



SPECIAL EDUCATION IN THE VIRGIN ISLANDS

A Quick Reference Guide

This Guide answers basic questions regarding the rights of public- and private- school students in the Virgin Islands Educational System. It should be used as a starting point to answer the most common questions. More complex questions should be answered by an advocate or attorney at DRCVI.

Special Education Rights in the Virgin Islands

Students' rights under law are governed by the Individuals with Disabilities Education Act (IDEA). The law, wide-ranging in its impact, aims to provide students with disabilities equal access to education from the government.

Under IDEA, every such student has the right to a "free and appropriate" education. If it is determined that a student has special needs, the school must create an individual education program or (IEP) that will enable her or him to learn to the fullest extent of the student's abilities. That program should be planned to meet each student's *specific* educational needs.

If you believe that your child is not receiving the services that he or she is entitled to, contact DRCVI for assistance.

Questions:	Page
My Daughter Received Poor Grades Last Quarter. What Should I Do?	2
What Happens after My Son Is Found Eligible for Special – Education?	2
What Rights Does My Daughter Have at Her IEP Meeting?	2
The School Is Not Following the IEP. What Can I Do?	3
My Son Needs Preparation for Life after High School.	3
I Want To Enroll My Son in Summer School Classes.	4
Does My Daughter in Private-School Have any Rights?	4
My Daughter Feels "Uncool" in Special- Education	5
What Services Could My Child Be Entitled to under Special Education Law?	5
What We Advocate and How We Do It.	6

My Daughter Received Poor Grades Last Quarter. What Should I Do?

Your daughter may simply need to apply herself and try harder. However, it is possible that she may have a learning disability.

Because most of us are not experts at recognizing whether or not a child has a learning disability, the law allows you the right to have your daughter tested at her school. This testing should be thorough; and the school and government are required to have properly qualified professionals analyze the level of your daughter's academic performance.



If you believe that your daughter may have a disability, make a request to your schools' administrator to have your daughter tested for special education placement.

If the testing shows that a special educational program is necessary for your child and her problem is identified, her school must work to develop an educational program for her.

If the testing shows that your daughter does not require such a program, then you know that she is not doing well in class because of some problem other than a learning disability.

What Happens after My Son Is Found Eligible for Special-Education Placement?

The school has a duty to provide each student with a free and appropriate public education.

Of course, what is appropriate differs for each such student. Some people believe that the only option available other than regular education classrooms is complete separation into spe-

cial- education classrooms. Not only is that belief false, but to try to carry it out would be illegal.

The law allows for hundreds of different arrangements for your son's educational needs. It could be as simple as a minor accommodation provided for him in the classroom (more time

on exams, for example), to something such as a full-time paraprofessional assistant.

What Rights Does My Daughter Have at Her IEP Meeting?

She has the right to have her parents, guardian, or other family members, attend the meeting. She also has the right to ask any other representative or advocate to attend the meeting.

If the mother or father will feel more comfortable with an advocate at the meeting, she or

he can ask one to be there. DRCVI has participated in hundreds of IEP meetings, and thus has much experience in ensuring that your child's rights will be fully respected.

Also, if there are any problems, DRCVI can ask for a mediation meeting, or an adminis-

trative due-process hearing, or make a complaint to the U.S. Department of Justice, or take action through a federal court.

DRCVI is ready and able to handle such procedures.

The School Is Not Following the IEP. What Can I Do?

Many options are available to students who believe their rights have been violated.

As a first step, you may set up a meeting with DRCVI. We can inform you of the rights you have, and we can provide representation in these matters.

Basically, your child has four options to try to improve her or his educational situation:

First, you can request a mediation. This involves sitting down with the government and a trained mediator. It is hoped that this meeting will enable the

parties to resolve their differences.

If this does not work, you can take the next step and file for a due-process hearing. This is a court-styled hearing that allows a neutral, trained person to act as “judge” and rule on whether



your child is receiving all the services to which she or he is entitled according to law.

You can also file a complaint with the U.S. De-

partment of Education’s Office of Civil Rights.

Finally, you can contact DRCVI which will determine whether your case requires other legal action.

My Son Needs Preparation for Life after High School

If your child is receiving special-education services, then he or she can expect to receive such preparation.

In addition to providing educational services to your child now, the government must also look to the future to help make sure your child will be ready either to enter the work force or to continue on to college.

The transition process—for life after high school—begins when the child is 16.

You have a right to request that your child’s education plan or IEP contains a statement indicating how the V.I. Department of Education intends to begin your child’s transition process, and acts to identify those agencies that will assist in

that process.

Vocational Rehabilitation helps persons with disabilities when they need assistance with planning and preparing for the work force or college (or both).

Contact DRCVI for more information and assistance about the transition process.

The Quick Reference Guides are made available to you through the Disability Rights Center of the Virgin Islands. The protection and advocacy system was created by the U.S. Congress in 1975 to give people with disabilities access to legal services to help guarantee their inalienable rights of citizenship and to promote opportunities for independence, productivity, integration and inclusion into the community. DRCVI has been the designated agency to provide these services since 1977.

Note: Laws change and this is just a summary. It is not a substitute for legal advice. For more information, contact your attorney or call DRCVI.

This guide is a work product produced by DRCVI for your information.

I Want To Enroll My Son in Summer School Classes.

Oftentimes, a student receiving special-education services will suffer if he or she spends a substantial time away from the school. This occurs most often during the summer break, a period of over two months when the student receives little, if any, educational training.

If your child is among those who need to continue schooling without interruption so that he will not forget what he has already learned, it may be necessary for him to attend summer school.

In short, the law allows for a person to receive special-education year-round if that's what is required for him to receive a "free and appropriate" education. If educational progress will be lost over the sum-



mer break, then it would be "inappropriate" for him to be away from school for the summer. Thus, the law requires that these students receive year-round classes.

In the Virgin Islands, there are some problems with providing special-education services during the summer. The classes are often too short, and do not always fully challenge the student's learning progress. Work is still needed to improve the quality of extended-year services for students with disabilities.

Does My Daughter in Private School Have any Rights?

First, no school—public or private—may discriminate against your child because of her disability. Second, your daughter has important rights in private school though they are often different from her rights in public school.

Students in private schools and in public schools have the same rights to an evaluation test for special services. These tests must be completed within **two to three months** and must list the needs (if any) of your child. These tests are paid for by the local government and thus are free to you. If you have any suspicion that your child may have a disability, have her tested right away.

If the test results determine that your daughter is eligible for special-education services, the government should then meet

with you to work out an Individual Services Plan (very similar to the IEP).

Special-education services may include speech therapy, physical therapy, occupational therapy, language therapy, art therapy and psychological counseling.

Under IDEA, the private school may not need to provide all of the services that are required by law in the public school.

In deciding which services should be provided to private-school students, the V.I. Department of Education must consult with representatives of the private school. The V.I. Department of Education then determines which services shall be provided and where they will be provided.

The local government has not provided IDEA related services at local private schools. Instead, an eligible student would need to travel to a public school or other location to receive the necessary services. This is legal. However, in this case, the V.I. Department of Education must pay the cost of transporting the student to the place where the services are being offered. In addition, the IDEA services that are being offered away from the private-school campus are to be paid for by IDEA.

If you disagree with the results of your child's evaluation, other steps may be available to you.

If you have questions, contact DRCVI for further assistance.

My Daughter Feels “Uncool” in Special Education She Will Not Attend Classes

At some levels, this is hard to control. Some students feel this way about being “different” in any way, whether it relates to special education or the clothes they wear. Thus, convincing your daughter to attend these classes can be a challenging task.

The school cannot be held responsible for your child’s refusal to go to school. Attendance is her responsibility.

However, there are a few responsibilities for which teachers are accountable when a student is receiving special-education services:

First, teachers and administrators are required to follow the

principle of confidentiality. Thus, they cannot discuss your child’s special-education situation with anyone not involved, in the process, not even other teachers. Disclosing confidential information should be reported, and the penalty is heavy.



Second, many special-education services do not even need to be known by anyone except the student and his/her family and the teachers working with that student. Services should be provided confidentially and without announcement. Of course, this is not always possible. For example, if your child needs a special reading device for classes, everyone in class will know.

Finally, if your child has a serious aversion to any special education, you may need to refer her for counseling.

What Services Could My Child Be Entitled to under Special Education Law?

Special education does not relate solely to classroom training and accommodations. It involves a wide range of services to enhance your child’s educational experience.

Some of these services include audiology services, counseling, occupational therapy, physical therapy, psychological services, transition planning for life after high school, speech/language pathology services, so-

cial- work services in the school, among others.

It is important to remember that these services are not provided just because you or your child thinks she needs them. Services must relate directly to the need to enhance your child’s educational progress. In other words, if the services are necessary for your student’s educational progress, the school must provide them.

The idea that special education is only for classroom work is incorrect. Students are supposed to be trained to become productive and independent citizens in our community.

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What We Advocate and How We Do It

What We Advocate:

- 1. Students with disabilities have a right to a free and appropriate public education.*
- 2. All aspects of segregation of students with disabilities should be eliminated.*

How We Do It:

- By taking action through a federal court.*
- By assertively advocating in the community for quality public education.*
- By sending press releases to newspapers and holding public meetings to inform people in the community*
- By submitting Letters to the Editor to local newspapers.*
- By working with other government agencies and other disability rights organizations.*