

SPRING 2010



THE ARC OF MERCER COUNTY

focus

Education advocacy: *protecting your rights under the law*

By his sophomore year in high school, Kevin* had already been held back twice. He struggled at the beginning of each school year to catch up with learning again what he had forgotten over the summer months. It was only after his parents contacted The Arc of Mercer County that they learned about Kevin's rights to an extended school-year. That summer, he was tutored to prepare him for his junior year in high school. He also enrolled in vocational training, a curriculum better suited to his interests and his dream of becoming a chef. Without the services of The Arc's advocacy program, Kevin may have been one of the many students with intellectual and developmental disabilities who age out of school without ever knowing or receiving the education they are legally entitled to.

With the passage of IDEA (Individuals with Disabilities Education Act), every eligible child with a disability is guaranteed the right to a free appropriate public education (FAPE). For this right to work effectively, every child must have someone who acts on his behalf. This can be a birth or adoptive parent, a foster parent, a guardian, family member, or surrogate parent – someone who can legally make special education decisions for the child. The Arc of Mercer County offers families free assistance with education advocacy, becoming an active partner with parents to insure their children's rights under the law.

What is FAPE?

Recognizing that special education is mandated, schools must provide appropriate programs and services for a child with disabilities free of charge to the family. School officials cannot ask a family to use their own financial means or insurance to pay for an evaluation or a service if any cost is involved, e.g., an increase in premiums or decrease in annual or lifetime coverage. With the parents' agreement, however, schools may use a child's Medical Assistance card to pay for services that fall under the Medical Assistance program, such as speech or physical therapy, certain medically necessary services or equipment.

Services provided to an eligible child must be appropriate, i.e., developed according to defined procedures, and must afford the opportunity for the child to make meaningful progress toward the IEP (Individualized Education Program) goals. Progress depends, of course, on the individual child's potential for learning. Passing a child from grade to grade does not necessarily mean that the program and "progress" are appropriate for the child.

Who guarantees FAPE?

The responsibility for making sure that each eligible child is located, evaluated, and provided a free appropriate public education falls on the school district where the child lives. Knowing the complexities of this mandate presents challenges for families, and pursuing and advocating for a student's rights can prove daunting to families. With the assistance of an education advocate, like the ones at The Arc of Mercer County, families can pursue the education their children are entitled to under the law. (See page 3 for more information.)

* Name has been changed to protect the privacy of the student

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