

## **ADVOCATES FOR CHILDREN**

151 W. 30TH ST., 5TH FLOOR  
NEW YORK, NY 10001

TEL: (212) 947-9779 FAX: (212) 947-9790

[WWW.ADVOCATESFORCHILDREN.ORG](http://WWW.ADVOCATESFORCHILDREN.ORG)

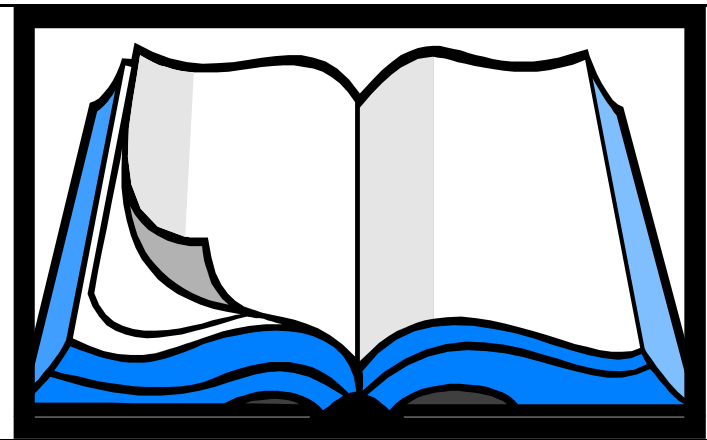
**HELPLINE: MON-THURS 10AM-4PM**  
**1-866-427-6033**

# **KNOW YOUR RIGHTS**

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## **A GUIDE TO THE LEGAL RIGHTS OF IMMIGRANT STUDENTS & PARENTS IN THE NEW YORK CITY PUBLIC SCHOOLS**

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## **ADVOCATES FOR CHILDREN IMMIGRANT STUDENTS RIGHTS PROJECT**

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## I. ENROLLING IN SCHOOL

### AT WHAT AGE CAN A CHILD ATTEND SCHOOL?

Every child age 5 to 21 has the right to attend public school until he or she graduates from high school. In New York State, 4 year olds also qualify for universal preschool and children as young as 3 may qualify for general education services if programs have space available.

A child entering school in kindergarten must be 5 years old by December 31 of that year. An eligible child cannot be turned away from kindergarten or placed on a wait list for lack of space. In addition, a teenager cannot be turned away from high school or sent to a GED program just because of age or limited prior education. All children ages 5 to 21 applying for public school must be admitted immediately and placed in an appropriate program within 5 school days.

### IMMIGRATION STATUS DOES NOT MATTER

Immigrant students have the right to attend school regardless of the immigration status of the child or of the child's family members. No one in the school may ask about the child's or family's immigration status. Although some school forms ask for a social security number, parents and students are not required to give this information. Students are entitled to receive all school services, including free lunch, free breakfast, transportation, and educational services, even if they or their family are undocumented and don't have a social security number.

### HOW IS A NEW STUDENT ENROLLED AND PLACED?

Parents of students entering elementary or middle school should contact their zoned school. Parents of students entering high school should contact the enrollment office in their borough of residence for more information on finding an appropriate placement or applying to high schools. Enrollment office contact information can be found on the DOE website and at the back of this pamphlet on page 18.

A student must live in New York City (NYC) in order to be entitled to attend a NYC public school. To enroll in school the parent and the child must go to the enrollment office together and bring:

- (1) **Proof of home address:** required to show that the child "resides," or lives in, NYC. Generally, a residential utility bill (gas, electric or water), a lease, a letter from a government agency and employment documents used for tax purposes are accepted. A telephone bill, cable bill, credit card bill, medical insurance card or driver's license are not

### ELL COMPLIANCE AND PERFORMANCE SPECIALISTS:

These individuals serve to ensure that ELL generalized and specialized supports for schools are timely, efficient and effective. You can contact them to report problems with ELL services in your child's school.

Name	Phone #	Address	District
Maria Broughton Evelyn Ilg	212-356-7522 212-356-3731	333 7th Avenue New York, NY 10011	1,4 2
Enid Serrano Martha Frans	212-356-7519 212-356-7522	333 7th Avenue New York, NY 10011	3 5,6
Rosita Costas Marie Rouseau	718-329-8137 718-329-8136	1 Fordham Plaza Bronx, NY 10468	7,8 9
Martha Beras Olga Mejia-Glenn	718-329-8111 718-741-7862	1 Fordham Plaza Bronx, NY 10468	10 11,12
Yvonne Morales	718-935-5963	131 Livingston Street Brooklyn, NY 11201	13,14, 15,16
Christine Etienne	718-420-1438 718-968-6145	715 Ocean Terrace Staten Island, NY 10301	17,18
Tatyana Ulubabova	718-935-5927	131 Livingston Street Brooklyn, NY 11201	19,23, 32
Jose De La Cruz	718-420-5618	715 Ocean Terrace Staten Island, NY 10301	20,21, 22
Olga DeFilippis	718-391-6808	28-11 Queens Plaza North Long Island City, NY 11101	24,26
Gary Goldenback	718-281-3426	30-48 Linden Place Queens, NY 11354	25,28
Betty Ortiz	718-391-8036	28-11 Queens Plaza North Long Island City, NY 11101	27,30
Wladimir Pierre	718-281-7501	30-48 Linden Place Queens, NY 11354	29,30
Nilda Kraft	718-420-5721	715 Ocean Terrace Staten Island, NY 10301	31
Larisa Kabbaj	212-802-1624	400 First Avenue New York, NY 10011	75

For a full listing of the DOE's departments and personnel, go to [www.schools.nyc.gov](http://www.schools.nyc.gov)

District	Phone number: District Family Advocate	Address: District Family Advocate
21	718-714-2501	521 West Ave. Rm 351, Brooklyn, NY 11224
22	718-968-6262	5619 Flatlands Ave., Brooklyn, NY 11234
23	718-922-4794 ext 240	1665 St. Marks Ave., Brooklyn, NY 11233
24	718-592-3364	98-50 50th Ave., Queens, NY 11368
25	718-281-7625	30-48 Linden Place 2nd Fl., Flushing, NY 11354
26	718-631-6841	61-15 Oceania St., Queens, NY 11364
27	718-642-5733	82-01 Rockaway Blvd., Ozone Park, NY 11416
28	718-557-2689	90-27 Sutphin Blvd., Jamaica, NY 11435
29	718-464-1433 ext 2170	223-14 Jamaica Ave., Queens, NY 11413
30	718-391-8261	28-11 Queens Plaza N., Long Island City, NY 11101
31	718-420-5624	715 Ocean Terrace Bldg A, Staten Island, NY 10301
32	718-574-1100 ext 366	797 Bushwick Ave., Brooklyn, NY 11221
75	212-802-1685	400 1st Ave., New York, NY 10010
79	917-521-3634	4360 Broadway, New York, NY 10033

**BOROUGH ENROLLMENT OFFICES:** This is the office you contact to register your child in school.

Borough	Districts Served	Address	Phone number
Bronx	7, 9, 10 8, 11, 12	1 Fordham Plaza 1230 Zerega Ave	718-741-8496 718-828-2923
Brooklyn	17, 18, 22 20, 21 13, 14, 15, 16	1780 Ocean Avenue 415 89th Street 131 Livingston Street	718-758-7687 718-759-4914 718-935-4197
Manhattan	1, 2, 4 3, 5, 6	333 Seventh Avenue 4360 Broadway	212-356-7500 212-342-8300
Queens	24, 30, 32 25, 26 19, 23, 27 28, 29	28-11 Queens Plaza North 30-48 Linden Place 82-01 Rockaway Blvd 90-27 Sutphin Blvd	718-391-8386 718-281-3791 718-348-2914 718-557-2774
Staten Island	31	715 Ocean Terrace, Building A	718-390-1443

accepted. To see a complete list of documents that are accepted as proof of residency please visit:  
<http://schools.nyc.gov/ChoicesEnrollment/NewStudents/default.htm>.

- (2) **Child's birth certificate or passport to show a child's age:** if the child was born outside of the U.S. the birth certificate or passport from their home country is accepted;
- (3) **Child's immunization record;**
- (4) **Child's latest report card or transcript:** if available, see below for information about transcripts from outside the U.S. and page 4 for information about immigrant students with limited or no school experience; and
- (5) **Child's Individualized Education Program (IEP) or 504 Accommodation Plan:** if applicable and available, see page 4 of this pamphlet about students with disabilities for more information.

If you do not have some of these documents, the school must still temporarily enroll your child in school while the school follows up to gather the required information. A student is placed in a grade according to his or her previous school record. If a student does not have any previous school records, the student must be admitted immediately and placed in a grade appropriate for his or her age. If a student has no existing records, the school should evaluate the child according to procedures outlined on page 3 under "What if an immigrant student has limited or no school experience?"

### SCHOOL CHOICE

Parents may have a choice about what school their child attends. Children are initially assigned to their neighborhood, or "zone" school. A parent may request to transfer his or her child to a different school if dissatisfied with the zone school, but such transfers are difficult to obtain. Parents may also be able to apply to other schools or programs that are unzoned or open to students in other neighborhoods. To find out what school options are available and to get more information on the transfer options available, please visit : [www.insideschools.org](http://www.insideschools.org).

### WHAT IF A STUDENT HAS A SCHOOL RECORD OR TRANSCRIPT FROM A SCHOOL OUTSIDE THE U.S.?

Students with foreign transcripts should have their transcripts translated either by the school they want to attend, the Department of Education (DOE), or an outside source. Once a transcript has been translated, it can then be evaluated by the school to determine the student's academic level or number of school credits.

Schools have two resources they can use for this purpose:

1. the DOE's Translation and Interpretation Unit (T & I) to translate text and
2. the Evaluating Foreign Transcripts manual to evaluate content.

Parents may also have their consulate, a community organization, or private service conduct the translation of the text. Official transcript translations must meet the following guidelines:

1. Translations must be in the same format as the original
2. All information must be translated.
3. The translation must be verbatim.
4. No evaluation or analysis by the translator should be included.

The translation must be typed on agency stationery and must be signed by the translator. Once the text has been translated, the school should use the DOE's Evaluating Foreign Transcripts Manual to evaluate the content. In the meantime, the student must be admitted to school.

#### **WHAT IF AN IMMIGRANT STUDENT HAS LIMITED OR NO SCHOOL EXPERIENCE?**

Students with little or no previous education have the right to immediate admission to a public school. In order to place such students and students without active school records, schools should:

1. compile a student profile
2. administer an oral diagnostic test in the student's native language
3. administer subject area placement examinations
4. assign a class placement in collaboration with appropriate school staff.

These procedures should be conducted by an admissions counselor or designee who speaks the student's native language and is knowledgeable about the student's cultural background. Interpretation services, if needed, should be provided by the school or the school can request help from the DOE's T & I unit. If this person determines that the student needs additional support services, s/he may make a referral to special education, a dual literacy program, or the high school admissions office.

#### **WHAT IF A NEW IMMIGRANT STUDENT HAS A DISABILITY?**

If it is suspected that a new immigrant student has a disability, the school can refer the student for a special education evaluation. Special education services are explained later on in this pamphlet. The Department of Education cautions schools not to refer new immigrant students to special education in their first 2 years in the U.S. to prevent inappropriate placement. However, parents have the right to request a

## **X. CONTACT INFORMATION**

### **OFFICE OF FAMILY ENGAGEMENT AND ADVOCACY (OFEA):**

This is where you will find the District Superintendent and the District Family Advocate. The staff members in the OFEA are there to help parents with any school-related questions, including those regarding ELLs. To find your district, go to the DOE website's "Find a School" feature and type in your address or call 311. For a more detailed list of personnel at OFEA, go to "Where to Get Help" under "Parent Resources" on [Insideschools.org](http://Insideschools.org).

<b>District</b>	<b>Phone number: District Family Advocate</b>	<b>Address: District Family Advocate</b>
1	212-587-4046	220 Henry St. Rm 134 A, New York, NY 10002
2	212-356-3789	333 7th Ave. Rm 713, New York, NY 10001
3	212-678-5857	154 W 93rd St. Rms 122, 204, New York, NY 10025
4	212-828-3512	319 E. 117th St. , New York, NY 10035
5	212-769-7500	425 W. 123rd St. Rm 205, New York, NY 10027
6	917-521-3783	4360 Broadway, New York, NY 10033
7	718-742-6500	501 Courtland Ave. Rm 102, Bronx, NY 10451
8	718-828-4555	1230 Zerega Ave., Bronx, NY 10462
9	718-842-7853	250 E. 164th St. , Bronx, NY 10456
10	718-741-5835	1 Fordham Plaza, Bronx, NY 10458
11	718-519-2668	1250 Arnow Ave., Bronx, NY 10469
12	718-328-2310 ext. 4092	1434 Longfellow Ave, Bronx, NY 10459
13	718-857-4198	355 Park Ave, Brooklyn, NY 11238
14	718-302-7689	215 Heyward St., Brooklyn, NY 11206
15	718-935-4263	131 Livingston Ave., Brooklyn, NY 11201
16	718-574-2824	1010 Lafayette Ave., Brooklyn, NY 11221
17	718-221-4372	1224 Park Place, Brooklyn, NY 11213
18	718-566-6005	1106 E. 95th St., Brooklyn, NY 11236
19	718-240-2795	557 Pennsylvania Ave., Brooklyn, NY 11207
20	718-759-3918	415 89th St., Brooklyn, NY 11209

service authorization (RSA) letter that allows the parent to obtain the appropriate bilingual service outside the DOE. The parent can request the RSA letter from the CSE or ISC. Parents can also request an impartial hearing to seek an order for the DOE to provide the appropriate service. To request an impartial hearing, write to:

Impartial Hearing Office  
Department of Education  
131 Livingston St., Room 201  
Brooklyn, NY 11201  
Tel. 718-935-3280  
Fax. 718-935-2528

Parents have the right to an interpreter at impartial hearings and should request one before the hearing if they need one.

To file a state complaint, submit a written explanation of the facts and violation of law to:

Office of Vocational Educational Services for  
Individuals with Disabilities  
New York State Education Department  
One Commerce Plaza, Room 1619  
Albany, NY 12234

If you need help with filing a hearing or a complaint, please see AFC's guide to Impartial Hearings, available online at <http://advocatesforchildren.org/guides.php> or call AFC's Helpline.

## IX. COMPLAINTS OF DISCRIMINATION

The law prohibits discrimination or harassment based on race, color, religion, creed, ethnicity, national origin, alienage, citizenship status, age, marital status, partnership status, disability, sexual orientation, gender, military status, prior record of arrest or conviction, predisposing genetic characteristic, or status as a victim of domestic violence, sexual offense or stalking. If you feel that you have been subjected to such discrimination or harassment, you may file a complaint with these agencies:

NYC DOE Office of Equal Opportunity (OEO)	(718) 935-3320
U.S. Department of Education, Office for Civil Rights	(646) 428-3900
New York City Commission on Human Rights	(212) 306-7050

Complaints must be filed with OEO within one year of the event which is the subject of the complaint.

referral of their child to special education at any time. If a student has a qualifying disability, he or she is entitled to special education services immediately, regardless of how long he or she has lived in the U.S.

### ARE THERE PUBLIC SCHOOLS IN NYC SPECIFICALLY DESIGNED FOR NEW IMMIGRANT STUDENTS?

YES. You can search [www.insideschools.org](http://www.insideschools.org) or call Advocates for Children for information about all such existing programs in the city.

## II. SERVICES FOR STUDENTS LEARNING ENGLISH

All students, regardless of ability to speak English, have the right to a public education. Students learning English are entitled to special instruction to address their language needs. The primary models of instruction are bilingual education or English as a Second Language (ESL).

### WHO IS ELIGIBLE FOR BILINGUAL EDUCATION/ESL?

When a child enters the NYC schools, his or her parents or guardians must complete a **Home Language Identification Survey (HLIS)** that asks about the languages used in the home and used by the child. If the responses to the HLIS indicate that a language other than English is spoken in the home, the child must take the **Language Assessment Battery- Revised (LAB-R)** Test in English to find out the level of the child's English abilities. All students who score below the set level on the LAB-R are required to take either bilingual education or ESL. If a student scores below the set level on the LAB-R, the student must take the **New York State English as a Second Language Test (NYSESLAT)** once every year in May. When a student scores above the set level on the NYSESLAT, s/he will no longer be considered an ELL and will not be eligible for bilingual education, ESL or dual language.

Students in NYC who are eligible for bilingual education and ESL are designated as "English Language Learners" (ELL) or "limited English proficient" (LEP). The term "ELL" is more commonly used in NYC.

### WHAT IF A PARENT DISAGREES WITH HIS OR HER CHILD'S LAB-R SCORE?

If a parent doesn't believe that his or her child's LAB-R score accurately reflects the child's English abilities, he or she may request a re-test from the Department of Education's Office of English Language Learners at (212) 374-6072. The parent should be able to explain why the test score is inaccurate or why conditions for the first test-taking were not appropriate. Students are rarely allowed re-tests on the LAB-R.

## TYPES OF INSTRUCTIONAL PROGRAMS FOR ELLS

The primary models of ELL instruction in NYC are:

- (1) **Transitional bilingual education program.** Instruction may be given in English as well as in the student's native language. At first, instruction will be in the student's native language, with more instruction being given in English as the student becomes more proficient in English.
- (2) **Dual language program.** This model includes limited English proficient students and native English speakers in one classroom with the goal of developing proficiency in both languages for both groups of students. Dual language programs in NYC are primarily in Spanish and English, but exist for a few other languages as well, including Chinese, Haitian Creole, Russian, Korean, French and Arabic.
- (3) **English as a Second Language (ESL)** is a program in which students learn to speak, read, and write English from a teacher trained to teach English. Students are instructed entirely in English. Most new immigrant students are in ESL.

More information on this can be found at: <http://schools.nyc.gov/Offices/ELL>

## CAN A PARENT CHOOSE BETWEEN BILINGUAL EDUCATION AND ESL?

YES. Parents have the right to decide whether they want their child to take bilingual education or ESL. ELL students have the right to bilingual education but are required at least to take ESL. Not every school has the right kind of bilingual education class for every child. For example, a child may need a Korean bilingual class when his or her school doesn't offer one. If another school in the child's district offers the appropriate bilingual program for a child, the parent has the right to transfer the child to that school and to be provided free transportation for the child to attend the school.

If there is no bilingual program in a child's language in any school in the child's district, the child must take ESL. If a parent does not want his or her child in bilingual education, he or she can decide to place his or her child in ESL. Every school should have an ESL class.

If you want to find out about the availability and location of bilingual programs, you can call your District Family Advocate. Contact information can be found at the end of this booklet.

## WHAT IF A BILINGUAL SPECIAL EDUCATION CLASS IS NOT AVAILABLE?

If a student requires bilingual special education services, but the Department of Education (DOE) cannot provide the appropriate bilingual special education class, the student may be temporarily placed in a monolingual English special education class with a bilingual paraprofessional. The purpose of the paraprofessional is to interpret for the student in class. If the DOE cannot provide an appropriate bilingual class after a certain amount of time, the parent is entitled to a private school for the child at public expense. A child is entitled to a private school if he or she has been denied an appropriate placement for over 60 school days following (1) the date of consent to evaluation (if the child is just beginning special education) or (2) following the date of referral for an IEP review (if the child was already in special education). After this time, the child's parent is entitled to a P-I letter or "Nickerson" letter authorizing the parent to place the child in a New York State approved private school. The parent may request this letter from the Committee on Special Education (CSE) or the Integrated Service Center (ISC). If the CSE or ISC does not provide the parent with the letter, the parent can request an impartial hearing to obtain the letter. The DOE is obligated to continue looking for an appropriate public school placement until the parent finds a private school.

Finding an appropriate non-public school placement may be difficult because there are few private schools offering bilingual special education. Before requesting a Nickerson letter, a parent should try to identify a private school that will admit your child. For assistance please call AFC.

## WHAT IF A BILINGUAL PARAPROFESSIONAL OR RELATED SERVICE IS NOT AVAILABLE?

Sometimes, the DOE fails to provide a bilingual paraprofessional for an ELL child in an English speaking interim placement. In this situation, the child does not have any language assistance and may not understand anything in the class. If this happens, the parent can request an impartial hearing or file a state administrative complaint to force the provision of a bilingual paraprofessional, or placement in a bilingual special education class as soon as possible. The parent may also request a Nickerson letter if the 60 school days have passed.

If a child requires a bilingual related service such as speech therapy and no bilingual service is available, the parent is entitled to obtain a related

meetings, and impartial hearings, please see AFC's guide to special education.

### **TRANSLATION AND INTERPRETATION FOR PARENTS OF SPECIAL NEEDS CHILDREN**

Parents have the right to have all IEPs, evaluation results, and notices regarding special education translated into their native language. Parents also have the right to have interpreters at meetings. Parents may request these translation and interpretation services from the school. If services are not provided please contact AFC's Helpline.

### **WHAT IF A CHILD NEEDS SPECIAL EDUCATION AND IS AN ENGLISH LANGUAGE LEARNER?**

A special education student who scores below the set level on the LAB-R is entitled to bilingual special education services or ESL in special education. Some students with severe disabilities (e.g., severe mental retardation or autism) are exempt from taking the LAB-R. These students are eligible for bilingual services/ESL if their Home Language Identification Survey shows a home language other than English and their bilingual evaluations recommend bilingual or ESL services.

### **CAN A SPECIAL EDUCATION STUDENT WHO SCORES BELOW THE SET LEVEL ON THE LAB-R BE EXEMPT FROM BILINGUAL SERVICES OR ESL?**

YES, but only if the IEP team, including the parent agrees to exempt the student. This is uncommon. The LAB-R test score of a special education student may be the result of a disability rather than limited language skill. For this reason, the IEP team may determine that the student does not require bilingual services. The IEP team and parent should consider multiple factors and not just the LAB-R score when making this decision. However, sometimes an IEP team will want a parent to agree to an exemption because bilingual services are hard to obtain. If a parent does not want his or her child exempted, he or she can refuse to consent to an exemption.

The IEP team may determine that a child needs bilingual services or ESL in certain areas but not in other areas. For example, a Spanish speaking special education student may be provided a bilingual Spanish and English class setting with monolingual English speech therapy. An IEP team must decide the language for service in a particular area based on a specific consideration of the child's need in that area. However, no decision about a service or the language of a service is final until the parent consents.

### **ARE STUDENTS ENTITLED TO HAVE ESL PROGRAMS TAILORED TO THEIR INDIVIDUAL SKILLS?**

YES. State law requires that ESL programs be designed to be appropriate for the student's particular English language abilities. Not every ESL student in the same class has to receive the same ESL curriculum. For example, an ESL student with significantly more advanced English skills than his or her classmates is entitled to a more advanced ESL curriculum.

### **WHEN ARE SCHOOLS REQUIRED TO CREATE BILINGUAL EDUCATION PROGRAMS?**

Elementary and junior high schools that have 15 or more ELL students with the same native language in the same grade or 2 contiguous grades are required to create a bilingual program in that language. High schools that have 20 or more ELL students with the same native language in one grade are required to create a bilingual program in that language.

### **DO PARENTS HAVE THE RIGHT TO NOTICE AND INFORMATION REGARDING BILINGUAL EDUCATION AND ESL?**

YES. Under state law, parents must be notified when their child is required to take bilingual education or ESL. They also have the right to (1) an explanation of the different program options, and (2) an orientation session on the state standards, assessments, school expectations and general program requirements for bilingual education and ESL. This orientation must be provided in the first semester of the child's enrollment in school. School districts must also make an effort to meet with parents at least twice a year to help them understand the goals of the program and how they might help their children. **All information should be provided in the parent's or guardian's native language. If you encounter any problems please call us.**

## **III. GIFTED AND TALENTED PROGRAMS**

All students regardless of English proficiency may apply for gifted and talented programs. Gifted and talented programs are "enriched and expanded" programs for students with advanced skills or special talents. Parents have the right to receive information about gifted and talented programs in their native language when needed. Parents should seek this information from the school or school district. Gifted and talented programs are different from special education programs.

## IV. PARENT RIGHTS

### **ARE PARENTS ENTITLED TO RECEIVE SCHOOL-RELATED INFORMATION IN THEIR NATIVE LANGUAGE?**

YES. Parents and guardians have the right to receive school related information in their primary language. In NYC schools, translation and interpretation services should be available in at least Arabic, Bengali, Chinese, Haitian Creole, Korean, Russian, Spanish, and Urdu. Parents have the right to have meetings orally interpreted and have notices and letters translated. Interpretations and translations must be accurate and appropriate. For example, a Cantonese speaker may not be an appropriate interpreter for a parent who speaks primarily Mandarin. All schools should also have notices posted at or near the school entrance stating where parents can receive these services and should provide a cover letter accompanying any document that isn't translated telling parents how they can get the information translated.

A parent who needs information interpreted or translated should request this service from the school's Parent Coordinator or Principal. Parents often do not receive the translation and interpretation services they need. If you have this problem, please call AFC's helpline at: 1-866-427-6033.

### **HOW CAN PARENTS BECOME INVOLVED IN SCHOOLS AND SCHOOL GOVERNANCE?**

Parents have many ways to participate in deciding how schools are run and how their children are educated.

**(1) Parent Coordinator.** The parent coordinator is responsible for helping to address parent concerns and supporting parent involvement in the schools. Contact the parent coordinator at your school for more information or with specific concerns.

**(2) School Leadership Teams.** Every NYC public school is required to have a School Leadership Team. Half of this team must be parent members elected by other parents. The team is responsible for designing the school's Comprehensive Education Plan which governs policies such as the budget, curriculum, parent involvement, staff development, services for ELLs and translation and interpretation services.

**(3) Parent and Parent-Teacher Associations (PA/PTA).** Every school must have a PA or PTA that is controlled by parents or by parents and teachers. The PA/PTA has the right to obtain complete information about a school's operation and student achievement levels.

and toddlers age 0 to 3 with developmental delays are entitled to evaluations for Early Intervention (EI) Program services. For more information, see Advocates for Children's guide to Early Intervention, available online at <http://advocatesforchildren.org/guides.php>. Call (800) 577-2229 to make a referral to EI.

### **WHAT IS SPECIAL EDUCATION?**

Special education is specialized instruction, supports, and services for students ages 3 to 21 who have disabilities that interfere with their learning. Such disabilities can range from learning and behavioral difficulties to very severe disabilities. Special education can include a wide range of services such as counseling, resource room, paraprofessional services, physical therapy, speech therapy, assistive technology, special curriculum, and other services. These types of services are known as "related services." Special education students can be educated with non-disabled peers in a general education classroom where related services are provided **or** in a separate classroom for students with disabilities. For a more detailed explanation of the special education system, see AFC's Guide to Special Education available at <http://advocatesforchildren.org/guides.php>.

### **HOW DO STUDENTS RECEIVE SPECIAL EDUCATION SERVICES?**

A parent can request in writing that his or her child be referred and evaluated for special education. A school can also refer a child to special education. However, the school referral must be in writing and it must document the ways in which the school tried to help the student through general education services (e.g., ESL, tutoring, afterschool programs, behavior strategies) before considering special education. A student cannot be referred to special education just because they don't speak English well. After a child is referred, he or she must be evaluated. However, no child can be evaluated for special education until the parent's rights have been explained and the parent has given written consent. An ELL child must receive an appropriate bilingual evaluation.

After a child is evaluated, the parent meets with a team of professionals at the school to determine whether the child needs special education. If a student is eligible for special education services, the team will create an Individualized Education Program (IEP) that specifies the student's program, services and educational goals. If a parent disagrees with the school about the student's special education services at any time, he or she can request an impartial hearing. For more details on evaluations, IEP

There are two kinds of suspensions: principal's suspensions and superintendent's suspensions. Principal's suspensions can last no longer than 5 school days at a time. Superintendents' suspensions can last up to 1 year and may result in expulsion if the student is over 17 on the first day of school.

For both types of suspensions, parents have the right to immediate oral and written notification of the suspension with the specific charges against the student. Parents also have the right to all documented evidence against their child and a conference for a principal's suspension or hearing for a superintendent's suspension. Parents and students have the right to bring a representative or advocate to suspension conferences and hearings. Students have the right to receive all homework, classwork and alternative instruction during the suspension. To request representation, you may call AFC's Helpline, or Legal Services of New York at (212) 431-7200.

For more information, please see "Basic Information" under "Parent Resources" on [Insideschools.org](http://Insideschools.org).

## VII. SCHOOL RECORDS

Parents have the right to access all of their child's school records. High school students 18 or older have the right to access all of their school records. Schools should produce these records immediately upon the parent's or high school student's request but no later than 45 calendar days after the request. Parents have the right to appeal or amend any information in their child's records.

## VIII. THE RIGHTS OF STUDENTS WITH DISABILITIES

### WHAT IF A STUDENT HAS A DISABILITY?

Schools must provide special education services or services under Section 504 for children with disabilities. Under Section 504, schools often provide accommodations that allow a child to participate fully in all school activities (e.g., wheelchair ramp, special writing equipment, medication). Under special education law, schools provide services such as specialized instruction, academic assistance and related services such as occupational therapy and counseling. Some students may qualify for both special education and section 504. For more information on Section 504, see Advocates for Children's guide on Section 504 available online at <http://advocatesforchildren.org/guides.php>. In addition, infants

The PA/PTA also has the right to be consulted by the school in all decisions about the school's operation including budget, hiring, and curriculum decisions. However, PAs and PTAs cannot make final decisions about school operation.

**(4) Title I.** Parents can also participate through Title I programs, a federal program for raising the achievement levels of low-income and minority children, including English Language Learners. Title I provides extra money to schools with a high percentage of low-income or minority children.

Title I requires that parents be directly involved in deciding how funds are used in the school. Funds can be used for a wide range of things including afterschool programs, tutoring, and parent trainings. Every Title I school must have a written policy describing how parents can participate in Title I planning. For more information on how to get involved with designing and funding Title I programs, contact the parent coordinator in your school.

**(5) Community Education Councils (CECs).** CEC council members are representatives of the parents and community at large. Their role is to reflect the needs and wishes of the community regarding the education of its children. CEC meetings are open to the public and provide an opportunity for the community to be heard on educational hearings.

Parents interested in serving on a CEC should complete a self-nominating application form available on the DOE's website, [www.schools.nyc.gov](http://www.schools.nyc.gov), under "Offices and Programs".

## V. PROMOTION & GRADUATION POLICY

### PROMOTION REQUIREMENTS

In the NYC public schools, students in grades 3 to 12 are promoted to the next grade level if they meet the graduation criteria for their grade.

- In **Kindergarten to 2nd grade** schools and school staff largely decide whether or not a student should be promoted.
- In **3rd, 5th and 7th grade** students must pass citywide standardized tests in reading and math. The possible scores are 1, 2, 3, or 4. A score of 2 or above allows a student to be promoted.
- In **4th, 6th and 8th grade** there are multiple criteria. Students cannot be held over based upon failure to meet one criteria alone. Student promotion is based on a review of:
  - Standardized tests Students must pass citywide and state assessments.
  - Student work Students must typically meet grade level

performance standards through their school work, teacher observations and grades.

- **Attendance** Students generally are expected to attend school for at least 90% of the school year.  
\*8th graders must also pass their academic subjects.
- In **9th – 12th grade** students are promoted primarily based on how many credits they have. Students must have: 8 credits to be promoted from 9th grade, 20 credits to be promoted from 10th grade and 28 credits to be promoted from 11th grade.

Promotion guidelines for students at each grade level can be found in Chancellor’s Regulation A-501 at: <http://schools.nyc.gov/Administration/ChancellorsRegulations> or you can call AFC’s Helpline for specific graduation criteria for your child’s grade.

### EXEMPTIONS & MODIFICATIONS OF CRITERIA

The following two groups of students are exempt from promotion criteria:

1. ELLs who have been in a U.S. public school for less than 2 years.
2. Special education students whose Individualized Education Programs (IEPs) state they are exempt from the promotion policy. The IEP may modify promotion standards for the student.

ELL students are subject to modified promotion criteria in the areas of standardized tests if they have been enrolled in bilingual education or ESL for 2 years or less. The modified criteria vary according to the student’s grade and whether they are in bilingual education or ESL. For more details on modified criteria, please refer to Chancellor’s Regulation A-501. You can obtain this regulation by visiting the DOE Chancellor’s Regulation link on page 9 or you may also call Advocates for Children.

### PARENT NOTIFICATION

Parents should be notified if their child is at risk of being held over at three different times:

1. at the Fall Parent Teacher Conference
2. in writing by January 31, and
3. in writing by regular mail at least 10 school days before the end of the school year.

Failure to notify the parent is not a reason to promote the child.

### APPEALS

Parents of children in 4th, 6th or 8th grade may appeal the decision to hold their child back by writing to the principal within 3 school days of receiving the notice at the end of the school year. The principal must

respond in writing within 3 school days. The parent may then appeal to the superintendent within 5 school days. The superintendent has 5 school days to respond in writing.

### GRADUATION REQUIREMENTS

In order to graduate from high school, students must:

1. Complete 44 credits,
2. Attain 90% attendance, and
3. Pass five Regents Examinations (in English, Math, Global History and Geography, U.S. History and Government, and Science).  
The score needed to pass the Regents examinations depends on when the students enters 9th grade. The Regents exam requirements for a Local Diploma are outlined below:

<u>Year ENTERING 9th grade</u>	<u>Regents Exams Score</u>
2001-2004	55 or higher on all 5 Regents
2005	2 out of 5 Regents with a score of 65 or above, the rest 55 or above
2006	3 out of 5 Regents with a score of 65 or above, the rest 55 or above
2007	4 out of 5 Regents with a score of 65 or above, 55 or above on one
2008	65 or above in all 5 Regents

ELL students who have been in the U.S. less than 3 years may take the Regents exams in their native language if available, but all ELL students must pass the English Regents exam in English. The other Regents exams are available in Spanish, Chinese, Russian, Haitian Creole, and Korean.

## VI. STUDENT SUSPENSIONS

Students may be suspended from school if they are seen as a danger to themselves or others. Suspensions should never be used as punishment. The rules for student behavior are outlined in the DOE pamphlet entitled **Citywide Standards of Discipline and Intervention Measures (The Discipline Code)**. A student cannot be excluded from school unless the school follows required suspension procedures. (See Chancellor’s Regulation A-443). In addition, students cannot be involuntarily transferred because of a suspension. (See Chancellor’s Regulation A-450). Students with disabilities have more due process protections under the Individuals with Disabilities Education Improvement Act (IDEA). A parent whose disabled child has been suspended should call the AFC helpline.