

The Special Education Process

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It is now well documented that most states fail to comply with the Individuals with Disabilities Education Act (IDEA), our nation's special education law. This article is designed to help families understand some of their rights under IDEA.

Step One — The Evaluation

IDEA requires that a child receive an evaluation to determine eligibility for special education or related services before these services are provided. The request for an evaluation can come from a parent¹, the school district, or others. The parent must consent to the evaluation in writing before it takes place.

Once the school district receives the request, it must complete a full and individual evaluation. If it refuses to conduct the evaluation, then it must give appropriate notice to the parents with an explanation of their rights.

The initial evaluation is designed to decide two things—first, whether the child has a disability that fits within one of IDEA's 13 disability categories, and second, whether that disability affects how the child performs in school. The evaluation must meet several requirements: it must be done by trained and knowledgeable personnel; it must not be discriminatory on a racial or cultural basis; it must be administered in the child's native language (unless it is clearly not feasible to do so); and it must assess the child in all areas of the suspected disability.

Those typically involved in an evaluation include the parent, one or more of the child's general education teachers, a special education teacher or service provider, a school administrator, a person to interpret the evaluation,

other individuals invited either by the parent or the school with knowledge or special expertise about the child, the child (when appropriate), and other qualified professionals.

Step Two — Evaluation Completed ~ Eligibility Decision

The determination of whether a child is eligible for special education services is made after the evaluation by a team of qualified professionals and the parent of the child. The law requires that a copy of the evaluation report and the documentation that was used to determine eligibility be given to the parent. If a child is found not to be eligible for special education or related services, then the school must notify the parent in writing along with an explanation of what the parent can do to challenge the finding.

What happens when a school decides that a child is not eligible and the parent disagrees with that finding? Parents have a right to an Individual Educational Evaluation (IEE), which must be completed by someone who does not work for the school district. The school district must pay for the IEE or must take the matter to a due process hearing and show at that hearing that its evaluation is appropriate.

Step Three — Eligible for Services ~ Develop an IEP and Placement Determination

After eligibility is established, a meeting must be held within 30 days to develop the child's individualized education program (IEP). The IEP should include three general components: (i) information about the child's current levels of educational performance and how the disability affects progress; (ii) a statement of the meas-

urable annual goals, including short-term objectives or individual steps and major milestones that must be taken to meet the child's educational needs; and (iii) information about the services that the school district must provide to help the child meet the goals included in the IEP.

The IEP should also include timelines defining when services will begin and when they will be provided, along with the location of the services (IDEA requires that services be provided in the least restrictive environment appropriate to the child's needs). The IEP should also address transition needs and state how the school will measure the child's progress. It is best to ensure that progress will be measured by an objective rather than a subjective evaluation process. This can include looking at standardized test scores, the child's percentile ranks, and other measures. The same individuals who work on the IDEA evaluation and eligibility team typically develop the student's IEP.

What if you disagree with the IEP or the proposed placement for your child? Parents should first attempt to work out their difference with the IEP team and reach an agreement. However, if that fails, then parents may ask for an impartial due process hearing or mediation to resolve the dispute. This option may not be feasible because it requires hiring a lawyer and can be costly.

Step Four — Annual IEP Meeting ~ Reevaluation

The IEP team meets at least once per year to discuss the child's progress toward meeting the goals included in the IEP and to determine whether any changes need to be made. Parents of students receiving special education

¹This article uses the term "parent," which applies to both parents and caregivers.

services must also be informed regularly about their child's progress or at least as often as parents of children without disabilities.

Parents may disagree with any proposed changes to the IEP raised at the annual meeting. They should always document their disagreement in writing and keep organized copies of all documents that are either sent to the school or received from the school by the parent. When a parent disagrees

with proposed changes, the child will continue to receive the services included in the IEP until the parent and school reach an agreement. If they cannot reach an agreement, then the parent can ask for an Independent Educational Evaluation or can resolve the dispute in a due process hearing or through mediation.

Students who have an IEP will be re-evaluated at least every three years to determine whether they continue to

be eligible for special education and related services. 

Resources:

National Dissemination Center for Children with Disabilities, Basics for Parents: Your Child's Evaluation, 1999 (accessed at www.nichcy.org). Technical Assistance Alliance for Parent Centers, Understanding the Special Education Process, 2001 (accessed at www.taalliance.org).

ASK THE DOCTOR

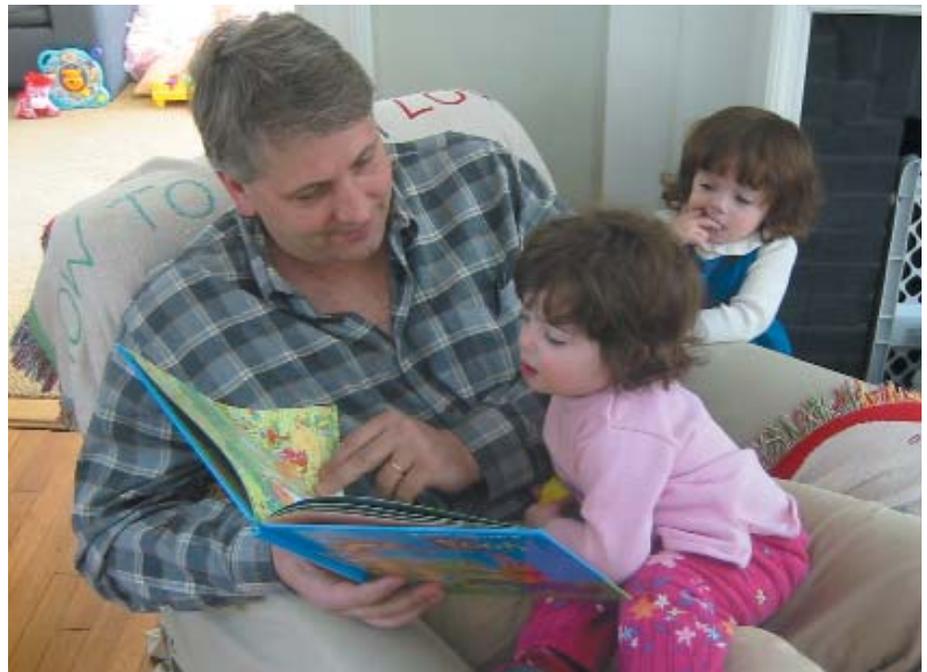
Under-charted Waters: Discerning ADHD from Bipolar Disorder in Children and Adolescents

By Kenneth Duckworth, M.D., NAMI Medical Consultant

Many people ask me about the relationship between attention-deficit/hyperactivity disorder (ADHD) and bipolar disorder, and how to differentiate the two. Let me explain how I understand the travels through these under-charted waters.

We Are All New Here

First, remember that bipolar disorder in children is a relatively new conceptual framework. When I was trained in child psychiatry at Harvard in the early 1990s, I was taught that bipolar disorder occurred in one's twenties or thirties. But recall that in the 1960s, clinicians did not conceptualize depression in kids—it didn't fit the model. The conceptual framework taught us that depression was a byproduct of our critical conscience—called the superego—and kids were not developed in that area yet, so they were thought to be unable to experience depression. Then researchers decided to actually interview kids, and found that some were persistently sad, had no sense of future,



Dr. Duckworth and friends

had thoughts of self-harm, and were having sleep and energy problems. Although bipolar disorder, unlike depression, had no clear-cut psychological model, clinicians also just assumed

that it didn't occur early. As we look back, that seems unusual, as schizophrenia and depression can present early.

In 1995, Harvard researchers led by