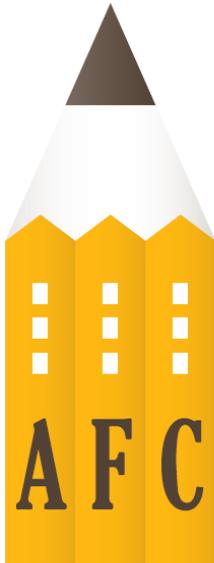




AFC'S GUIDE TO

# Special Education

June 2016



Advocates for Children of New York  
Protecting every child's right to learn

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*This guide is meant to introduce parents of students in New York City to the special education process. It provides an overview of special education services, the rights of students with disabilities, and your rights as the parent of a child with a disability. This guide is meant primarily for parents of school-age children, from kindergarten to 12th grade. For more information about special education services for younger children, please refer to Advocates for Children’s Guide to Early Intervention and Guide to Preschool Special Education Services, both available in English and Spanish at [http://www.advocatesforchildren.org/get\\_help/guides\\_and\\_resources](http://www.advocatesforchildren.org/get_help/guides_and_resources).*

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This guide does not constitute legal advice. This guide attempts to summarize existing policies or laws without stating the opinion of AFC. If you have a legal problem, please contact an attorney or advocate.

# WHAT IS SPECIAL EDUCATION?

Many people think of special education as separate classes or separate schools, but special education is actually a continuum of specially designed instruction, including a combination of supports and services, intended to meet the unique needs of a child with a disability. These supports and services are documented in a student's **Individualized Education Program (IEP)**. Depending on the needs of the child, services may be provided in a general education setting, in a separate special education classroom, or in a combination of both settings (see pages 23-25 for the continuum of services).

The federal law about special education is called the **Individuals with Disabilities Education Act (IDEA)**. The IDEA guarantees a **free appropriate public education (FAPE)** for each student. New York State and New York City also have laws and policies about special education. A federal court case called *Jose P.* provides some additional rights to parents and students living in New York City.

## Least Restrictive Environment

The law requires that every student with a disability be educated in the **least restrictive environment (LRE)**, which means, to the maximum extent possible, a child with a disability should be educated with non-disabled peers. A student with a disability is entitled to receive the extra academic or behavioral support that will allow the student to progress in the least restrictive environment.

A student with a disability should only be removed from the general education environment when his or her disability is so severe that the child cannot progress, even with the help of aides and services, in a general education setting. Since special education is designed to meet a child's unique needs, it may take many forms and occur in many places. Special education includes instruction in the classroom, at home, and in hospitals and institutions.



## Special education may include:

### → **ASSISTIVE TECHNOLOGY (AT)**

This includes equipment, devices, and services that help students with disabilities participate in school. Assistive technology can also include training for parents, professionals, and students on how to use a device. For more information, see AFC's *Guide to Assistive Technology*, available at [http://www.advocatesforchildren.org/get\\_help/guides\\_and\\_resources](http://www.advocatesforchildren.org/get_help/guides_and_resources) under "students with disabilities."

### → **RELATED SERVICES**

These include group or individual speech and language therapy, occupational therapy (OT), physical therapy (PT), counseling, hearing and vision services, orientation and mobility services, and school health services.

### → **SUPPLEMENTARY AIDS AND SERVICES**

These services may include **special education teacher support services (SETSS)**, formerly known as resource room, consultant teacher services (teacher support), and one-to-one paraprofessionals, who are similar to teacher's aides.

### → **TESTING ACCOMMODATIONS**

There are many possible accommodations, but some common ones include getting extra time to take a test, having questions read aloud, testing in a separate location, and using a calculator on tests.

### → **TRANSITION SERVICES**

Transition services are meant to help students prepare for life after high school, and must be included on an IEP during the year the student turns 15. These services may include instruction, related services, community experiences, development of employment or other adult living skills, acquisition of daily living skills, and vocational assessments. See page 32.

### → **MODIFIED PROMOTION AND ALTERNATE ASSESSMENT**

Students with modified promotion will be held to a lower percentage of grade level learning standards for promotion as determined by the IEP team.

**Note:** There are no modified promotion criteria for high school, so students must pass required classes and exams in order to get a diploma. Students with Alternate Assessment indicated on their IEP are exempt from standard promotional criteria and will not graduate with a local or Regents diploma. See pages 29-31.

# PART I: HOW DOES SPECIAL EDUCATION WORK?

*In order for a child to receive special education services in New York City, the Department of Education (DOE) must go through four basic steps: (1) referral and consent; (2) evaluation; (3) IEP development; and (4) placement and services.*

## STEP ONE: REFERRAL & CONSENT

### Who may refer a student for special education services?

Only a parent/legal guardian or school district designee—usually the principal or assistant principal, or Committee on Special Education (CSE) Chairperson—can *refer* a child for special education services. However, selected school personnel, a licensed doctor, a judge, certain public officials, and the student, if he or she is over 18 or emancipated, can *request* that a student be referred for an initial evaluation for special education services. The school may then proceed with the referral, and must inform the parent of the request.

### Why might I want my child evaluated?

You might want your child evaluated if he or she has poor school performance; frequent, long-standing behavioral difficulties; or a diagnosis of a medical or mental health condition. Under a part of the law known as “**child find**,” the DOE must refer a child for evaluations if it suspects the child has a disability.

#### NOTE:

Before referring a student for special education, schools first must consider offering at-risk services such as tutoring or counseling (**Response to Intervention** services, or “RTI”). Parents can also request these services from the school. If a parent believes a child needs special education supports, however, the parent does NOT need to wait for pre-referral interventions, and has the right to request an evaluation immediately.

## When can a child be referred?

A child can be referred for an evaluation at any point until he or she is 21 years old or graduates from high school with a local or Regents diploma.

## How do I refer my child for special education?

If you are making a referral for the first time (“an initial”) on behalf of your child, make the referral in writing to the IEP team at your child’s school. If your child is in a charter or private school, on home/hospital instruction, or otherwise not attending a public school, make the referral in writing to your CSE Chairperson (see page 47 for a list of CSEs) and your child’s school. Save a copy of the letter as well as proof that the DOE received it — you can do that by faxing the letter and saving the fax confirmation sheet, hand-delivering the letter to the school and having a copy stamped as received, or sending it by certified mail, return receipt requested.

## Does consenting to an evaluation mean consenting to services?

Agreeing to an evaluation does not mean agreeing to services. You may decide not to consent to services after the **initial evaluation** is complete.

However, if it is a **re-evaluation**, the DOE may seek to change your child's program or placement even without your consent. If you believe your child still needs special education support, you may have to request a new IEP meeting, mediation, or an impartial hearing to prevent such a change. You also have the right to withdraw your child from special education entirely. See page 22 for more information.



### ADVOCACY TIP:

Always be sure to keep copies of any communication with the DOE, including any documents sent to or received from your child’s school. Save proof of receipt as well. Keep fax confirmation sheets, get date-stamped copies of papers delivered in person, or mail letters return receipt requested.

## What is informed consent?

Once a referral is made, the law says that the school district must obtain your **informed consent** before starting the evaluation. Informed consent means that the DOE has fully informed you, in your preferred language, of all relevant information and rights. Your consent must be voluntary and in writing, and can be revoked at any time before the evaluation. After the DOE obtains written consent, the evaluation process begins.

## STEP TWO: EVALUATION

**A child must be evaluated in all areas of suspected disability.** Under a legal requirement called “child find,” school districts must identify all children in need of services, at any time, even if they were not previously identified as having a disability. Be sure to request as extensive an evaluation as possible to ensure that your child’s needs have been correctly identified.

### Initial evaluations

An initial set of evaluations must include at least:

- A social history;
- A psycho-educational evaluation (including IQ and academic testing);
- A classroom observation; and
- A recent physical evaluation (if not available from the student’s doctor, the DOE must arrange for a physical).

### Other possible evaluations include:

- A physical/occupational therapy or speech and language evaluation;
- A neurological or neuropsychological exam;
- An assistive technology evaluation;
- A psychiatric evaluation; and
- A vision or hearing exam, including a central auditory processing evaluation.

If you feel your child should be tested in a specific area, ask the DOE to do that. The DOE may ask you to provide a prescription or letter from a doctor before conducting certain evaluations, such as occupational and physical therapy evaluations.

The law also requires a **functional behavior assessment (FBA)** for children whose behavior problems make it harder for them or their classmates to learn. An FBA describes the factors that affect your child's behavior in the classroom and helps the school and parents plan how to prevent and address any behavioral issues through a **behavior intervention plan (BIP)**.

You are entitled to get copies of your child's evaluations before the IEP meeting. It is a good idea to request the evaluations ahead of time so you can review them carefully.

### ADVOCACY TIP:

If you request evaluations and do not hear back, contact the principal and then the **Family Support Coordinator** at your **Superintendent’s office**, or call the Special Education Call Center at 311. You can find out who your Family Support Coordinator is by looking up your school on the DOE’s website, <http://schools.nyc.gov>, and clicking on the school page, or by asking the parent coordinator at your school.

## Re-evaluation

**A student who is receiving special education services must be re-evaluated at least once every three years**, unless the parent agrees in writing that testing does not need to occur. This mandatory three-year evaluation is called a **“triennial”** evaluation. It is almost always a bad idea to skip the triennial evaluation. Children can change a lot in three years, and evaluations offer an objective look at how a student is doing. Be careful not to agree to waive testing unless you really believe it is not necessary.

You do not need to wait three years before asking for new evaluations. A parent or school district can request evaluations at any time, and the school district must complete the testing. However, new testing cannot be done more than once each year unless the parent and school district agree otherwise.

New evaluations should be requested when you or the district seek to change a child's services, if the child is not making progress, or if the child has made so much progress that a change in program is needed.

## Evaluation timelines

After the DOE receives your consent to evaluate your child, they have 60 calendar days to complete the evaluations. If your child is found to have a disability, the DOE has to arrange for placement and services within 60 school days of your initial consent if it's your child's first IEP, or from the date your child's case was referred for re-evaluation if your child already has an IEP. Please note that under the law, consent is not the same as referral. Typically, a social worker or school psychologist will meet with you to explain your rights and then obtain your informed consent, as described in the previous section. If you have referred your child for special education, but have not heard from the DOE, contact the school based support team at your school (or the IEP team at the CSE, if your child is not attending a public school) immediately.



# FREQUENTLY ASKED QUESTIONS ABOUT THE EVALUATION PROCESS

## What happens if I do not consent to an evaluation?

If you tell the DOE that you do not consent to evaluations, the DOE cannot evaluate your child *unless* the school or CSE files an **impartial hearing** against you and an impartial hearing officer orders the evaluations. At the hearing, the school must prove that your child needs an evaluation AND show that the school offered your child intervention services *before* requesting special education evaluations.

If the school proves these things, the hearing officer may order evaluations without your consent; however, the DOE can never request a hearing to give special education services to your child without your consent.

## Can I take back my consent after I have given it?

**YES.** You have the right to end the evaluation process at any time by simply writing to the DOE. Once you choose to stop the evaluation process, your child's case will close automatically. As the parent/legal guardian, you also have the right to withdraw consent to special education services at any time. See page 22 for more information.

## Can I just ignore the DOE if I don't want my child evaluated?

**NO.** Ignoring the DOE can lead to accusations that you have not cooperated. Furthermore, if your child already has an IEP, and you don't respond to requests from the DOE to consent for evaluations, the DOE can evaluate your child even without your consent. Although you do not have to consent to an evaluation, you should *always* respond to requests from the DOE and document any concerns in writing.

### REMEMBER:

The DOE cannot place a student in special education for the first time without parental consent!



## Can I give an evaluation from a private doctor to the DOE?

**YES.** The DOE must consider all information about the student, including any information you provide. The DOE must *consider* the private evaluations you bring them, but they may disagree with those evaluations and conduct their own. The DOE will sometimes accept a private evaluation instead of conducting its own evaluation.

## What happens if I want an independent evaluation and can't afford one, or if I am unhappy with the DOE's evaluation?

The law says a parent can request that the school district pay for an independent evaluation if he or she is not satisfied with the evaluation done by the school. Make your request for an independent evaluation in writing to your child's school (or the CSE, if your child is not in public school or attends a charter school). Once you request the evaluation, the DOE has two choices:

1. The DOE can disagree with your request and file an impartial hearing to prove that its own evaluations were appropriate, **OR**
2. The DOE can pay for the independent evaluation through an **assessment authorization** form, which allows you to find a private provider at a DOE-approved rate.

If the school fails to respond within a reasonable period of time, contact your principal, and then the Family Support Coordinator at the Superintendent's office, or call 311 and ask for the Office of Special Education. If they still don't respond, you may want to file for a due process hearing or mediation.

## What is the difference between "independent" and "private" evaluations?

**Independent evaluations** are paid for by the DOE, and the DOE has a right to the results. **Private evaluations** are arranged and paid for by you or your insurance company and do not have to be shared with the DOE. Alerting the DOE that your child is undergoing a private evaluation may create the expectation that you will share the results. For this reason, you may want to wait until you have reviewed the results before notifying the DOE of any private evaluations your child is receiving.

## STEP THREE: IEP DEVELOPMENT

For a child to receive special education services, an **Individualized Education Program (IEP)** team must find the child eligible for one of the thirteen disability classifications listed below. To be classified, the student's disability must affect the student's school performance. A classification for special education is *not* a medical diagnosis. Although a child may fit into more than one of these classifications, in New York only one will be assigned as the primary classification on the IEP. Services should meet the child's individual needs rather than being based on the child's classification.

### The 13 classifications of disability are:

- Autism
- Deaf-Blindness
- Hearing Impairment
- Intellectual Disability
- Orthopedic Impairment
- Speech or Language Impairment
- Emotional Disturbance
- Deafness
- Visual Impairment, including Blindness
- Learning Disability
- Multiple Disabilities
- Other Health Impairment
- Traumatic Brain Injury

### IEP Development

**Your child's IEP is a very important document.** It outlines your child's educational needs and the services your child is entitled to receive. The law requires your child's IEP to include:

- Present levels of educational and social/emotional performance;
- Measurable annual goals;
- Program recommendations and/or related services;
- The extent to which your child may participate in general education classes, extracurricular and non-academic activities;
- Participation in testing, testing accommodations and modifications;
- Promotional criteria; and
- A transition plan to prepare the student for life after high school for students 15 and older.



## The IEP Team

**As a parent, you are a legally required member of the IEP team.** You must have the opportunity to participate equally in decision-making with the other team members. Other REQUIRED team members include:

- **A special education teacher or provider.** This member *must* be your child's actual teacher or service provider if your child already receives special education services.
- **A general education teacher**, if your child is, or may be, participating in a general education class.
- **Your child**, when appropriate.
- **The school psychologist, or a member who can explain the meaning of the evaluations to the team.** The team must include a school psychologist if a new psychological evaluation has been done or if it will be recommending a more restrictive environment.
- **A district representative** who is qualified to supervise special education, knows the standard grade level curriculum, and is familiar with the educational resources available in the district.

ADDITIONAL team members may include:

- **School physician.** If you wish to have a physician participate, you must notify your child's school in writing at least 72 hours before the IEP meeting.
- **Your child's related services provider or therapist.**
- **Anyone you invite.** A parent may invite anyone else to the IEP meeting for support or information, including anyone having knowledge or special expertise regarding your child, such as an outside therapist, tutor, or other specialist. These additional team members may participate in the IEP meeting in person or by phone.



### ADVOCACY TIPS:

It can be a good idea to bring someone with you to the IEP meeting who can provide support and take notes during the meeting. Maintain a productive conversation. Even if you are angry or upset about something that has happened, try to speak calmly when making your point.

The DOE is permitted to ask you to go forward with an IEP review without a required member as long as:

- You receive notice,
- You receive written input from the team member who will not be present, and
- You give the DOE permission to go ahead without the team member.

You have the right to ask to reschedule for a time when all required members can be present.

All IEPs in New York City are created using the electronic **Special Education Student Information System (SESIS)**. As a result, your child's IEP typically will not be "finalized" until the information discussed at the IEP meeting is entered into the document electronically. Before leaving the meeting, be sure to get a copy of your child's draft IEP to review and determine if you agree with what it says. If you don't agree with any content in the IEP, ask that it be changed, or, if not, that your disagreement is included under the "Parent Concerns" section of the IEP.

**Be sure to get a final copy of the IEP.** After the meeting, always follow up to make sure your child is receiving all of the recommended services on his or her IEP!



**REMEMBER:**

The DOE must review every student's IEP each year to see whether the child is making progress and to determine whether a change in services is needed.

# TIPS FOR PREPARING FOR AN IEP MEETING

- Make sure you are able to describe your child’s disability and how it affects his or her school performance.
- Determine what program and services you would like your child to receive, and come up with reasons why those services are the right fit. For information on the possibilities, refer to the descriptions on pages 23-25.
- You may also ask any service providers, teachers, or anyone else who knows your child and has relevant information to participate in the IEP meeting. This is especially important if that provider has helpful information that supports your position, and you think that the IEP team may disagree with you.
- Review all of your child’s evaluations, observations, and progress reports. If you do not have an evaluation, request a copy in advance of the meeting. Think about whether the evaluations support the services you are asking for. Be ready to use specific parts of the evaluations to either support what you are seeking or to argue why the evaluations are not accurate.
- If your child has received special education services in the past, try to determine how much progress the student has made since the last IEP meeting or the last evaluation. Has he or she met the goals on the previous year’s IEP? If not, the student may need a different setting or additional services.
- You have the right to an interpreter at the meeting. If you would like one, contact your child’s school at least three business days before the meeting.
- Get a draft of the IEP before you leave the meeting, and be sure you receive a final copy soon after. Check the IEP to make sure it accurately reflects what was discussed at the meeting. If you disagree with any of the content, ask that it be changed, or, if not, that your disagreement is included under the “Parent Concerns” section of the IEP.
- Signing the attendance sheet does not mean that you agree with the IEP or with everything that was said during the meeting; it simply means that you were present at the meeting. For more information on your rights as the parent of a child with a disability, see Part II of this guidebook.

## STEP FOUR: PLACEMENT & SERVICES

Decisions about your child's placement are made by the IEP team. Every year at the IEP meeting, your child's program and placement recommendations should be reviewed.

Under New York City's special education reform, most students with IEPs will remain in their current school and receive their new program or services there. You should visit the classroom before accepting any new program. Always follow up to make sure your child is placed in the correct program and receiving all mandated services. Ask to speak to any new teachers or related services providers, such as speech therapists, guidance counselors, or paraprofessionals.

Sometimes, students will be recommended for specialized (District 75) schools, or in a limited number of cases, may be referred to specialized programs in another community school, such as programs for children on the autism spectrum. Parents in these circumstances should be aware of the following:

- STEP 1:** Parents should receive the placement offer, a **School Location Letter** and **Prior Written Notice** form, by mail. Parents have the right to visit the proposed classroom placement and school, and should do so before consenting to any change in placement.
- STEP 2:** If your child doesn't receive a placement, contact the **Family Welcome Center** for your district. A list of Family Welcome Centers is available on page 46. If you prefer a particular school, be sure to let the placement office know.
- STEP 3:** A parent may accept OR reject a proposed school placement. If you want to reject the placement, explain why in writing, keep a copy and send the letter to the person who issued the School Location Letter.
- STEP 4:** Parents should get an **Authorization to Attend (A-I)** letter in the mail after accepting the placement. Bring this letter to the new school with proof of address, immunizations, and a copy of the student's new IEP when enrolling the student.
- STEP 5:** Contact the **Office of Pupil Transportation (OPT)** to follow up on any busing issues. See page 28 for more information.

# PLACEMENT TIMELINES

## First time placement

If your child is receiving special education services for the first time, the DOE must arrange for placement and services within 60 school days from receiving your *consent* to evaluate your child. Consent to evaluate is usually obtained when you meet with the school psychologist or social worker, give a social history, and receive an explanation of your rights.

## Following a re-evaluation or request for a new IEP

If your child is already receiving services, the DOE must arrange for placement and services within 60 school days from receiving the *referral* for review of the IEP.



## What if a placement for a self-contained class or ICT program is not offered within 60 school days?

If a placement for a self-contained class is not offered within 60 school days, the DOE must provide you with a **P-I letter (Nickerson letter)**. This letter allows you to place your child in a state-approved non-public school at public expense, if the non-public school accepts your child. See page 41 for more information.

If a placement for an ICT class is not offered within 60 school days, the relief depends on where your child is moving from. If your child is moving from a more restrictive setting, (District 75, self-contained class, etc.) your child can remain in that setting. If that setting is no longer available, you are entitled to a P-I letter. If, however, your child is moving from a less restrictive setting (general education with supports), your child is entitled to two periods of SETSS a day, or if that is not available, a P-3 letter from the school for those services. See page 19.

## Deferred placement

The DOE may ask that you agree to postpone, or defer, the placement until a later date. This usually occurs in late spring and early summer, and the deferral is until the fall. Although you may not want your child moved to a new placement so close to the end of the school year, you may want to ask to see the proposed placement right away, as it may be impossible to visit any proposed fall placements in August. If you consent to defer placement over the summer, the DOE must make an offer by August 15th. If not, you are entitled to a P-I letter.

## 12-Month programs

If your child's IEP indicates that he or she will receive a program for 12 months, the DOE must offer a school placement by the start of the school year in July (12 month school programs run from July — June) with sufficient time for the parent to visit and for transportation to be set up, typically by mid-June.

### ADVOCACY TIP:

Put it in writing! Keep a notebook for yourself with dates and times of all meetings and communications with school staff and outside clinicians (such as doctors or therapists).



## FREQUENTLY ASKED QUESTIONS ABOUT PLACEMENTS AND SERVICES

### **What rights do I have if the DOE wants to change my child’s school, class, or services, but I don’t agree?**

School officials cannot make most changes to your child’s IEP without holding an IEP meeting. You are entitled to five days notice before an IEP meeting. Prior to making a change to the IEP, the school district must give you reasonable notice in writing about the proposed change. You will also get written notice of the recommendation after the IEP meeting, before the change goes into effect.

You have the right to visit any proposed placement, including any change of school. If you don't think the placement is appropriate, explain to the DOE in writing why it is not appropriate and request a new placement. If you disagree with a proposed change, you may request a new IEP meeting, mediation, or an impartial hearing.

### **What rights do I have if my child’s school won’t or can’t provide the related services or Special Education Teacher Support Services (SETSS) required by the IEP?**

If your child’s school is not able to provide the related services on your child’s IEP, the DOE must arrange for an outside agency to provide the services. As a last resort, the DOE may issue a voucher to you so that you can obtain these services from an outside provider at DOE expense. This voucher is called a **Related Service Authorization (RSA)** for related services and a **“P-3” letter** for SETSS. You should receive a list of providers who accept RSAs and P-3 letters. These are also available online at <http://schools.nyc.gov/Academics/SpecialEducation/programs/relatedServices/RSinformation.htm>.

If you find a provider, but the provider costs more than the DOE’s approved rate, you can ask the DOE to approve the “increased” rate. If they deny your request, you can file an impartial hearing for the increased rate. More information on impartial hearings is included on pages 36-37 of this guidebook.

# TIPS FOR CONSIDERING A RECOMMENDED PLACEMENT

When the DOE offers your child a placement, you are entitled to visit the class and the school site offered. To determine whether or not the site is appropriate, we advise you:

## Do Internet research.

- Find out as much information as you can from various reports on the DOE website, <http://schools.nyc.gov/>. Go to the school's webpage and click on "statistics" in the left hand margin to find these reports.
- The New York State Department of Education also publishes report cards for all public schools. These report cards document a school's progress, demographics, teacher quality, average class size, and rates of suspensions, and are available at <http://data.nysed.gov/>.
- Find additional information and read reviews of the school on [www.insideschools.org](http://www.insideschools.org) and [www.schoolbook.org](http://www.schoolbook.org).

## Ask for the "class profile."

The class profile should list the social, academic, and management needs, as well as the genders and age range, of the other students in the class. If your child is less than 16, he or she should not be in a special education class where there is an age range of more than three years, unless your child is in a 12:1:4 classroom setting. In addition, your child should be placed in a class with children with similar academic, emotional, and physical needs (this is called "functionally grouped").

## Visit the school.

Speak with the teacher for the offered class, and show him/her your child's IEP and evaluations. Ask the school administrators and teachers how that class and school will be able to meet the recommendations and goals on your child's evaluations and IEP. Find out if the school can provide your child's recommended services (like speech or occupational therapy). If at all possible, spend at least one period in the recommended class. For additional questions to consider, see the next page.

- How many students are in the school? Are there other schools located in the building?
- Where is the classroom located in relationship to the bathroom, cafeteria, therapy areas, etc.? Is it accessible for your child's needs?
- What is the class size and student to teacher ratio? Does this match the recommendations on your child's IEP?
- What are the ages and grades of the other students in the class?
- At what level are the students functioning in the proposed class placement? Do they have learning needs similar to your child's, and does the work seem appropriate for your child?
- Do children work individually, in small groups, or as a total class? Are children grouped by skill level?
- To what extent do students interact with other children in the school? Are there children without disabilities in the school?
- How does the school provide related services such as speech, occupational, or physical therapy, or other specialized instruction? Do they use a push-in or pull-out model?
- What types of behavior management strategies are used? How does the school deal with behavioral difficulties?
- What methods are used for teaching reading and math? What types of developmental areas (communication, daily living skills, social relationships, etc.) are included in the curriculum?
- Do students seem engaged in learning, and do they seem to like the teacher?
- Is the teacher in control of the classroom? How does he or she deal with disruptions?
- Does the teacher appear to work well with any assistants or paraprofessionals in the classroom?
- Does the teacher break down learning tasks into steps and present different explanations when a student is having trouble understanding? Are directions clear enough so that the students know what is expected of them?
- How long has the teacher been teaching at the school? How much experience does he or she have working with students with disabilities similar to your child's disability? Does he or she have any training in any specific methodologies?
- How does the school support family involvement? Will teachers or therapists provide parents with suggestions for in-home practices? Is there a parent organization or support group available?

# HOW LONG WILL MY CHILD RECEIVE SPECIAL EDUCATION SERVICES?

Some children receive special education services for as long as they are in school, while others only need the support for a short period of time. There are two ways a student can stop receiving special education services: an IEP team can decide that he/she is no longer eligible for services, or a parent can withdraw consent to special education services.

## Declassification

Declassification happens when an IEP team determines that a child no longer needs special education services. Before declassifying a child, the DOE must complete new evaluations and hold an IEP meeting with the full team, including the parent.

If the team decides that a student no longer needs special education services, it must provide any services necessary to help the child transition back into a general education setting. These services can include instructional support and remediation, instructional modifications, or counseling.

### NOTE:

If you disagree with what the DOE is offering, but think your child still needs special education services, you should ask for another IEP meeting or pursue your due process rights.

## Withdrawal of Consent

As a parent or guardian, you may withdraw your consent for special education services and remove your child from special education at any time. When you withdraw consent for special education, the DOE will **stop providing all special education services** to your child.

To take your child out of special education you will have to sign a **Notice of Termination** letter that states that you no longer want your child to receive any IEP services. Your child will then be moved into a general education setting and will no longer get any related services, IEP testing accommodations, or modified promotional standards. Your child will lose all protections for special education students in any disciplinary proceeding. If you withdraw consent, the DOE will no longer need to conduct evaluations or hold IEP meetings for your child. After you have withdrawn your consent, you lose your right to challenge the DOE for its failure to provide your child with special education services.

Change your mind? If you withdraw your consent but later decide your child does need special education services, you may initiate a new referral. Your child will be reevaluated and the process will begin again.

# THE CONTINUUM OF SPECIAL EDUCATION SERVICES IN NEW YORK CITY

The New York City Department of Education (DOE) continuum includes a list of special education services and programs that serve students with a variety of cognitive and social-emotional abilities, skills, and needs. This list ranges from services and instructional supports designed to help a student remain in general education classes (less restrictive) to self-contained settings (more restrictive). Detailed below is a description of those supports and services. Some of these services may be brought up in the IEP meeting when discussing what program will most appropriately meet your child's needs. Keep in mind that the DOE may implement a combination of services listed below. These services will be included on the IEP.

## General Education with Supplementary Aids and Services

The student is educated in a general education class with additional support. Supplementary aids and services include, but are not limited to:

- **RELATED SERVICES**, such as speech and language therapy or counseling. Related services may be provided individually or in a small group. For more information, see page 5.
- **SPECIAL EDUCATION TEACHER SUPPORT SERVICES (SETSS)**, formerly known as resource room. A student is either removed from class and taught in a smaller class for a portion of the day (pull-out) or a teacher may come into the classroom to work with the student, a small group of students, or the classroom teacher during the regular lesson (push-in).
- **PARAPROFESSIONALS** (also called aides or paras) can be assigned to students to meet individual management needs, such as behavior management, health, and interpretation services.



## Integrated Co-Teaching (ICT, formerly CTT)

An integrated classroom where general education students (about 60% of the class) and students with disabilities (about 40% of the class) are taught together by a full-time general education teacher and a full-time special education teacher.

## Special Class in a Community School

The student is in a small, “self-contained” class of special education students in a neighborhood school that also has general education classes. Students in this type of class are grouped by age and functional ability. The classroom student-to-teacher ratios offered by the DOE include:

- **12:1** (elementary and junior/middle school only) and **15:1** (high school only) — for students with academic and/or behavior management needs.
- **12:1:1** — for students with academic and/or behavioral management needs who require extra adult support and specialized instruction.

### NOTE:

When you see a ratio, such as 12:1:1, it means that there are *not more than* 12 students, with one teacher and one paraprofessional, in a single class. A child’s IEP should note both the **class ratio** and whether the class is in a **community school** or a **specialized school**.

## Special Class in a Specialized School (District 75)

District 75 is a separate school district intended for students with severe needs that require more intensive support. Sometimes these programs are located in buildings with general education schools. Other times, the building consists only of District 75 special classes and students. A small number of **District 75 Inclusion** programs integrate students with disabilities into general education classes for part of the day, with supports from District 75 staff, such as paraprofessionals, special education teachers, and speech therapists. For more information, go to <http://schools.nyc.gov/Offices/District75/Departments/InclusiveEducation/default.htm>.

District 75 classes offer the following student-to-teacher ratios:

- **12:1:1** — for students with academic and/or behavioral management needs who require additional adult support and specialized instruction.
- **8:1:1** — for students whose needs are severe and on-going and who require constant, intensive supervision, and a significant degree of individual attention, intervention, and intensive behavior management.
- **6:1:1** — for students with very significant needs, including academic, social and/or interpersonal development, physical development, and management needs. Students’ behavior may be aggressive, self-abusive, or extremely withdrawn. Students may have severe difficulties with language and social skills. These programs provide intense support and continual adult supervision, including specialized behavior management intervention. Many students in 6:1:1 classes are on the autism spectrum.
- **12:1:4** — for students with severe and multiple disabilities and limited functioning in all areas. This program primarily provides habilitation and treatment, including training in activities of daily living (ADL) and the development of communication skills.

## Specialized Programs

The DOE offers several specialized community school programs, which are not currently expected to exist in every community school. These programs include:

- **ASD NEST:** An integrated class setting in a community school for high functioning students on the autism spectrum.
- **ASD HORIZON:** A self-contained (“special”) class in a community school for students on the autism spectrum.
- **BARRIER FREE:** A school building that is accessible to students who have limited mobility, serious health issues, or use a wheelchair or other mobility device.
- **BILINGUAL SPECIAL EDUCATION:** A special class for students who are recommended to receive services in a bilingual classroom.
- **ACES SPECIAL CLASS FOR STUDENTS WITH INTELLECTUAL DISABILITIES:** A special class in a community school for students who are classified as intellectually disabled and who are being alternately assessed.

For more information, go to <http://schools.nyc.gov/Academics/SpecialEducation/enrolling/specializedprograms/default.htm>.

## Placement possibilities outside of a public school

- **STATE-APPROVED NON-PUBLIC SCHOOLS (NPS):** Private special education schools approved by the state for students whose educational needs cannot be met in a public school program. See page 41 for some important information about non-public schools. A list of state-approved non-public schools is available online at [http://www.p12.nysed.gov/specialed/privateschools/privschol\\_dis.html#dis](http://www.p12.nysed.gov/specialed/privateschools/privschol_dis.html#dis).
- **RESIDENTIAL PLACEMENTS:** Students with severe needs who require comprehensive services on a 24-hour basis may be recommended for a residential placement in New York State. If no New York-based program is appropriate, a student may be placed in another state.
- **HOME INSTRUCTION:** Intended as a temporary placement for students. The DOE sends home instructors to the home or a public site like a library for a minimum of two hours per day for high school students and one hour per day for other students. Although often used for students with medical needs, it can be used as a short-term solution when a student is waiting for a specialized placement.
- **HOSPITAL INSTRUCTION:** The DOE is required to provide instruction to all students who are in the hospital.

# SPECIAL EDUCATION REFORM

Beginning in the 2012-13 school year, all community schools, also known as “zoned” or “neighborhood” schools, were expected to serve the vast majority of students with disabilities. This policy, at first called the **special education reform** and now called the “**Shared Path to Success**” by the DOE, changed the way that students with disabilities are enrolled in New York City public schools. **This reform is a change in policy, not a change in the law; you have the same rights as a parent in the special education system.**

Although the above continuum represents the typical options offered at an IEP meeting, the IEP team is not limited to these options, and can think “outside of the box.” Under the reform, the DOE is encouraging schools and IEP teams to be flexible with their programming.

## **What is flexible programming?**

Flexible programming involves using the full continuum of special education services to meet each student’s needs in the least restrictive environment appropriate. When using flexible programming effectively, schools will develop special education service models that are unique to each student and focus on increasing access to the general education curriculum. The needs of the student MUST match the services delivered. The IEP team should not recommend placement and services based on what is available at the student’s neighborhood school, but on what the student needs.

## **Who is affected by the reform?**

Many students with special education needs were affected by the reform. Parents of students with disabilities who enter kindergarten, 6th grade (middle school), and 9th grade (high school), as well as students who are new to New York City public schools, apply to and enroll in neighborhood schools in the same way as students without IEPs. Before, if a school did not have the classroom setting that was recommended in a student’s IEP, the student would be transferred to a school that did have that program. Now, all schools are expected to meet the needs of the majority of their students with disabilities.

Students who require specialized programs, like a bilingual special education class, the ASD Nest Program, a barrier free program or a District 75 setting, are exempted from this policy. The DOE should offer a placement to these students in a school that can meet their specialized needs.

## What about preschool children with disabilities?

The special education reform has significantly changed the kindergarten placement process for students with IEPs in preschool. For more information, please refer to AFC's *Turning 5: A Guide to the Transition from Preschool Special Education to Kindergarten*, available at [http://www.advocatesforchildren.org/get\\_help/guides\\_and\\_resources](http://www.advocatesforchildren.org/get_help/guides_and_resources) under "early childhood education."

## Did this change the special education process?

The special education reform does NOT change the special education process. Your rights as a parent have NOT changed, and your child still has the right to receive the type of class and services on his IEP, regardless of whether or not the school currently has them.

## Where can I get more information about the reform?

An overview of the changes is available at <http://schools.nyc.gov/NR/rdonlyres/E2E8B314-7076-45C0-837F-B2F223F3F9DD/0/OnePagerSpecialEd.pdf>.



### ADVOCACY TIP:

Keep all your child's school-related documents (such as IEPs, evaluations, report cards, and letters from school) in a file, arranged by date.

# TRANSPORTATION

## Can I get transportation for my child?

Transportation by a bus or van is a related service that can be included on a child's IEP. Typically, special education students who attend community schools are eligible for transportation to the same extent as students without IEPs. Eligibility is based on the child's age and the distance between their home and school. Students may qualify for specialized transportation if their disability requires special accommodations, like air-conditioning, time limits for the bus ride, or a wheelchair lift. Many students in District 75 and non-public schools qualify for specialized transportation.



If you would like to get busing for your child, check with your child's school, and if necessary, start the process early by submitting copies of relevant evaluations, and have your doctor complete the DOE's **Request for Medical Accommodations** form detailing the need for any additional transportation services. You can get a copy of the form from your child's school, or online at: <http://schools.nyc.gov/NR/rdonlyres/98856A9E-517B-4198-8640-2B5BECFA10D4/0/MedicalAccommodationsRequest.pdf>.

## Who should I contact regarding transportation problems?

First, contact your child's school. If you still have questions, contact the **Office of Pupil Transportation (OPT)** at 718-392-8855 or visit them on the web at <http://schools.nyc.gov/Offices/Transportation/default.htm>.

If OPT does not help, you can also call 311 and ask for the special education call center. If you're still having trouble, you may need to use the impartial hearing process. See the following section for more information about impartial hearings and other due process rights.

# HIGH SCHOOL GRADUATION OPTIONS FOR STUDENTS WITH DISABILITIES

A student with a disability has the right to remain in school until the end of the school year in which they turn 21, or until they receive a Regents or local diploma. Students are also able to work towards a vocational certificate called a **Career Development and Occupational Studies (CDOS) Commencement Credential**. Students who are on an alternate assessment track do not receive a diploma and are eligible to receive a **Skills and Achievement Commencement Credential (SACC)**.

## Diploma Options

### REGENTS OR ADVANCED REGENTS DIPLOMA

As of June 2016, when this guide was published, the Regents diploma is awarded to New York State high school students who:

- Earn **22 credits (44 credits in NYC)** in different courses; AND
- Receive a passing score of 65 or higher on **4 Regents exams**, plus a passing score on **one other State-approved exam**.

The 4 required Regents exams are: English Language Arts, one Math, one History (U.S. History OR Global History), and one Science. For their fifth exam, students may choose to use an Advanced Placement (AP) or SAT II score, a State-approved Career and Technical Education (CTE) exam, an additional Regents exam, or the Career Development and Occupational Studies (CDOS) Commencement Credential.

**Note:** If a student scores below a 65 on one or two Regents exams, he or she may be able to appeal the exam(s) and still graduate. For more information, see AFC's fact sheets *High School Graduation Options for Students with Disabilities* and *Appeal Options for Regents Exams*, both available at [http://www.advocatesforchildren.org/get\\_help/guides\\_and\\_resources](http://www.advocatesforchildren.org/get_help/guides_and_resources) under "older students, graduation requirements, & transition."

### LOCAL DIPLOMA

Students who do not meet all the qualifications for a Regents diploma, but who meet other criteria, are eligible for a local diploma. These criteria include different cutoff scores for Regents exams and different options for students with disabilities. Students who graduate with a local diploma are eligible for college admission or to enter the military. The process for getting a local diploma is changing, and there are different requirements depending on when a student entered 9th grade. For more information, please refer to AFC's fact sheet *High School Graduation Options for Students with Disabilities*.

# What is a Career Development and Occupational Studies (CDOS) Commencement Credential?

The Career Development and Occupational Studies (CDOS) Commencement Credential is a certificate that is intended to indicate a student's readiness for entry-level jobs. The CDOS Commencement Credential is available to students who are not assessed using the New York State Alternate Assessment. A student who receives a CDOS Commencement Credential can also earn a Regents or local diploma, or can complete high school with a CDOS Commencement Credential only. Students who are pursuing a Regents or local diploma may substitute a CDOS Commencement Credential for one of the five exams required to graduate.

Students can earn the CDOS Commencement Credential in one of two ways:

(1) The student must complete all of the following:

- Complete and annually review a career plan that documents career interests, strengths and weaknesses, career goals, and coursework or learning experiences to help the student achieve those goals;
- Complete four 54-hour units (216 hours total) of work-based learning, CTE courses, or other career planning activities, including at least 54 hours of supervised work-based learning, such as:
  - Internships, job shadowing, or service learning
  - Courses that are part of an approved CTE sequence
  - Advisory focused on career planning
- Have an employability profile completed by his or her school that shows that the student has mastered the CDOS standards; OR

(2) The student must earn one of several nationally recognized work readiness credentials. Examples of these nationally recognized credentials include:

- SkillsUSA Workforce Ready Employability Assessment: [www.workforcereadysystem.org/assessments.shtml](http://www.workforcereadysystem.org/assessments.shtml)
- National Work Readiness Credential (NWRC): [www.workreadiness.com/](http://www.workreadiness.com/)
- ACT National Career Readiness Certificate: [www.act.org/products/workforce-act-national-career-readiness-certificate/](http://www.act.org/products/workforce-act-national-career-readiness-certificate/)
- CASAS Workforce Skills and Certification System: [www.casas.org/product-overviews/assessments/WSCS](http://www.casas.org/product-overviews/assessments/WSCS)

For more information on the CDOS Commencement Credential, visit:

<http://www.p12.nysed.gov/specialed/gradrequirements/CDOS-QA-Aug14.pdf>. For more information about how a student's work on a CDOS Credential aligns with transition planning, visit: <http://www.p12.nysed.gov/specialed/publications/CDOScredential-att6.htm>.

## NOTE:

Graduation requirements and options have been changing in the 2015-16 school year and may continue to change. For the most up-to-date information, please consult the State Education Department website at <http://www.p12.nysed.gov/ciai/EducationLawandRegulations.html>, or visit AFC's website at [http://www.advocatesforchildren.org/get\\_help/guides\\_and\\_resources](http://www.advocatesforchildren.org/get_help/guides_and_resources) and review the resources listed under "older students, graduation requirements, & transition."

## What is an IEP Diploma?

IEP diplomas were certificates that were given to students with disabilities who were unable to meet diploma requirements. An IEP diploma was supposed to indicate that a student had met all his or her IEP goals. IEP diplomas were discontinued on July 1, 2013, and have been replaced by two new options, the Skills and Achievement Commencement Credential (SACC) for students who are on an alternate assessment track, and a Career Development and Occupational Studies (CDOS) for students who may also continue to work towards a Regents or local diploma.

## What is the Skills and Achievement Commencement Credential (SACC)?

Beginning July 1, 2013, this credential was made available to students with severe disabilities who, because of their disability, cannot take regular State assessments and instead take the New York State Alternate Assessment (NYSAA). The student must have attended school for at least 12 years, excluding kindergarten; received a substantially equivalent education elsewhere; or reached the end of the school year in which he/she turned 21. The credential is intended to demonstrate the student's readiness for entry-level work. It is awarded along with a Student Exit Summary, which documents the student's academic achievement and functional performance.

**It is important to note that the Skills and Achievement Commencement Credential is NOT equivalent to a regular high school diploma.** For more information about the Skills and Achievement Credential, see <http://www.p12.nysed.gov/specialed/publications/SACCMemo.htm>.



# TRANSITION SERVICES

## What are transition services?

A transition plan describes a young person's long-term goals and outlines the activities and services that will prepare him or her to meet those goals and successfully transition to life after high school. Examples of services include career exploration and job training; community experiences, like volunteering; help applying to college or vocational programs; and working on activities of daily living, such as learning to use money or travel training.

Transition services must be included on the IEP during the year the student turns 15, and should be reviewed every year at the IEP meeting. Students must be involved in their own transition planning, and transition plans should incorporate students' individual needs, strengths, preferences, and interests.

## Who provides transition services?

For each service or activity, the IEP should specify who is responsible. This can include the student, the parent, the school, or an appropriate outside agency or provider. The largest agencies providing services to young people with disabilities in New York are:

→ **ADULT CAREER AND CONTINUING EDUCATION SERVICES—  
VOCATIONAL REHABILITATION (ACCES-VR)**

<http://www.acces.nysed.gov/vr/transition-and-youth-services>

Provides a variety of services to help prepare individuals with disabilities for employment. Young people must apply and be found eligible for services.

→ **NEW YORK STATE OFFICE FOR PEOPLE WITH DEVELOPMENTAL  
DISABILITIES (OPWDD)**

[www.opwdd.ny.gov](http://www.opwdd.ny.gov)

Provides a variety of services, including counseling and supportive housing, for individuals with developmental and intellectual disabilities.

→ **NEW YORK STATE OFFICE OF MENTAL HEALTH (OMH)**

[http://www.omh.ny.gov/omhweb/consumer\\_affairs/transition\\_youth/resources/](http://www.omh.ny.gov/omhweb/consumer_affairs/transition_youth/resources/)

Provides a variety of services and resources to individuals with mental health disabilities.

For more information, see AFC's *Guide to Transition Services*, available at [http://www.advocatesforchildren.org/get\\_help/guides\\_and\\_resources](http://www.advocatesforchildren.org/get_help/guides_and_resources).

# PART II: DISPUTE RESOLUTION

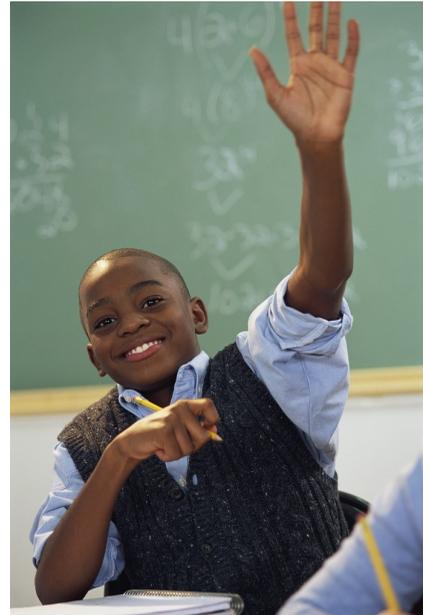
## INFORMAL DISPUTE RESOLUTION

### Start with the school!

Talk with your child's teachers, the school psychologist, or the principal. It's tough to raise problems, but it's important to first try and work things out with them. Keep notes on all your conversations.

### Superintendent's Office

If you aren't able to work things out with the school, try contacting the Family Support Coordinator at the Superintendent's office. You can find the contact information for the Family Support Coordinator by asking the parent coordinator or by looking up your school website on the DOE's website, <http://schools.nyc.gov/>, and looking down towards the bottom right of the screen. Be sure to explain the problem as clearly as you can and let the Family Support Coordinator know what has happened when you talked with the school. The Family Support Coordinators may work with the Borough Family Support Center (BFSC) to resolve the issue and may put you in touch with a special education expert there.



### DOE Central

You can also call the DOE's Special Education hotline at 718-935-2007, or call 311 and ask for the Office of Special Education.

# DUE PROCESS RIGHTS

Under law, you have certain rights during the special education process and means to pursue a solution if you feel your rights, or the rights of your child, have been violated. Below are some of the rights you have and brief descriptions of ways you can resolve disputes with the DOE.

## Right to Procedural Safeguards Notice

The DOE must give you a copy of the “Procedural Safeguards,” a notice that describes your legal rights regarding special education, when:

- Your child is first referred for special education;
- You request an evaluation for your child;
- You request an impartial hearing;
- You ask for a copy of the notice; and
- Once each year afterwards.

Procedural safeguards include your right to contest the DOE’s recommendation for your child.



## Right to Written Notice

The DOE must send you “prior written notice,” within a reasonable time, of any proposed changes to your child’s IEP, classification of disability, evaluation or placement. The district also must respond if it disagrees with your request for evaluation. To ensure a response, always make your request in writing.

## Pendency: The right to keep your child in the current placement

After you file for mediation or an impartial hearing, your child has the right to remain in his or her current placement until a final decision or an agreement is reached, unless you consent to a different placement. This is called “**stay put,**” “**pendency,**” or “**status quo.**” If this is not happening, ask the DOE to enforce pendency. If the DOE will not do so, raise this issue with the mediator or impartial hearing officer.

# MEDIATION

## What is mediation?

Mediation is a meeting between you, a DOE representative, and an outside mediator where you try to resolve disagreements. The mediator is not a judge, but a neutral person who has been trained to help the parties reach an agreement about their dispute. Statements made by either side in mediation are confidential and cannot be used later at an impartial hearing. If both sides reach an agreement at mediation, you and the DOE must honor the agreement.

To request mediation, write a letter and give copies to the school principal or the CSE, and the local mediation center. You can find a list of mediation centers and a sample mediation request letter at <http://www.p12.nysed.gov/specialed/publications/policy/mediationrequest.htm>.

## Is mediation required?

There is no requirement to participate in mediation. It is a completely voluntary process, and both sides must agree to mediation in order for it to go forward. If you don't want to mediate, you can ask for an impartial hearing at any time, even after you have started the mediation process.

## When would I want to mediate?

Mediation may be especially effective when you are seeking services at your child's school or at a different public school placement. However, if you are seeking a private school placement, you should probably file for an impartial hearing.

# STATE COMPLAINTS

You have the right to file a complaint with the New York State Education Department regarding any school district's violation of special education law. For a sample state complaint form, visit: <http://www.p12.nysed.gov/specialed/publications/policy/covercomplaint.htm>. If the state finds that the school district failed to provide services to your child, it can direct the district to correct the violation, provide services, or award reimbursement. The state also may provide technical assistance to a school district. The timeline for resolving this type of complaint is 60 days.

# IMPARTIAL HEARINGS

You have the right to request an **Impartial Hearing** whenever you feel the DOE has violated your child’s special education rights or disagree with the DOE about your child’s special education placement, services, evaluations, classification, or eligibility for special education.

## What is an Impartial Hearing?

An Impartial Hearing is an administrative proceeding held before an **Impartial Hearing Officer**, who acts as a judge for your case. The hearing officer is an independent decision-maker who is not a DOE employee. He or she has the authority to decide what solution is appropriate after hearing testimony and receiving evidence from both you and the school district. The hearing takes place around a table in a conference room and is recorded. Because a hearing is a formal process, parents may bring an advocate or attorney to represent them, although many parents in New York City successfully complete hearings on their own.

### NOTE:

For more information on mediation, check out the manual *Special Education Mediation*, available at [http://www.advocatesforchildren.org/sites/default/files/library/sp\\_ed\\_mediation\\_2010.pdf](http://www.advocatesforchildren.org/sites/default/files/library/sp_ed_mediation_2010.pdf). For more detailed information on impartial hearings, see AFC’s *Guide to Impartial Hearings*, available at [http://www.advocatesforchildren.org/get\\_help/guides\\_and\\_resources](http://www.advocatesforchildren.org/get_help/guides_and_resources) under “students with disabilities.”

## Is the decision final?

A hearing officer’s decision is final and must be followed by both you and the DOE, unless either side appeals to the **State Review Officer (SRO)**. For more information on appeals, visit [www.sro.nysed.gov](http://www.sro.nysed.gov).

## How long do I have to file a hearing?

In New York State, you must request a hearing within two years of the time you “knew or should have known” about the problem you want solved or the DOE’s violation of your rights. This is called the **statute of limitations**. If the problem occurred over two years ago, but you were never informed of your rights — for example, the DOE never gave you a copy of the Procedural Safeguards notice — you may be able to argue that the statute of limitations does not apply, and you should still be able to file a hearing about the problem.

## What is the timeline for an impartial hearing?

The timeline for Impartial Hearings varies from case to case. After you file, a mandatory resolution period can last up to 30 days, but can end more quickly or be waived by both parties. Once the resolution period ends, the first hearing date must be scheduled within 14 days, but can occur sooner or later if both sides agree. A hearing may take one day or may require multiple dates. The law requires that a decision be issued within 45 days of the first hearing date, but this also can be extended.

What does this mean? It may take three months or more from the time you request a hearing to the day you receive a decision, depending on adjournments and the number of issues in your case. On the other hand, you may settle your issues with the DOE in a matter of weeks, with no need to go through with a hearing.

## How do I request an impartial hearing?

Submit a letter to the impartial hearing office requesting a hearing, or use the form on the DOE website, at <http://schools.nyc.gov/NR/exeres/9914376B-5893-432A-A8B9-9CE42BICEA50.htm>. A similar form is available on the State Education Department's website, at <http://www.p12.nysed.gov/specialed/publications/policy/dueprocess7105.doc>.

Your hearing request should include at least the following information:

- Child's name, date of birth, and New York City ID number (OSIS number), if known;
- Child's home address, or other contact information if homeless;
- Name and address of the school your child attends, if any;
- School district where you live and where your child attends school, if applicable;
- Why you are requesting the hearing; and
- What result you would like from the hearing (be specific about what you want).

### **Send your request to:**

Stacey Reeves, Chief Administrator  
NYC Department of Education  
Impartial Hearings Office  
131 Livingston Street, Room 201  
Brooklyn, NY 11201  
Phone: 718-935-3280  
Fax: 718-935-2528  
[ihoquest@school.nyc.gov](mailto:ihoquest@school.nyc.gov)

### **Additionally, send a copy of your request to the state Office of Special Education, at:**

New York State Education Department  
Impartial Hearing Unit  
89 Washington Avenue, Room EB307M  
Albany, New York 12234  
Attention: Impartial Hearing Reporting System

As always, keep copies of all documents you send to the DOE or State Education Department, including proof of receipt. It is a good idea to call the hearing office in a day or two to make sure your request for a hearing was received.

# RESOLUTION SESSIONS

## What is a Resolution Session?

A Resolution Session is a meeting between you and a DOE representative who should have the authority to resolve the issues raised in your impartial hearing request. At the meeting, you should discuss these issues with the DOE and attempt to resolve them without having to go forward with a hearing.

After the impartial hearing office receives your hearing request, it will send a copy of it to the appropriate person at the DOE. The DOE then has 15 days to contact you to set up the resolution session, followed by another 15 days to resolve the problem. You must respond to the resolution session invitation, either to agree to the meeting time, request a new time, or ask that the meeting be waived.

## Do I have to participate in a Resolution Session?

A resolution session can be waived only if you and the DOE agree. Unless it is waived, you must attend the resolution session, although you may participate by phone. If you do not attend or contact the DOE to reschedule, they may seek to have your hearing dismissed.

You do not have to settle your hearing at the Resolution Session. You may also agree to a **partial resolution** of the issues. If you agree to a partial resolution, make sure any agreement papers you sign say the settlement is only partial, and that you still want a hearing on the remaining issues.

## What is a Resolution Agreement Form?

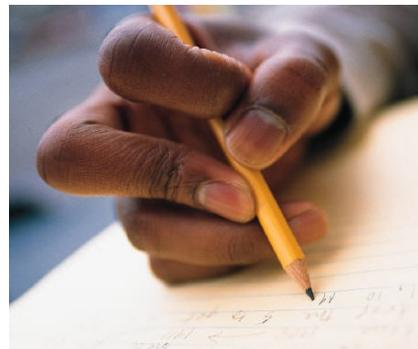
If you resolve all or some of the issues raised in your hearing request, you and the DOE will sign a **resolution agreement form**. This form is a binding contract that is enforceable in court. Read this form carefully: make sure it says exactly what you agreed to with the DOE and indicates if any issues remain unresolved. You have 3 business days after signing the form to withdraw your agreement. To withdraw the agreement, fax or mail a letter to the DOE office where the Resolution Session was held and to the Impartial Hearing Office.

## How do I schedule an Impartial Hearing after a Resolution Session?

If no settlement is reached after 30 days, a hearing date, or a pre-hearing conference, will be scheduled within 14 days. The impartial hearing officer should contact you to schedule the hearing. You may also call the Hearing Office yourself at 718-935-3280.

# LEGAL REMEDIES

When you file an impartial hearing request, it is important to know what you want for your child. It is not enough to say that you do not like the education that your child is receiving; you need to be specific about what you are asking for and must be able to explain why it would be an appropriate education for your child. In law, what you ask for is called a **remedy**.



Here is a list of some remedies that parents may seek through an impartial hearing:

- **PRIVATE EVALUATION.** If you feel that the DOE's evaluation of your child is not accurate or thorough enough and the DOE has not agreed to fund an independent evaluation.
- **INCREASED RATE, RELATED SERVICES.** If the DOE recommended related services for your child, but has failed to provide those services, you can request that the DOE fund a private service provider at a rate that is higher than the DOE's set rate. You will need to find the non-DOE provider.
- **INCREASED RATE, PRIVATE TUTOR.** Parents often seek tutoring when the DOE fails to provide SETSS and issues a P-3 letter, but does not offer an appropriate provider. Parents may also ask for this remedy when seeking compensatory services for education that has been missed. In either case, you may ask for an increase in the hourly rate from the DOE's set rate, which is much lower than the market rate for tutoring. You must find the provider.
- **PUBLIC SCHOOL PLACEMENT.** If your child is not doing well in his or her current class, you may want a change of placement to another DOE school or program.
- **PRIVATE SPECIAL EDUCATION SCHOOL.** Parents may ask the DOE to pay for a special education program in a Non-Public School. If you wish to do so, you have to find the school. See pages 41-42 for more information.
- **COMPENSATORY SERVICES.** If your child has not received a recommended placement or services in the past, you may seek any of the above remedies as compensation for time your child has missed. See the following page for more information.

## “COMPENSATORY” OR “MAKE-UP” SERVICES

If your child did not get the educational services that were mandated on his or her IEP, or he/she should have received services, but was not correctly identified as a student with a disability and thus not served properly, he/she may be entitled to “**compensatory**” or “**make-up**” services. To obtain compensatory services, you most likely will need to request an impartial hearing.

**EXAMPLE:** If your child was supposed to be in a special class, but one was not provided, you might try to get services, such as tutoring, that would help make up for the missed instruction.

**EXAMPLE:** If your child’s IEP recommends a related service, such as speech therapy, but your child did not receive it, you can ask for make-up services.

**EXAMPLE:** If your child was misclassified and in the wrong special education setting as a result, you might request compensatory services to make up for that missed time.

**Note:** Your child should receive compensatory services for past hours missed *in addition* to receiving the full amount of mandated services going forward. If the DOE does not agree to give you make-up hours, you can file an impartial hearing.

### P-3 Letters and RSAs

The DOE may issue a **P-3 letter** to students who have not received resource room, known as Special Education Teacher Support Services (SETTS), or a **Related Services Authorization (RSA)** to students who have not received related services.

When you get an RSA or P-3, you will need to find a qualified provider who will accept the DOE’s hourly rate. Keep a careful record of your efforts. If you find a provider, but the provider charges more than the DOE’s approved rate, you can ask the DOE to approve the increased rate. If the DOE refuses, you can file a hearing for payment of the increased rate.



# PRIVATE SCHOOLS

There are three ways the DOE may pay for private school when it has not provided an appropriate public school placement for a student with a disability:

1. A Non-Public School recommendation on your child's IEP
2. A P-I or "Nickerson" letter
3. Payment through an impartial hearing

## (1) Non-Public School (NPS) recommendation

Your child's IEP Team may decide that the public school system has no appropriate program for your child. In this case, they will make an IEP program recommendation, for an NPS or "**deferral to the Central Based Support Team**" (CBST). The CBST is a DOE office that matches special education students to state-approved, private special education schools, also called non-public schools.

When a child's case is sent to the CBST, a case worker is assigned to the search. Find out who your case worker is and contact this person to find out how the process is going. You may want to contact schools from the state-approved list yourself to speed up the search. The list of state-approved non-public schools is available online at <http://www.p12.nysed.gov/specialed/privateschools/853-statewide.htm>.

An NPS recommendation may not be dependent upon approval from anyone not at the IEP meeting or upon an evaluation. In addition, once the IEP team agrees a student should attend an NPS, the CBST cannot change or reject that program recommendation. If your child has a "defer to CBST" recommendation on his/her IEP, but no school placement has been found, it does not mean that the recommendation should be changed. Instead, the DOE may offer a temporary placement until an appropriate non-public school can be located.



## (2) P-I or “Nickerson” letters

### HOW DO I GET A P-I LETTER?

The DOE must provide you with a P-I, or “Nickerson,” letter when your child’s IEP recommends a special class and the DOE has failed to offer a placement within the mandatory timelines. See page 17 for more detailed information on the placement timelines the DOE must follow.



### WHAT DOES A P-I LETTER DO?

A P-I letter requires the DOE to pay tuition for the school year of any special education **state-approved non-public school (NPS)** that accepts your child.

If you receive a P-I, you will receive a list of eligible non-public schools. To use the P-I, you must find an appropriate school on the list that will accept your child. Due to the limited number of schools on this list, getting this letter does not guarantee you will be able to find a school for your child. If you do not find a non-public school, the DOE still must provide an appropriate placement for your child. If your P-I letter has an expiration date, you can continue to use the letter even after it has “expired” if the DOE has not made you an appropriate placement offer for your child.

If you think you are entitled to a P-I letter but have not received one, call your school or the appropriate CSE, the Family Support Coordinator at your Superintendent’s office, or the District 75 office. If you have trouble obtaining a P-I letter, please contact our Education Helpline at (866) 427-6033 for assistance.

## (3) Private school payment through an impartial hearing

If you can prove that the DOE failed to provide your child with a free, appropriate public education (FAPE), you may be able to win payment for tuition at a private day or residential school, including schools that are not on the state-approved list. You will also have to prove that the school you have chosen is appropriate to address your child’s special education needs.

To obtain tuition payment this way, you must file for an impartial hearing. Since these are difficult cases, it is often advisable to have an advocate or attorney advise or represent you.

# PART III: ADDITIONAL RESOURCES

## COMMON ACRONYMS

**AIS** — Academic Intervention Services

**ASD** — Autism Spectrum Disorder

**AT** — Assistive Technology

**BIP** — Behavior Intervention Plan

**CBST** — Central Based Support Team

**CDOS** — Career Development and Occupational Studies Commencement Credential

**CPSE** — Committee on Preschool Special Education

**CSE** — Committee on Special Education

**DOE** — Department of Education

**EI** — Early Intervention

**ELL** — English Language Learner

**FAPE** — Free Appropriate Public Education

**FBA** — Functional Behavior Assessment

**ICT** — Integrated Co-Teaching

**IDEA** — Individuals with Disabilities Education Act

**IEP** — Individualized Education Program

**LD** — Learning Disability

**LRE** — Least Restrictive Environment

**MDR** — Manifestation Determination Review

**NPS** — Non-Public School

**NYSAA** — New York State Alternate Assessment

**OPT** — Office of Pupil Transportation

**OT** — Occupational Therapy

**PT** — Physical Therapy

**RSA** — Related Services Authorization

**RTI** — Response to Intervention

**SACC** — Skills and Achievement Commencement Credential

**SBST** — School Based Support Team

**SESIS** — Special Education Student Information System

**SETSS** — Special Education Teacher Support Services

# IMPORTANT DOCUMENTS FOR NEW YORK CITY PARENTS

You should be able to get all of these resources from your school based support team or local Committee on Special Education (CSE). The DOE's website also provides information on various programs and services available to students to meet their special education needs at <http://schools.nyc.gov/Academics/SpecialEducation/programs/default>.

- **A Shared Path to Success: Family Guide to Special Education Services for School-Age Children:** This comprehensive guide by the DOE, available in 10 languages, describes the special education process in NYC: <http://schools.nyc.gov/Academics/SpecialEducation/tellmemore/importantDocuments.htm>.
- **Regulations of the Commissioner of Education, Part 200 and 201:** These regulations describe school districts' obligations to students with disabilities, including procedural safeguards for students with disabilities being disciplined at school: <http://www.p12.nysed.gov/specialed/lawsregs/part200.htm>.
- **Procedural Safeguards Notice:** This document discusses parents' rights in the special education system: <http://www.p12.nysed.gov/specialed/publications/PSGN-dec2011.pdf>.
- **Guide to Quality Individualized Education Program (IEP) Development and Implementation:** <http://www.uft.org/files/attachments/iep-guide-feb2010.pdf>.
- **Special Education Services as Part of a Unified Service Delivery System (the "Continuum"):** This booklet explains the "menu" of special education services in New York City: <http://schools.nyc.gov/NR/rdonlyres/C7A58626-6637-42E7-AD00-70440820661D/0/ContinuumofServices.pdf>.

This guidebook and additional resources on educational services in New York City are available on our website, [www.advocatesforchildren.org](http://www.advocatesforchildren.org).

# OTHER HELPFUL WEBSITES FOR FAMILIES OF STUDENTS WITH DISABILITIES

## **The ARISE Coalition**

<http://arisecoalition.org/>

Citywide coalition, coordinated by AFC, that pushes for reform in special education.

## **CADRE: The National Center on Dispute Resolution in Special Education**

<http://www.directionservice.org/cadre/index.cfm>

Information on due process and special education mediation.

## **Center for Parent Information and Resources**

<http://www.parentcenterhub.org/>

National hub for parent centers serving families of children with disabilities.

## **Child Mind Institute**

<http://childmind.org/>

Information and resources on learning and behavior challenges and mental health.

## **Center on Technology and Disability**

<http://ctdinstitute.org/>

Information and resources on assistive technology and accessible educational materials.

## **Learning Disabilities Association of America (LDA)**

<http://ldaamerica.org/parents/>

Information and resources on specific learning disabilities and the special education process.

## **National Collaborative on Workforce and Disability for Youth**

<http://www.ncwd-youth.info/>

Information and resources on employment and transitioning to adulthood.

## **PACER Center**

<http://www.pacer.org/>

Information and resources on special education, transitioning to adulthood, bullying, and more.

## **Reading Rockets**

<http://www.readingrockets.org/>

Information and resources on literacy and helping struggling readers.

## **Understood.org**

<http://www.understood.org/>

Comprehensive resources on learning and attention issues, all designed specifically for parents.

## CONTACT INFORMATION: Family Welcome Centers

Borough	Districts Served	Address
BRONX	7, 9, 10	1 Fordham Plaza, 7th Fl. Bronx, NY 10458
	8, 11, 12	1230 Zerega Avenue, Room 24 Bronx, NY 10462
BROOKLYN	17, 18, 22	1780 Ocean Avenue, 3rd Fl. Brooklyn, NY 11230
	20, 21	415 89th Street, 5th Fl. Brooklyn, NY 11209
	19, 23, 32	1665 St. Marks Avenue, Room 116 Brooklyn, NY 11233
	13, 14, 15, 16	29 Fort Greene Place (BS12) Brooklyn, NY 11217
MANHATTAN	1, 2, 4	333 Seventh Ave., 12th Fl., Room 1211 New York, NY 10001
	3, 5, 6	388 West 125th St., 7th Fl., Room 713 New York, NY 10027
QUEENS	24, 30	28-11 Queens Plaza North, 3rd Fl. Long Island City, NY 11101
	25, 26	30-48 Linden Place, 2nd Fl. Flushing, NY 11354
	27, 28, 29	90-27 Sutphin Boulevard, 1st Fl. Jamaica, NY 11435
STATEN ISLAND	31	715 Ocean Terrace, Building A Staten Island, NY 10301

Family Welcome Centers are open 8 am to 3 pm, Monday through Friday.

<http://schools.nyc.gov/ChoicesEnrollment/NewStudents/WelcomeCenters/default.htm>

## CONTACT INFORMATION: Committee on Special Education (CSE) Offices

CSE Districts		Address	Telephone/ Fax #	Chairperson
1	7, 9, 10	1 Fordham Plaza, 7th Fl. Bronx, NY 10458	T: (718) 329-8001 F: (718) 741-7928/7929	Steven Birkeland
2	8, 11, 12	3450 East Tremont Ave., 2nd Fl. Bronx, NY 10465	T: (718) 794-7420 Español: (718) 794-7490 F: (718) 794-7445	Tricia DeVito
3	25, 26	30-48 Linden Place Flushing, NY 11354	T: (718) 281-3461 F: (718) 281-3478	Esther Morell
	28, 29	90-27 Sutphin Boulevard Jamaica, NY 11435	T: (718) 557-2553 F: (718) 557-2620/2510	
4	24, 30	28-11 Queens Plaza N., 5th Fl. Long Island City, NY 11101	T: (718) 391-8405 F: (718) 391-8556	Chris Cinicola
	27	82-01 Rockaway Blvd., 2nd Fl. Ozone Park, NY 11416	T: (718) 642-5715 F: (718) 642-5891	
5	19, 23, 32	1665 St. Marks Avenue Brooklyn, NY 11233	T: (718) 240-3557/3558 F: (718) 240-3555	Geraldine Beauvil
6	17, 18, 22	5619 Flatlands Avenue Brooklyn, NY 11234	T: (718) 968-6200 F: (718) 968-6253	Arlene Rosenstock
7	20, 21	415 89th Street Brooklyn, NY 11209	T: (718) 759-4900 F: (718) 759-4970	Amine Haddad
	31	715 Ocean Terrace, Building A Staten Island, NY 10301	T: (718) 420-5790 F: (718) 420-5787	
8	13, 14, 15, 16	131 Livingston Street, 4th Fl. Brooklyn, NY 11201	T: (718) 935-4900 F: (718) 935-5167	Cherry Kang
9	1, 2, 4	333 7th Avenue, 4th Fl. New York, NY 10001	T: (917) 339-1600 F: (917) 339-1450	Nicholas Chavarria
10	3, 5, 6	388 West 125th Street New York, NY 10027	T: (212) 342-8300 F: (212) 342-8427	Jane O'Connor
<b>Charter Schools</b>		One Fordham Plaza, 7th Fl. Bronx, NY 10458	T: (718) 329-8001 F: (718) 741-7928/7929	Mariama Sandi



## Our Mission

Advocates for Children of New York (AFC)'s mission is to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. AFC achieves this through four integrated strategies:

- Free advice and legal representation for families of students;
- Free trainings and workshops for parents, communities, and educators and other professionals, to equip them to advocate on behalf of students;
- Policy advocacy to effect change in the education system and improve education outcomes; and
- Impact litigation to protect the right to quality education and to compel needed education reform.

### **Still have more questions? Please call the Jill Chaifetz Education Helpline:**

Monday through Thursday

10 am to 4 pm

866-427-6033 (toll free)

### **Advocates for Children of New York, Inc.**

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