

A Step by Step Guide to Special Education

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Special Education Rights

Federal and State Laws and Students with Disabilities

1. Individuals with Disabilities Education Act (IDEA 2004), Federal Regulations 34 C.F.R. 300
2. Section 504 of the Rehabilitation Act
3. Massachusetts General Law Chapter 71B
Mass. Regulations= 603 CMR 28.00

Eligibility

- In order to be eligible for special education you child must have a disability and by reason thereof require
- Special education or one or more related services to access and make progress in the general curriculum
- Or make progress in other areas impacted by their disability (behavior, social, emotional, functional needs i.e. daily living skills)

Evaluations

- Evaluations are the way that we know if your child is eligible for special education
- Initial evaluations are done to determine eligibility and every 3 years your child is re-evaluated and eligibility is re-determined.
- Evaluations must also be done to terminate special education services

Types of evaluations

- School evaluations—the school must conduct evaluations at the request of a parent or if the school suspects that a child had special education needs.
- Required assessments: 603 CMR 28.04 (2)
 - **An assessment in all areas related to the suspected disability (functional behavioral assessments, assistive technology, OT, PT, speech)**
 - **Educational assessment**

Optional Assessments

- Health Assessment
- Psychological Assessment
- Home Assessment

- Content of Assessments—summary of tests, results, diagnostic impression AND define in detail student's needs and means for meeting those needs (recommendations). If there are no recommendations the assessment is incomplete.

Parent's Rights to Assessments

- At the Team meeting the school is required to have someone there who is capable of explaining the assessments and the results.
- Parents have a right to have a copy of all the school's assessments at least two days in advance of the Team meeting. You must request in writing copies of your child's assessments. 603 CMR 28.05 (1)

Timelines

- Within 5 school days of referral, and evaluation consent form must be sent to parents
- Within 30 school days of receipt of consent, all evaluations must be complete
- Within 45 school working days of receipt of consent, Team meeting to determine eligibility and if appropriate develop IEP and determine placement

Types of Disabilities

- **Autism**
- **Developmental Delay**
- **Intellectual Impairment**
- **Sensory Impairment; including hearing impairment or deaf, vision impairment or blind, deafblind**
- **Neurological Impairment**
- **Emotional Impairment**
- **Communication Impairment**
- **Physical Impairment**
- **Health Impairment**
- **Specific Learning Disability**

Independent Evaluations

- Parents can obtain an independent evaluation at private expense at any time.
- If the parent disagrees with the Team about their evaluation, eligibility, program, placement, or services the parent may request a publicly funded independent evaluation
- The Team must reconvene to consider and independent evaluation within 10 school days of receiving the report

Requesting an Independent Evaluation

- **Parents have the right to request a publicly funded independent evaluation if:**
 - **The parent disagrees with the school district's evaluation(s); or**
 - **If the parent believes that the student has not been assessed in all areas suspected of disability**

School Response (Federal Law)

If the School District refuses to fund the evaluation, the District must file with the BSEA within five (5) days and prove that the District's evaluation(s) were comprehensive and appropriate

Independent Evaluations under State Law

- The parent needs to request an independent evaluation within 16 months of the school's evaluations.
- There is a voluntary cost-sharing program with a sliding scale fee based on income. The family is asked to provide financial information
- Independent evaluations funded by scales are subject to state rates. 603 CMR 28.04(5)(a)

IEP Team Responsibilities

- 1. Determine Eligibility
- 2. Develop an IEP, if student is found eligible
- 3. Determine Placement (Least Restrictive Environment considerations)

IEP Team—Required Members

- **Parent(s) of the Student**
- **Student, when appropriate**
- **At least one regular education teacher (if student is or may be participating in regular education)**
- **At least one special education teacher**
- **An individual with the ability to interpret evaluation results**
- **A school district representative with the authority to allocate resources**
- **At the Parent's or the District's discretion, others with knowledge of the Student**
- **(Inform the District of person(s) you intend to bring to the meeting)**

IEP Team—Attendance NOT Required

- A member of the Team is not required to attend the IEP meeting if;
 - 1. The Parent and the District agree that the member's attendance is unnecessary
 - 2. The Parent agrees in writing

IEP Development

- Key Evaluation and Summary Results
- Parent Concerns
- Vision Statement
- PLEP A & B --- Accommodations and Modifications (content, methodology, performance criteria)
- Goals---for each area requiring special education or related services AND short-term objectives or benchmarks
- Service Delivery Grid— Grid A (consultation and training), Grid B (services in the regular education classroom), Grid C (services out of the classroom—i.e., resource room, therapy room)
- Extended Day or Extended Year
- Transportation
- MCAS

Issuing the IEP and Response

- At the end of the IEP meeting you should receive a Team meeting summary
- At a minimum, this summary of the decisions and agreements reached during the Team meeting must include:
 - (a) a completed IEP service delivery grid describing the types and amounts of special education and/or related services proposed by the district, and
 - (b) a statement of the major goal areas associated with these services.
 - The District may then take no more than two calendar weeks to prepare the Complete IEP for parent's signature.
 - For full text of DOE memo on this issue go to;
- <http://www.doe.mass.edu/news/news.asp?id=3182>

Parent Response to IEP

- IEP Response Options—within 30 calendar days
 - **Accept in Full**
 - **Reject in Full (Not advisable when it is first IEP as there are no services to “fall back” to under “stay put”)**
 - **Reject in Part & Request a Meeting to discuss the rejected portions—You can reject in part by “omission” for services you requested and were refused—District must provide reasons for their refusal under prior written notice**
 - **All portions not rejected are accepted and implemented**
 - **Placement—Accept or Reject Placement**

Prior Written Notice

- “**20 U.S.C. § 1415 - Procedural Safeguards**
- **(c) Content of Prior Written Notice.**--The notice required by subsection **(b)(3)** shall include--
- (1) a description of the action **proposed or refused** by the agency;
- (2) an **explanation of why** the agency proposes or refuses to take the action;
- (3) a description **of any other options** that the agency considered **and the reasons why** those options were rejected;
- (4) a description of **each evaluation procedure, test, record, or report the agency used as a basis** for the proposed or refused action;
- (5) a description of **any other factors** that are relevant to the agency’s proposal or refusal;
- (6) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- (7) **sources** for parents to contact to obtain assistance in **understanding** the provisions of this part. “

After Services Begin

- Progress reports—generally issued with report cards—progress toward meeting annual goals
- Annual Review of IEP
- Re-evaluation—unless Team and parent(s) agree it is not necessary.
- Amend or modify IEP—can be done by agreement in writing signed by both parties without a meeting.
- If your child is not making effective progress you should request a Team meeting

IEP Compliance Issues

- Once an IEP is signed by the parent(s) the services are to be implemented immediately. If your child is not receiving the supports and services required under their IEP you may file a complaint with the Department of Education Program of Quality Assurance, at no cost to you.
- 781-338-3700, ask for the liaison for your city or town

Appeals

- The Bureau of Special Education Appeals is the independent agency that has jurisdiction over special education disputes. 781-338-6400
- Options
 1. Mediation
 2. Advisory Opinion
 3. Hearing
(Resolution Meeting required within 15 days of District receiving the complaint filed by parent(s).)

Resources

- Websites
 - Wrightslaw.com
 - Findlaw.com
 - Fcsn.org
 - Mass Department of education
www.doe.mass.edu
 - Mass. Advocates for Children 617-357-8431
 - Disability Law Center 617-723-8455
 - Children's Law Center 781-581-1977