

Special Education Advocacy: An Untapped Niche for Family Lawyers

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March is Developmental Disability Awareness Month, and the LBA Family Section is taking this opportunity to spread awareness about how family lawyers can provide needed advice and advocacy to clients navigating the special education system.

“Inclusive education is not a privilege. It is a fundamental human right.”

– Ban Ki-Moon, former Secretary-General of the United Nations (2007-2016)

As family lawyers, we often encounter clients facing emotionally charged situations, but few challenges are as intricate and impactful as navigating the education system for a child with special needs. Adding special education advocacy to your practice is not just an opportunity to expand your services, it is a chance to profoundly impact families in need while distinguishing yourself in the legal field. Family law practitioners can play a vital role in this area by demonstrating how education issues intersect with custody disputes, why your legal expertise makes you the perfect advocate and providing an overview of the Individualized Education Program (IEP) and Section 504 plan processes.

Throughout this article, remember you do not need to be a subject matter expert yourself in specific diagnoses, assessments or evaluations to support your clients. The professionals involved with your clients as assessors or providers can offer support. For expert consultation and witnesses, consider partnering with Kentucky IEP Advocates: <https://www.kyiepadvocate.com/>.

The Synergy Between Family Law and Special Education Advocacy

Family lawyers are ideally positioned to support families in special education matters due to their existing relationships and understanding of family dynamics. Many issues within family law, such as custody disputes and divorce proceedings, can directly impact a child’s IEP or 504 plan. Conversely, learning differences can lead to parenting conflict and, in many instances, to litigation in family court.

Benefits to Your Practice

By offering special education advocacy, family lawyers can:

- **Provide comprehensive legal support:** Addressing both family law and

special education concerns ensures holistic representation for families during challenging times. You can help children access the education to which they are entitled under federal law.

- **Enhance client relationships:** Expanding services demonstrates a commitment to a client’s overall well-being, fostering trust and loyalty. You’ll serve parents as a trusted partner in their fight for their child’s future.
- **Tap into an underserved market:** You can assist the many caregivers of children with disabilities who struggle to find affordable legal representation in special education matters.
- **Generate additional revenue:** Discover a new stream of income for your family law firm. Stand out as a comprehensive advocate for families.

This is not just an opportunity — it is a call to action. Families need your voice in the room.

Why Education Advocacy Is Key in Custody Cases

Educational issues are increasingly central

to custody disputes, particularly when a child has special needs. By incorporating special education advocacy into your practice, you can address these critical intersections effectively.

- **Parental disagreements:** Parents may clash over evaluations, services or school placements. Your understanding of education law can help you advocate for solutions that prioritize the child’s best interests.
- **Custody and decision-making:** Courts may grant sole legal custody to one parent when conflicts over education harm the child. Demonstrating your client’s active involvement in the child’s education can be a decisive factor.
- **Stability in schooling:** Courts often prioritize educational stability. Advocating for custody arrangements that maintain consistency in the child’s education can strengthen your case.
- **Impact on parenting time:** Educational needs may require adjustments to parent-

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ing time schedules. Your ability to present these changes in a fair and compelling way can benefit your client.

When you understand special education law, you can make powerful arguments that resonate with courts and protect the child's interests.

IEPs and 504 Plans: Cornerstones of Special Education Law

Two key legal documents govern special education services: the Individualized Education Program (IEP) and the 504 plan.

- An **IEP** is a comprehensive, legally binding document tailored to a student's specific needs, outlining specialized instruction, related services and measurable goals.
- A **504 plan** is less intensive, focusing on accommodations and modifications to ensure equal access to education for students with disabilities.

In short, IEPs can *modify* instruction and assessments while 504s can *accommodate* how a child receives the same instruction or assessments as their peers. While school districts are obligated to provide these services, the process can be complex and contentious. Parents often feel overwhelmed and under-equipped to advocate effectively for their child's needs. This is where family lawyers can step in, leveraging their legal expertise to navigate the intricacies of special education law.

The IEP Process: A Tool for Advocacy

The Individualized Education Program (IEP) is a powerful tool that ensures children with disabilities receive a Free Appropriate Public Education (FAPE) under the Individuals with Disabilities Education Act (IDEA). However, many parents struggle to navigate this process. This is where your skills as a family lawyer can shine.

The IEP process involves:

- 1. Referral and evaluation:** The IDEA's "child-find" mandate requires public schools to evaluate students suspected of having a disability. Parents or teachers can request an evaluation, and schools can only refuse if there is no suspicion. Delays and denials are common, so advocacy is crucial to ensure students receive proper evaluation.
- 2. Eligibility determination:** A team of professionals and parents determines if a child is eligible for special education services. Disagreements may arise due to the complexity of the disability categories and differing opinions of team members, requiring negotiation skills from lawyers.
- 3. Developing the IEP:** The collaborative process involved in creating an IEP is essential for outlining a child's current academic and functional performance, setting measurable goals, determining necessary services and supports, and specifying accommodations to facilitate learning. By actively participating in the IEP meetings and collaborating with the school team, you can play a crucial role in ensuring that the parents' concerns

and perspectives are taken into account and can have a significant impact on the child's educational experience and overall well-being.

- 4. Implementation and review:** When educational institutions neglect to implement IEPs as they are formally written and agreed upon, this can result in a failure to provide the FAPE guaranteed to all students under federal law. In such instances, legal intervention may become necessary to ensure that the school is held accountable for its obligations and that the IEP is implemented faithfully as written. This may involve initiating due process proceedings, filing complaints with state or federal agencies or pursuing other legal remedies.

By helping families navigate this process, you provide them with peace of mind and empower them to secure the services their children need to succeed.

The Role of Section 504 Plans

While an IEP is a crucial tool for students with disabilities who require specialized instruction, it's important to remember that not every child with a disability will meet the criteria for an IEP. The Rehabilitation Act of 1973, specifically Section 504, offers a broader framework for supporting students with disabilities who may not need specialized instruction but still require accommodations to ensure equal access to education.

Unlike an IEP, which focuses on specialized instruction and related services, Section 504 accommodations are designed to level the playing field by addressing the specific needs of students with disabilities. These accommodations can take various forms, depending on the individual student's needs. For example, a student with dyslexia might receive extended testing time to compensate for their slower reading speed, while a student with ADHD might benefit from assistive technology that helps them stay organized and focused. Other common Section 504 accommodations include preferential seating, access to a quiet testing environment or the use of a notetaker.

Parents often feel overwhelmed when determining whether an IEP or 504 plan is appropriate for their child. As a family lawyer, you can:

- Explain the differences between IEPs and 504 plans.
- Consult with experts and providers to advocate for the proper evaluation and accommodations.
- Challenge schools that fail to provide adequate support.

This knowledge will make you an invaluable resource for families who feel lost in the system.

Practical Steps to Get Started

If you're ready to embrace special education advocacy, here are some steps to consider:

- 1. Educate yourself:** Familiarize yourself with IDEA, Section 504 and relevant state laws. Consider attending workshops

or partnering with special education advocates. Reach out to the LBA if you are interested in CLEs on these topics.

- 2. Build a network:** Collaborate with psychologists, educators and therapists to create a robust support system for your clients.
- 3. Offer initial consultations:** Help families understand their rights and options, even before disputes arise.
- 4. Stay current:** Keep up with changes in education law and local practices to provide cutting-edge advice.
- 5. Integrate this work into custody cases:** Highlight your expertise in special education during custody disputes to show courts how you can help achieve the best outcomes for children.

Conclusion

It's important to note that IEPs and Section 504 plans are not intended to give students with disabilities an unfair advantage; rather, they aim to remove barriers that might otherwise prevent these students from fully participating in and benefiting from their education. By providing appropriate accommodations, schools can ensure that all students, regardless of disability, have the opportunity to succeed.

This is just an introduction to special education advocacy and representation. If you have questions or want to join the growing commu-

nity of lawyers providing these services, contact me directly at melina@helterslaw.com. For more information about my work with Helters+Associates, visit www.helterslaw.com.

Integrating special education advocacy into a family law practice is not only a natural extension of existing services but also a strategic business move. By recognizing the interconnectedness of family law and special education, attorneys can better serve their clients, expand their practice and make a lasting difference in the lives of families with children with disabilities.

Melina Hettiaratchi is a lawyer with a strong background in special education and advocacy. She earned a degree in Early Childhood Education from Mercer University, specializing in education equity and special education instruction, before pursuing law at UC San Francisco College of the Law. Her legal career focuses on holistically supporting families by consulting on special education matters, facilitating connections to resources and advocating in court and schools when necessary. Now practicing in Louisville at Helters+Associates, she leads in family law and community advocacy, earning recognition as a Super Lawyers Rising Star in 2024 and 2025 and the LBA's Robert and Frank E. Haddad Young Lawyer Award in 2023. ■



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