



Understanding Special Education for Custody Disputes-

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Navigating child custody disputes can be challenging, especially when special education needs are involved. This provides an overview of how special education considerations can affect custody decisions and offers practical insights for parents and legal professionals.



What is special education?

Special education refers to the individualized support and services provided to students with disabilities. It encompasses a wide range of needs and includes services like assistive technology, modified instruction, and behavioral interventions.

1 Tailored Support

Special education programs are designed to address each student's unique needs and help them succeed in their educational journey.

2 Legal Framework

Special education services are governed by laws like the Individuals with Disabilities Education Act (IDEA) ensuring access to appropriate education for all students.

3 Collaboration

Special education requires collaboration among parents, teachers, and other professionals to create a comprehensive plan for each student.

4 Ongoing Evaluation

Students' progress is regularly evaluated to ensure that their needs are met and that their educational programs are effective.

Eligibilities



Autism Spectrum Disorder

Autism Spectrum Disorder is a neurodevelopmental disorder that affects social communication, behavior, and interaction.



Deaf-Blindness

Deaf-Blindness refers to individuals with both significant hearing and vision loss, presenting unique communication and learning challenges.



Deafness

Deafness is the inability to hear sounds at a normal level, which can affect speech development, communication, and learning.



Emotional Disturbance

Emotional Disturbance refers to a condition that significantly affects a child's emotional well-being, academic performance, and social interactions.



Hearing Impairment

Hearing Impairment is any degree of hearing loss, ranging from mild to profound, and can impact communication and learning.



Intellectual Disability

Intellectual Disability is a condition characterized by significant limitations in intellectual functioning and adaptive behavior, requiring individualized support.



Multiple Disabilities

Multiple Disabilities refers to the presence of two or more disabilities that interact with each other, creating complex needs.



Orthopedic Impairment

Orthopedic Impairment is a physical disability that affects mobility, coordination, and physical activities.



MODIFICATIONS VERSUS ACCOMMODATIONS



Mainstream or Special Education

Is the child in mainstream or general education, or are they in a special education classroom?



On Grade Level

Is their work on grade level (student needs accommodations)?



Below Grade Level

Is their work below grade level (student needs modifications)?

Services in Schools



Speech and language therapy

Helps children develop expressive and receptive language skills and improve their pronunciation of sounds/words.



Occupational therapy

Helps improve fine motor and visual motor skills necessary for writing, drawing, copying, and cutting.



Adapted physical education

Helps children who have difficulty with motor skills to be able to participate in PE.



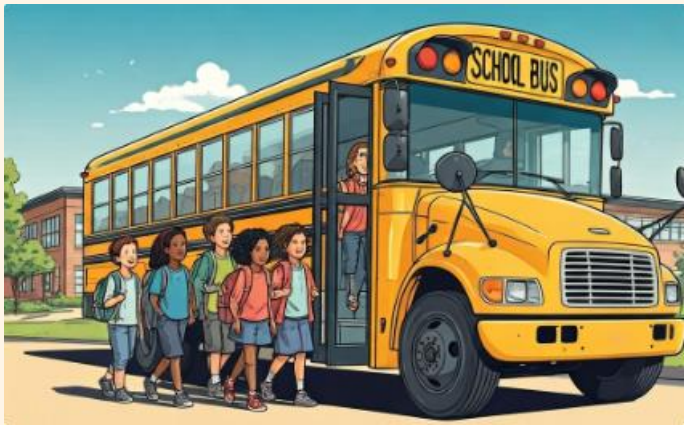
Physical therapy

Helps children with physical limitations access their school environment.



Psychological (DIS) counseling, ERMHS/ERICS therapy, or behavioral support services

Help children develop social and emotional coping skills and improve behavior through school-based (and school provided) supports.



Transportation

For kids whose placement puts them in a school other than their home school or if a student's disability limits ability to get to school.



Extended School Year Services

Special education summer school.

Evaluating a child's special education needs

Thorough evaluation is essential to understand a child's special education needs. This process involves gathering information from multiple sources, including parents, teachers, and professionals.

1

Parent Input

Parents provide valuable insights into their child's history, strengths, and challenges, helping professionals understand their needs.

2

School Records

School records, including academic performance, attendance, and disciplinary actions, offer valuable data about the child's educational progress.

3

Professional Assessments

Evaluations by professionals, such as psychologists, speech-language pathologists, or occupational therapists, provide in-depth assessments of the child's abilities and needs.

4

IEP Development

Based on the gathered information, an individualized education program (IEP) is created, outlining the child's specific goals and services.



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Addressing Specific Issues in Custody Documents



Clarify School Events

When addressing custody arrangements, the language concerning school events should be clear. For example, if the intent is to limit a parent's right to attend school events to days they have possession of the child, this should be explicitly stated. School lunches are often considered "events," allowing parents to have lunch with their children in elementary school. However, this should be clarified in the custody documents.



Define Decision-Making Authority

In terms of educational decision-making authority, if both parents share this authority, the custody documents should outline a process for resolving disagreements. For instance, if both parents cannot agree on an ARD or IEP-related issue, a clear mechanism for reaching a decision should be outlined. This avoids placing the school in a difficult position where they are caught between conflicting parental decisions, such as one parent approving an evaluation while the other opposes it.



Address Potential Scenarios

Additionally, if the custody decree mandates a student's attendance at a specific campus, language should address potential scenarios where the student might become ineligible. For instance, if the primary custodial parent moves out of the school district, rendering the child ineligible to attend the designated campus, the custody decree should stipulate how this situation will be addressed.

Addressing Specific Issues in Custody Documents cont



Primary Contact

Specify which parent the school should contact for day-to-day communication and emergencies. This avoids confusion about who the school should reach out to first.



Pick-Up and Drop-Off Arrangements

Clearly define who is responsible for picking up and dropping off the child on which days. If there are changes, both parents should notify the school in advance, and not involve the school in any disputes.



Access to School Information

Specify that both parents will have access to school records, progress reports, and other communications, unless otherwise restricted by the court.

Communication with the School: Both parents should agree not to involve the school in personal disputes. If disagreements arise, they should handle them privately or through legal means without pulling the school staff into the conflict.

The role of special education in custody disputes

Special education considerations can significantly impact custody arrangements. Courts prioritize the child's best interests, which often include access to appropriate educational services and support.

Shared Responsibility

Custody agreements may specify how parents share responsibility for the child's special education needs, including attending meetings, making decisions, and ensuring access to services.

Education Plan

The child's Individualized Education Program (IEP) serves as a vital document in custody disputes, outlining their educational needs, goals, and services.

Accessibility

Custody agreements may address the child's access to special education services in both parents' homes and communities, ensuring continuity of care and support.



How a child's special education factors can complicate custody disputes

A child's special education needs can influence custody decisions in various ways, impacting the best interests of the child and the parents' ability to provide adequate support.

1

Service Accessibility

Custody arrangements should ensure the child has access to the necessary special education services, regardless of which parent they are with.

2

Parental Involvement

The ability of each parent to participate actively in the child's special education program is a crucial factor in custody decisions.

3

Financial Considerations

The cost of special education services can be significant, and custody agreements may address how these costs are shared by the parents.

4

Support Network

Custody arrangements should consider the availability of support services for both the child and the parents, ensuring a strong network of assistance.

Negotiating special education provisions in custody agreements

Negotiating special education provisions in custody agreements requires careful consideration of the child's needs, the parents' capabilities, and the legal framework.

Shared Decision-Making	Parents may agree to jointly make decisions regarding the child's special education, including IEP meetings, service choices, and communication with professionals.
Access to Records	Custody agreements can ensure that both parents have access to the child's special education records, including their IEP and progress reports.
Financial Responsibilities	Parents may negotiate a division of costs related to the child's special education services, such as therapy, transportation, and assistive technology.
Transition Planning	Custody agreements should address the child's transition between schools or educational settings, ensuring continuity of services and support.



Refining how parents make decisions regarding special needs during custody disputes and after

Effective communication and collaboration between parents are crucial for navigating special education decisions during and after custody disputes.

Open Communication

Parents should strive to maintain open and respectful communication channels, sharing information and perspectives about the child's needs.

Shared Goals

Parents should work together to establish shared goals for the child's education, ensuring that their decisions align with the child's best interests.

Professional Guidance

Parents can seek guidance from professionals, such as special education advocates or therapists, to navigate complex decisions and address any disagreements.

Flexibility

Parents should be prepared to adapt their approach as the child's needs evolve, recognizing that special education plans may require adjustments over time.

Collaborating with special education professionals and addressing other needs

Effective collaboration with special education professionals is vital to ensure the child's access to appropriate services and support.



Open Communication

Maintain open and frequent communication with teachers, therapists, and other professionals involved in the child's special education.



Child Support beyond 18

When to consider and include this provision.

- The Texas Family Code allows for child support payments to continue indefinitely past age 18 if the situation meets two requirements:



IEP Meetings and Disputes

While both parents should attend meetings if at all possible, it is vital for the decision making process to be well-defined, and a plan for disputes to be clearly delineated.



- The child requires substantial care and personal supervision and is not capable of self-support.
- The disability existed on or before the child's 18 birthday.

Also consider guardianship, special needs trusts



Ensuring a child's educational and emotional continuity during custody transitions

Custody transitions should prioritize educational and emotional continuity to minimize disruption and maximize the child's success.



School Choice

When possible, custody arrangements should aim to maintain the child's enrollment in the same school, providing stability and familiarity.



Communication

Parents should communicate regularly with both schools to ensure that teachers are informed about the child's special education needs and any adjustments required during transitions.



Custody schedules

Typical custody schedules may not work with a child with special needs. For instance, students with autism may not be able to handle multiple transitions.