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ALABAMA DISABILITIES ADVOCACY PROGRAM  
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The Alabama Disabilities Advocacy Program (ADAP) is part of the nation's federally-funded protection and advocacy (P&A) system. ADAP provides legal services to Alabamians with disabilities to protect, promote and expand their rights. ADAP's vision is one of a society in which persons with disabilities are valued and exercise self-determination through meaningful choices, and have equality of opportunity. ADAP is part of the [National Disability Rights Network \(NDRN\)](#).

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## Proposed Changes to State Law May Harm Students with Disabilities

ADAP and other parent attorneys and advocates are reviewing **proposed changes** to state law which they believe may violate the Individuals with Disabilities Education Act (IDEA) and could harm a child's right to special education. Among other things, the Alabama State Department of Education (ALSDE) is proposing to change how special education due process complaints are filed; how due process hearings are conducted; and the circumstances under which a parent can obtain an Independent Educational Evaluation (IEE).

### **Public Comment Opportunities**

The ALSDE is holding three **public hearings** to receive comments on these proposed changes:

- Wednesday, October 14 at **Carver High School** in Montgomery
- Thursday, October 29 at **Saraland High School** in Saraland
- Wednesday, November 4 at **Cullman City High School** in Cullman

The hearings start at 4:30 PM and conclude at 6:30 PM.

Parents can also submit written comments about the proposed changes by emailing comments to the ALSDE at [sesaac@alsde.edu](mailto:sesaac@alsde.edu). All comments are due by Sunday, November 15.

### **Analyzing the Proposed Code Changes**

ADAP urges parents to educate themselves about these proposed changes and participate in the public dialog about them. ADAP and other advocates for children with disabilities are reviewing

the proposed changes mindful of two things.

First, the IDEA provides a floor of rights to children and their parents; state law cannot provide fewer rights than those available under federal law. Any proposed changes to the state's special education rules must be analyzed to ensure that this basic floor of rights is not violated.

Second, proposed changes should be analyzed against the purposes of the IDEA. These purposes are 1) to ensure that all children with disabilities have available to them a free appropriate public education that is 2) individualized to meet their unique needs to prepare them for further education, employment and independent living and 3) to ensure that the due process rights of children with disabilities and their parents are protected. If proposed changes don't further these purposes, they should not be enacted.

Here's a brief summary of some of the proposed rule changes. Look for more extensive analysis next week as the hearings are about to get underway.

**Proposal:** The ALSDE proposes to shorten the amount of time available to parents to bring complaints about alleged violations of the IDEA. That time period would shrink from two years to one year. A statute of limitation is the maximum time allowed to file a complaint about an alleged illegal action. The IDEA provides for a two year statute of limitation for violations of the IDEA unless a state sets a different time limitation. Under existing law in Alabama, a parent who wants to file a due process complaint must do so within two years of the date the parent knew or should have known about the alleged violation of the IDEA. The ALSDE wants to shorten the statute of limitation to one year. ADAP believes the IDEA's two-year period should be retained to ensure parents can effectively protect their children's rights.

**Proposal:** The ALSDE proposes to require more specifics from parents filing complaints for due process hearings. If these specifics are not met in the complaint, then the complaint could be dismissed. Especially for parents who are filing complaints without the help of an attorney, this proposed rule change could lead to their complaints being dismissed more easily.

**Proposal:** The ALSDE proposes to change language surrounding Independent Educational Evaluations (IEEs). Under the IDEA, a parent has a right to an IEE at public expense if the parent disagrees with an evaluation obtained by the school system. If a parent requests an IEE, the school may ask why the parent objects to the public evaluation but the school may not require the parent to prove an explanation and may not unreasonably delay providing the IEE or filing a due process complaint itself to defend the public evaluation. ADAP believes the proposed rules may improperly limit a parent's right to an IEE.



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**Our mailing address is:**

The University of Alabama

Alabama Disabilities Advocacy Program

Box 870395 - Tuscaloosa, Alabama 35487-0395

website: [www.adap.net](http://www.adap.net)

e-mail: [adap@adap.ua.edu](mailto:adap@adap.ua.edu)