

Filing for an Impartial Hearing on your own



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

**¿Te Gustaría Escuchar
esta Presentación en Español?**

2

POR FAVOR, LLAMA:

917-654-8980

CONTRASEÑA:

1 081 800 2443



Agenda

3

- Introduction
- What are your goals?
- How can you get there (Hearings, Mediation, etc.)
- Building your case
- What happens at an Impartial Hearing?





What is AFC?

4

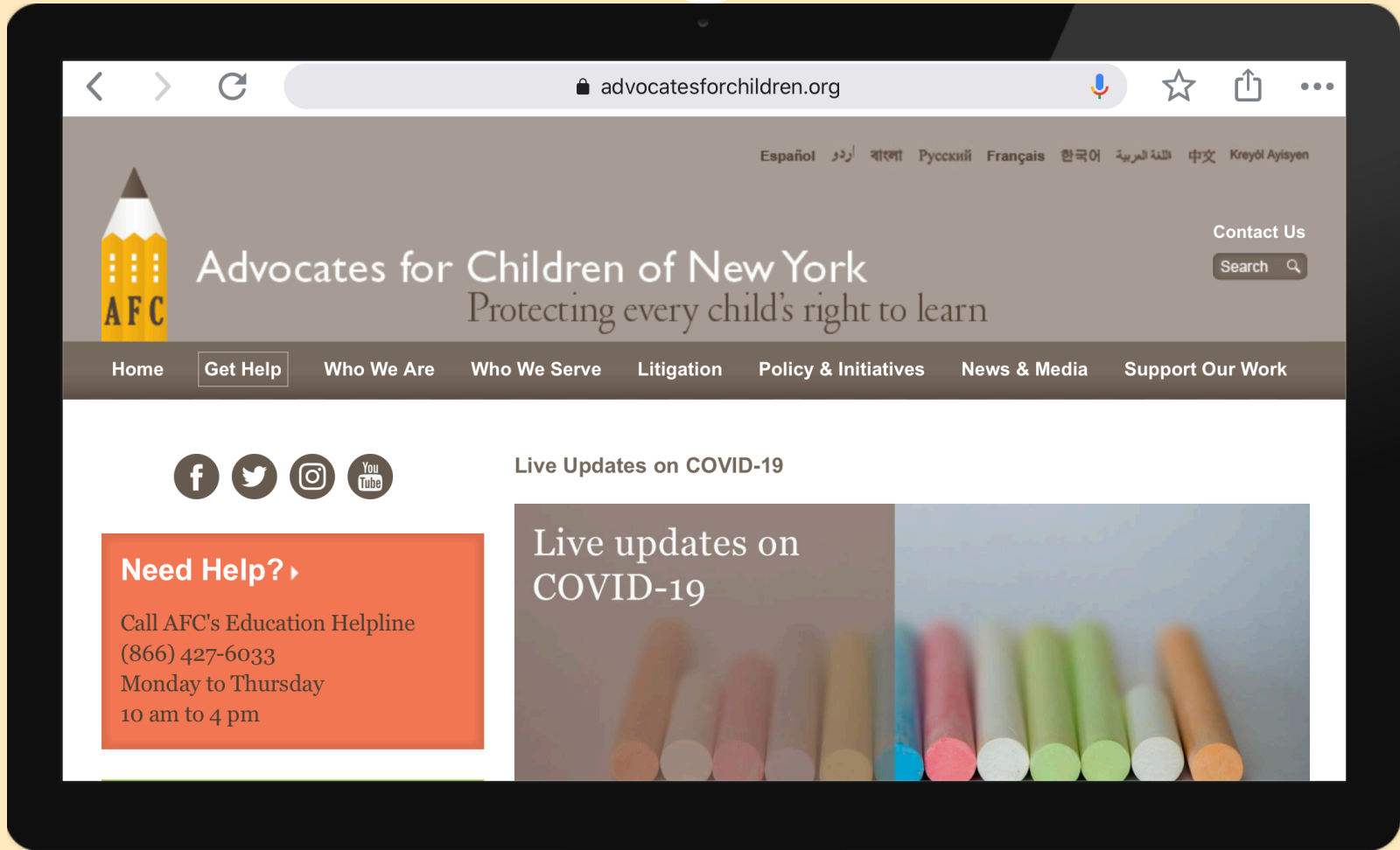
AFC is an independent agency that protects the *educational* rights of **all** NYC students.

- Our services include:
- Helpline: **1-866-427-6033** (Mon-Thurs, 10am – 4pm)
- Guides and resources: www.advocatesforchildren.org
- Workshops and trainings
- Free legal services to low-income families



Check For Updates On Our [Website](#)

5



Keep in mind

6



We hope you learn about your rights and ways to think about solving your problem.



BUT the information in this workshop is not legal advice.



If you have legal questions you should consult an attorney or advocate.



Poll!

7

Think about your case

8

What's the problem?

- IEP wrong/not implemented
- Instruction not working
- Need more information

What's the solution?

- Better evaluation
- Different instruction
- New school

How to get to the solution?

- Informal dispute resolution
- Formal dispute resolution



Informal Dispute Resolution

9

Start with the School

Parent Coordinator, Principal



District Superintendent's Office

Family Support Coordinator or District Family Advocate



Borough Support Organization (B/CO)

Administrator of Special Education



DOE Central – Office of Special Education

(718) 935-2007 or specialeducation@schools.nyc.gov

For school, superintendent and B/Co Contact Information
visit: <https://sites.google.com/a/strongschools.nyc/contacts/>



Formal Dispute Resolution

10



Mediation



Impartial Hearing



State/OCR Complaint

Mediation



Both sides have to agree to mediate

File a request with your school, CSE, or with the mediation office

Mediator = neutral person who will try and help

DOE and **state education department** have information on how to mediate (click on links)

Filing a State Complaint

12

The State Education Department (SED) will try to resolve the situation

Can be useful for simple goals (evaluation, busing, make-up services)

Remedy may be limited (may order IEP meeting to determine what's needed, etc.)

Sample complaint and process is on [SED website](#)

The Hearing Process:

13

File a
hearing
request

Resolution
session and
Pre-hearing
conferences

The hearing

The
decision

What to ask yourself before filing:

14

IEP

When was the last IEP?

Have there been IEPs each year?

Do you agree with the IEP?

Evaluation

When was the last evaluation?

Do you understand the evaluation?

Do you agree with the evaluation?

Communication

Have you discussed your concerns with the school?

Have you discussed your concerns with the DOE/CSE?

What evidence do you have?

15

Witnesses

Who will you call?

What will they say?

Documents

Which documents will you use?

Why those documents?

Filing Your Hearing Request

16

Download 2-page filing form and:

- (a) fill out with Adobe OR
- (b) Print and fill out by hand

List a phone number where the DOE can reach you on weekdays from 9am-5pm.

List an email address that you check regularly.

If you need an interpreter to speak your language, ask!

In your request, say what's wrong

17

For example:

IEP issues

- IEP is wrong
- IEP not implemented
- Need new evaluations

Behavior needs

- Your child was bullied
- Your child was disciplined unfairly

State what your child needs

18

Change the
IEP

DOE tutoring
or therapy

Private
school or
services

New
Evaluation

?

The Hearing Office Emails You

19

From: DoNotReply@schools.nyc.gov <DoNotReply@schools.nyc.gov>

Sent: Date

To: You

Subject: NEW IH REQUEST RECEIVED: 123456, CHILD'S NAME

Look for

- DOE Representative
- Impartial Hearing Officer (“IHO”)
- The case number
- Date-stamped hearing request, and
- The resolution compliance date
- Problems? Contact the hearing office at: 718-935-3280
or IHOquest@schools.nyc.gov, or contact the case manager

From: DoNotReply@schools.nyc.gov <DoNotReply@schools.nyc.gov>

Sent: Date

To: You

Subject: NEW IH REQUEST RECEIVED: 123456, CHILD'S NAME

=====
The New York City Department of Education
Impartial Hearing Office
131 Livingston Street - Room 201
Brooklyn, New York 11201
=====

This is to confirm receipt of your due process complaint.

Please review the information below and contact the Impartial Hearing Office case manager if any corrections need to be made

CASE INFORMATION:

Case #: 123456

Student: CHILD'S NAME

Date of Birth:

OSIS #: 123456789

Service District: 02

Home District: 03

Date of Request: 09/06/2020

Requested by: Parent/Guardian

Impartial Hearing Officer Appointed: Name of Hearing Officer

Expedited: No

Resolution Period Compliance Date: 10/06/2020

Issue (subject to verification):

OTHER 2020-2021

PAYMENT: SERVICES 2020-2021

TRANSPORTATION ISSUES 2020-2021

Attorney/Advocate Contact:

Parent/Guardian Contact:

_____, MOTHER

ADDRESS

Telephone(home):

Department of Education Representative:

Office: Committee on Special Education 09

District: 02

Contact: _____

Telephone:

Email:

Impartial Hearing Office Contact:

Case Manager: _____

Telephone:

Email:

NOTE:

In accordance with statutory and regulatory requirements, the Department of Education must convene a resolution session meeting within 15 days from the date of request identified above, unless both the parent and the school district agree in writing to waive the resolution session. Therefore, the office identified above will be contacting you regarding the resolution meeting. Note that requests regarding Section 504 issues, requests made by the school district or cases remanded by the State Review Officer are not subject to the resolution process.

Attachment: Request



Resolution Session

22

Meeting to try and resolve your claim without a hearing

- By phone due to COVID-19
- Always respond to the meeting request but you can ask to waive (cancel) the session
- Full agreement vs Partial agreement
- Be careful about agreement to IEP meeting to "consider" changes



Resolution Session Continued

23

After Resolution

- You have 3 days to change your mind after signing
- After resolution session you can ask hearing officer to schedule the hearing

Disclosure = Evidence

24

Gather your documents:

IEPs, Report Cards, Emails from DOE, Evaluations

5 business days before your hearing date: email your documents to DOE attorney. Note: can use scanner apps

Note: You do not need to send your disclosure documents to the hearing officer

Then, Letter your documents A-Z

Look for documents sent to you from DOE attorney



Pre-Hearing Conference

25

First time speaking with Hearing Officer and DOE attorney

Hearing officer will ask status of case – will case settle?
If case will go forward to hearing:

Hearing Officer may ask:
How many witnesses for each side? How long for each witness?

Choose hearing date(s)

You may need to ask to extend the **compliance date**



Next Steps for Hearing

26

Select your witnesses

Yourself, Evaluators, Service Providers



Send subpoenas to the hearing officer



Prepare your documents

List documents A-1, A-2, B-1, B-2...



Talk with your witnesses about what they will say

Note: possible conflict with DOE staff

Next Steps for Hearing

27

Prepare a short opening statement

Cross Exam:

Think of questions to ask the DOE witnesses

Direct Exam:

Think of questions to ask your witnesses

Prepare a closing statement

Steps in a hearing

28

Opening

- Evidence
- Opening

DOE
Case

- Direct
- Cross (you ask DOE witnesses questions)

Your case

- Direct (you and your witnesses)
- Cross exam (DOE asks you and your witnesses questions)

Closing

- Sum up your case

Talking with the DOE

29

Speak to the
DOE attorney
before the hearing

Ask who their
witnesses are

Only give
information
already in the
hearing request

Do not agree to
an oral settlement
offer!

Take notes!

Save all emails

Talking with the Hearing Officer

30

Always copy the DOE attorney when you email the hearing officer

Don't argue with the DOE attorney at the hearing

At the hearing, make your arguments directly to the hearing officer

Settlement

31

Do not agree to withdraw your hearing
UNLESS you:

Have an agreement signed by you
AND the DOE



Decision, Appeal & Timelines

32

Decision due 45 days after the resolution period or 14 days after the hearing

- **Reality:** Impartial Hearings can take many months to complete
- Tell the hearing officer if an extension of time will harm your child

Decisions are final unless you appeal to the State Review Office (SRO).

- Must file appeal 25 days from decision
- Send in arguments 40 days from date of decision.

Resources

33

- Resources (click on hyperlink):
 - [AFC's Guide to Impartial Hearings](#)
 - [Impartial Hearing Request Form](#)
 - [DOE web site section on impartial hearings](#)
 - DOE Impartial Hearing Order Implementation Unit: **718-935-3213**
 - [Appeal to the State Review Officer](#)

Poll/ Evaluations

34



Questions?

35





Wrapping up: Reminders!

36

- If you need help, ask! We are Open!
- Things change, check for updates: <https://www.advocatesforchildren.org/covid-19-updates>
- Call Our Helpline: 866-427-6033
 - Toll free
 - Monday-Thursday
 - 10am-4pm
- Email Us: Info@advocatesforchildren.org





Advocates for Children of New York

Protecting every child's right to learn

37

THANK YOU!

PLEASE STAY SAFE!

**TEXT AFCALERTS TO 22828
TO OPT-IN FOR WEEKLY UPDATES!!**