



Key Message

Highly mobile children, including military children, are more likely to experience recurring educational disruptions and challenges, particularly those who need access to special education and related services. States can assist military families by ensuring timely establishment of special education services upon relocation and reducing burdens associated with due process proceedings.

Analysis

Many military children with special education needs are disadvantaged in accessing services in a timely manner due to the frequency with which their families move.

Children from military families change location, on average, every two to three years. States have enacted improvements to their education statutes to build upon existing requirements provided within the federal Individuals With Disabilities Education Act, or IDEA, and Section 504 of the Rehabilitation Act of 1973 (<https://www2.ed.gov/about/offices/list/ocr/disabilityoverview.html>).

• Minimizing delays:

- 1. Advance enrollment:** The 41 states with advance enrollment policies for military-connected children are encouraged to modify their policies to ensure that there are specific procedures to identify if a child is transferring with Section 504 accommodations, an individualized education program, also known as an IEP, or an individualized family service plan, or IFSP. This can include a transfer of records, needed evaluations and meetings to ensure comparable services are in place when the child arrives (<https://statepolicy.militaryonesource.mil/emeritus-status-tracker/advance-enrollment>).
- 2. Timeliness:** States can clarify in statutes or rules that if an evaluation is determined to be necessary after a student transfers from another state, it should be completed within 30 calendar days. This helps facilitate the timely adoption of an education plan in the new state. Receiving school districts should be encouraged to accept evaluations from other school districts if evaluations from the previous school districts are current.
- 3. State disability programs:** Providing support to families impacted by a disability is a research-based prevention practice. Specific state support of disability programs focusing on the unique issues of military and other highly mobile families can increase the likelihood of a successful transition.

• Reducing burdens during proceedings:

- 1. Enhancing parental consent:** States can strengthen the opportunities for parents to participate in decision-making regarding any potential changes to their children's educational program by requiring enhanced parental consent prior to taking any significant actions.
- 2. Shifting burden of proof:** When due process hearings take place, the party that requests the hearing (most often the parents) generally will have the burden of proving their case. But states can reassign the burden of proof from the parents to school districts.



- 3. Expert witness fees:** When a hearing officer finds in favor of a family at due process, states can reduce financial burdens for families by enacting provisions to reimburse them for the cost of their expert witnesses.

Best Practices

- **Minimizing delays:**

- 1. Advance enrollment**

Equitable enrollment and registration processes for military-connected children with special education needs

EXAMPLE:

Alabama Senate Bill 211, Section 1, Section 16-28-60

<https://alison.legislature.state.al.us/files/pdf/SearchableInstruments/2024RS/SB211-int.pdf>

“(b) If the enrolling student is transferring with a Section 504 plan, an individualized family service plan, or an individualized education plan, the local board of education shall take the necessary steps including, but not limited to, the transfer of records and any prior evaluations, the performance of reevaluations, if necessary, and meetings to ensure that comparable services are in place when the child arrives in this state. If a reevaluation is deemed necessary, the reevaluation shall occur within 30 calendar days after the date of arrival, subject to the informed parental consent of the parent or legal guardian as provided by rule of the State Board of Education.”

- 2. Timeliness**

Timely adoption of IEPs for children with special education needs upon moving to a new state

EXAMPLE:

New Jersey Administrative Code 6A, Chapter 14, Subchapter 4

<https://www.state.nj.us/education/code/current/title6a/chap14.pdf>

“1. For a student who transfers from one New Jersey school district to another New Jersey school district, the IEP shall be implemented as written if the parents and district board of education agree. If the appropriate district board of education staff do not agree to implement the current IEP, the district board of education shall conduct all necessary assessments and, within 30 days of the date the student enrolls in the school district, develop and implement a new IEP for the student.

2. If the student transfers from an out-of-state school district, the appropriate district board of education staff shall conduct any assessments determined necessary and, within 30 days of the date the student enrolls in the school district, develop and implement a new IEP for the student.



3. The appropriate district board of education staff shall take reasonable steps to promptly obtain the student's records, including the current IEP and supporting documentation, from the previous school district in accordance with N.J.A.C. 6A:32. The school district in which the student was previously enrolled shall take reasonable steps to promptly respond to all requests for records of students transferring from one district board of education to another district board of education."

3. State disability programs

Disability programs supporting the needs of highly mobile children

States have a variety of disability programs and can encourage these programs to support military and other highly mobile families. Current and past examples include Utah's military family advocate, Washington PAVE's Specialized Training of Military Parents program, or STOMP, and New Jersey's Military Family Support 360 project.

• Reducing burdens during proceedings:

1. Enhancing parental consent

Increasing opportunities for parents to participate in decisions that affect changes to individualized education programs

EXAMPLE:

Virginia Administrative Code, Title 8, Agency 20, Chapter 81, Section 170

<https://law.lis.virginia.gov/admincode/title8/agency20/chapter81/section170>

"E. Parental consent.

1. Required parental consent. Informed parental consent is required before:

- a. Conducting an initial evaluation or reevaluation, including a functional behavioral assessment if such assessment is not a review of existing data conducted at an IEP meeting; (34 CFR 300.300(a)(1)(ii))
- b. An initial eligibility determination or any change in categorical identification;
- c. Initial provision of special education and related services to a child with a disability; (34 CFR 300.300(b)(1))
- d. Any revision to the child's IEP services;
- e. Any partial or complete termination of special education and related services, except for graduation with a standard or advance studies diploma;
- f. The provision of a free appropriate public education to children with disabilities who transfer between public agencies in Virginia or transfer to Virginia from another state in accordance with 8VAC20-81-120;



g. Accessing a child's public benefits or insurance or private insurance proceeds in accordance with subsection F of this section; and (34 CFR 300.154)

h. Inviting to an IEP meeting a representative of any participating agency that is likely to be responsible for providing or paying for secondary transition services. (34 CFR 300.321(b)(3))"

2. Shifting burden of proof

Shifting burden of proof in due process cases from parents to school districts

EXAMPLE:

Revised Code of Washington, Chapter 28A.155.260

<https://app.leg.wa.gov/RCW/default.aspx?cite=28A.155.260>

"(1) Except as provided in subsection (2) of this section, the school district has the burden of proof, including the burden of persuasion and production, whenever it is a party to a due process hearing regarding the identification, evaluation, reevaluation, classification, educational placement, disciplinary action, or provision of a free appropriate public education for a student with a disability."

3. Expert witness fees

Reimbursement of attorney's fees and related costs in due process cases

EXAMPLE:

Maryland House Bill 1237, Chapter 708, Section 8-413 (2023)

https://mgaleg.maryland.gov/2023RS/Chapters_noln/CH_708_hb1237t.pdf

"(L) (1) THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES AND RELATED COSTS, INCLUDING EXPERT WITNESS FEES AND COSTS, TO THE PARENT OF A CHILD WITH A DISABILITY WHO IS A PREVAILING PARTY IN ACCORDANCE WITH THIS SUBSECTION."