R. § 300.8.
5. 20 U.S.C. § 1401(26).
6. 580 U.S. 386, 399 (2017).
7. *Ibid.* at 402.
8. 20 U.S.C. §§ 1415(b), (f).
9. N.Y. Educ. Law § 4404.
10. 20 U.S.C. §§ 1401(23), 1414(d).
11. 20 U.S.C. § 1412(a)(1)(A); N.Y. Educ. Law § 4402(1)(b)(1).
12. 20 U.S.C. § 1414(d)(1)(A)(i)(VIII).
13. *See* N.Y. Educ. Law § 1004; N.Y. Comp. Codes R. & Regs. tit. 8, §§ 247.1 *et seq.*
14. *See* N.Y. Fam. Ct. Act § 413(1)(a).
15. Wilkes, Mackenzie (2025, November 11), *The challenge of moving special education out of the Education Department*, Politico. <https://www.politico.com/news/2025/11/29/advocates-push-for-education-department-to-keep-programs-for-children-with-disabilities-00669701>
16. Diamant, Michelle (2026, February 9), *Altering IDEA Poses 'Substantial Risk' to Students With Disabilities, Advocates Warn*, Disability Scoop.