Special Education in Plain Language

A User Friendly Handbook on Special Education Law, Policies and Practices in New York

Created and provided by the
Special Education Taskforce

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www.nyspecialedtaskforce.org

This Guide contains general information and does not constitute individual legal advice about your situation. You should consult with an attorney for individual legal advice about your situation and to find out how this information applies to your situation.

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PREFACE

The Special Education TaskForce is comprised of over 200 parent advocates, school district staff, attorneys and other individuals who specialize in Special Education Law, and work collaboratively to ensure that children with disabilities are educated in the least restrictive setting and receive a free and appropriate education. The Special Education TaskForce works to assure that families and school personnel have the knowledge and skills to enable them to effectively assist students with disabilities. To this end, this publication was developed to help families and educators to work collaboratively in supporting students with disabilities throughout their school years.

Parents and family members are important partners, along with school district personnel, in the education of children with disabilities. Parents provide necessary information to teachers and administrators, play an important role in decisions made about their children and participate as a full member of the Committee on Special Education. In order for families to have a meaningful role in their children's education they must understand their rights and responsibilities in special education.

This publication provides information for parents and families about laws, regulations, and policies affecting special education programs and services. Our hope is that through the use of this publication, parents, families and school districts will collaborate together in order to help students reach their full potential. Developing this publication has taken the collaborative efforts of many dedicated individuals, organizations and school district personnel. This document is a reflection of the collaboration that is possible when schools and advocates, administrators and families work together to meet our obligation to students with disabilities.

Jennifer J. Monthie
Principal Author

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Principal Author

Jennifer Monthie, Esq.
DISABILITY RIGHTS NEW YORK
725 Broadway, Suite 450
Albany, New York 12207
(518) 432-7861

Contributing Authors and Editors

Tina Beauparlant
Parent to Parent of NYS
500 Balltown Road
Schenectady, New York 12304
(518) 381-4370

Robin Hickey
Developmental Disabilities Planning Council
99 Washington Avenue
12th Floor, Suite 1230
Albany New York 12210
(518) 486-7505

Lisa Isaacs, Esq.
New York Lawyers for the Public Interest
151 West 30th Street
11th Floor
New York, New York 10001
(212) 244-4664

Julie Michaels Keegan, Esq.
DISABILITY RIGHTS NEW YORK
725 Broadway, Suite 450
Albany, New York 12207
(518) 432-7861

Kim Wadsworth
NY Justice Center
161 Delaware Ave
Delmar, New York 12054
(800) 624-4143

Layna Maher
NY Justice Center
161 Delaware Ave
Delmar, New York 12054
(800) 624-4143

Prior Version Contributing Authors and Editors

Michael Grau, Psy. D.
Judy Swierczewski, Esq.
Noreen M. Walker

GENERAL INFORMATION

This publication includes imbedded citations to New York State and Federal education laws and administrative decisions from the New York Office of State Review and the New York State Commissioner of Education.

- **Citation to New York State Education Law:**

The NY Educ. Law Article 85 and 89 can be found at http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS.

- **Citation to New York State Commissioner's Regulations:**

The Commissioner's Regulations can be found at Title 8 of the State of New York Codes, Rules and Regulations Part 200 and 201 (8 NYCRR 200-201). For a copy of these regulations please go to New York State Education Department (NYSED) web-site or http://www.p12.nysed.gov/specialed/lawsregs/part200.htm

- **Citation to Family Educational Rights and Privacy Act:**

This publication includes citations to the Family Educational Rights and Privacy Act, 20 U.S.C.A. 1232 g (1974) and its implementing regulations at 34 C.F.R. 300.613(2006) and 34 C.F.R. 99 (2008). For a copy of these regulations please go to http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html

- **Citation to State Review Officer Decisions:**

The State Review Officer's written decisions may be found at http://www.sro.nysed.gov/

- **Citation to New York State Commissioner of Education Decisions:**

The Commissioner of New York State Education Department decisions may be found at http://www.counsel.nysed.gov/Decisions/

- **Citation to Section 504 of the Rehabilitation Act**

Section 504 of the Rehabilitation Act, 29 U.S.C. 794, and its implementing regulations at 34 C.F.R. 104 can be found at http://www2.ed.gov/about/offices/list/ocr/disabilityoverview.html

THE SPECIAL EDUCATION PROCESS

What is Special Education?

Special education means specially designed individualized or group instruction or special services or programs to meet the unique needs of students with disabilities. Special education services and programs are provided at **no cost** to the parent. *8 NYCRR 200.1 (ww)* ** please see page 6*

What are the steps in the Special Education Process?

Step 1: Initial Referral for Special Education Services

Students suspected of having a disability are referred to a multidisciplinary team called the Committee on Preschool Special Education (age 3-5) or the Committee on Special Education (age 5-21). *8 NYCRR 200.4 (a)*

Step 2: Individual Evaluation Process

The Committee arranges for an evaluation of the student's abilities and needs. *8 NYCRR 200.4(b)*

Step 3: Determining Eligibility for Special Education Services

Based on evaluation results, the Committee, which includes the child's parent, decides if the student is eligible to receive special education services and programs. *8 NYCRR 200.4 (c)*

Step 4: Individualized Education Program (IEP)

If the child is eligible to receive special education services, the Committee develops and implements an Individualized Education Program (IEP). The IEP is a document that describes the student's needs, the special education supports and services the student will receive, and the student's year long goals. The Committee must also determine the student's placement, ensuring that services are provided in the least restrictive environment (LRE). Placement must be as close as possible to the student's home, and unless the student's IEP requires some other arrangement, the student must be educated in the school he or she would have attended if not disabled. *8 NYCRR 200.4 (d)(2); 8 NYCRR 200.4 (d)(4)(ii)(b)*

Step 5: Annual Review/Reevaluation

The Committee must review the IEP at least once a year (annual review). The student must be reevaluated at least once every three years. *8 NYCRR 200.4(f); 8 NYCRR 200.4(b)(14)*

Timelines are in place so that delays are avoided. (See *Timelines* Section) Parents are an integral part of this process and their involvement is strongly encouraged.

OVERVIEW OF THE SPECIAL EDUCATION PROCESS

Referral

↓

Evaluation

↓

CSE/CPSE Team Forms:

Based on the type of CSE meeting being held, the team includes: parent, regular education teacher, special education teacher, school psychologist, parent member, district representative, and any other individual having knowledge or special expertise about the student.

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Committee Decides:

1. **Does the child have an educational disability?**
2. **Does the child need Special Education services?**

↓

Committee writes the IEP together. This includes deciding what services the child needs.

↓

Committee decides on the student's program and placement.

↓

The Committee reviews the student's IEP at least once every school year.

↓

Committee does a reevaluation of the student at least every three years or more frequently if parents and school agree, but not more that one time per year.

Although this chart shows a series of decisions, all the decisions are connected. All the decisions are centered on the needs of the child.

For some children, all the CPSE/CSE's decisions can be made in one meeting. For other children, the Committee will need to meet together more than once. Anyone on the Committee can ask for more time if it is needed. Anyone on the Committee can also ask for another CPSE/CSE to be held if there are changes to be talked about.

INITIAL REFERRAL FOR SPECIAL EDUCATION SERVICES

What should you do if you feel your child needs special education?

Preschool Children (Age 3-5)

If your child is preschool age (3-5) and is not developing skills such as walking, talking or playing like other young children, you may want to talk to the child's doctor. He or she may be able to reassure you that children develop at different rates and your child is within the normal developmental scales. If, however, the doctor is concerned, or you or your child's teachers are still not comfortable with your child's progress, you may wish to make a referral to the school district's Committee on Preschool Special Education (CPSE). See *Sample Letters* Section.

School-Age Children (Age 5-21)

If you have a school-age child and you have noticed your child has been having difficulty in school you may want to talk with your child's teacher. Your child's teacher may be able to help you understand the problems your child is having in school. You may also talk with your child's doctor. If your child's doctor, teacher or if you are still concerned about your child's progress in school, you may ~~wish to~~ make a referral to your school district's Committee on Special Education. See *Sample Letters* Section.

What is response to intervention (RtI)?

RtI is a process ~~that~~ your school district must use to try and determine if general education school-wide supports can effectively address your child's need and ~~prevent the need for~~ your child ~~to be classified~~ for special education services. A referral to RtI may also be called a referral to the Child Study Team (CST). RtI attempts to close the gap for all students, including students at risk, students with disabilities and English language learners, by addressing smaller learning problems so ~~that~~ they do not become insurmountable gaps. The process can also be used to gather data about your child to make more appropriate identification of your child's learning issues and allow for more appropriate interventions for children with learning disabilities. RtI requires each school district to establish a **plan and policies for implementing school-wide approaches** and pre-referral interventions in order to address a student's performance issues prior to referral for special education. Each school district must select and define the specific structure and components of its RtI program, including:

- Criteria for determining the levels of intervention to be provided to students;
- Types of interventions;
- Amount and nature of student performance data that will be collected; and
- Manner and frequency for progress monitoring. *8 NYCRR 100.2(ii)*

~~If you would like~~ more information about the RtI process ~~you should~~ contact your child's school ~~district~~ principal or ~~go to~~ http://www.p12.nysed.gov/specialed/RTI/guidance/cover.htm

Do I have to wait until the RtI process is completed before I can refer my child for special education?

No, you can make a referral for special education and do not have to wait until the RtI process has been completed. A school district must follow the special education process timelines even if your child is being evaluated by the RtI process. See *Timelines* Section.

INITIAL REFERRAL FOR SPECIAL EDUCATION SERVICES

What is a referral for special education?

A referral is a **written letter** asking that the school district evaluate your child to determine if he or she needs special education services. The letter should be addressed to the chairperson of your school district's Committee on Special Education or if you do not know your school district's chairperson then it should be addressed to your school principal. *8 NYCRR 200.4(a)*

Who can make a referral for special education?

A referral may be made by you, the parent, a professional staff member designated by your school district, a licensed physician, a judicial officer, or your child. *8 NYCRR 200.4(a)(1)(i)-(iv)* Your child's teacher may request that your child be referred for special education services but may not have the legal authority to make a referral. This means ~~that~~ the timelines ~~that~~ the school district must comply with (See *Timelines* Section) will not start upon a teacher's request for special education services. To ~~assure that~~ your child is evaluated in the most timely fashion ~~you should~~ make a written referral for your child to be evaluated for special education services.

What must be included in my referral?

The **written** letter should include:

- Your child's name.
- Your child's date of birth.
- Your address and telephone number.
- A request that the school district evaluate your child for special education services.
- Your reasons or concerns for requesting the evaluation.

It is important to list all your concerns which may include: academic, behavioral, physical and social problems and/or delays ~~that~~ your child is experiencing. The District must evaluate all areas of suspected disability. *8 NYCRR 200.4*

~~You should~~ keep a copy of this letter as well as any other written communications, for your records. See *Sample Letters* Section.

Why does my child need to be evaluated and how long will an evaluation take?

If a student is being evaluated for the first time, the District must complete the evaluation within **60 days of the date you signed the permission to evaluate form.** Therefore, you should make sure that you obtain and sign the "permission to evaluate form" immediately. *8 NYCRR 200.4(b)(7)*

The purpose of the evaluation is to find out whether your child has a disability and needs more support than is available through school-wide services. The evaluation will also help your school district understand what kind of special education services and supports your child needs.

INITIAL REFERRAL EVALUATION PROCESS

Why does my child need to be evaluated?

The purpose of the evaluation is to find out whether your child has a disability and needs more support than is available through school-wide services. The evaluation will also help your school district understand what kind of special education services and supports your child needs.

How long will an evaluation take?

The school district must complete an initial evaluation within **60 days of receipt of a parent's signed consent (permission to evaluate form)** unless this time frame is extended by mutual agreement between the student's parent and the school district. *8 NYCRR 200.4(b)(7)* Therefore, you should make sure that you obtain and sign the "permission to evaluate form" immediately.

What evaluations will be completed?

The school district must use a variety of assessment tools and strategies, including information provided by the parent, to determine if a student is eligible for special education supports and services. These individual evaluation must include at least:

- A physical evaluation of the student;
- An individual psychological evaluation, except when a school psychologist determines after an assessment of a school-age student that further evaluation is unnecessary;
- A social history of the student;
- An observation of the student in the student's learning environment (including the regular classroom setting) or, in the case of a student of less than school-age or out of school, an environment appropriate for a student of that age, to document the student's academic performance and behavior in the areas of difficulty; and
- Any other appropriate assessments or evaluations necessary to determine the physical, mental, behavioral, and emotional factors which contribute to the child's suspected disabilities. For example, a functional behavioral assessment for a student whose behavior impedes his or her learning or that of others. *8 NYCRR 200.4(b)(1)(i-v)*

The school district must ensure that:

- The evaluations used to assess the student are provided in the student's native language or other mode of communication;
- Evaluations are administered by trained and knowledgeable personnel;
- No single measure or assessment is used as the sole criterion for determining whether a student is a student with a disability or for determining an appropriate educational program for a student;
- The student is assessed in all areas related to the suspected disability; and
- The results of the evaluation are provided to the parents in their native language or mode of communication at no cost to the parent. *8 NYCRR 200.4(b)(6)(i)(a-d).*

COMMITTEE ON SPECIAL EDUCATION (CSE/CPSE) MEETING

What happens after the District completes its evaluation of my child?

After the school district has completed the evaluation of your child a meeting must be held. The meeting is called a Committee on Special Education (CSE) meeting or an IEP Team meeting. If you child is a preschool student (age 3-5) the meeting is called a Committee on Preschool Special Education (CPSE) meeting. *8 NYCRR 200.4(c)*

Who are members of a CSE or IEP Team? *8 NYCRR 200.3(2)*

The Committee includes:

- You as the parent or caregiver;
- Your child (if you and the school district agree that it is appropriate for your child to attend this meeting);
- A special education teacher;
- A general education teacher (if your child is or may be participating in general education program);
- A representative of the school district who is qualified to provide or supervise the provision of special instruction (this person is typically called a chairperson);
- Someone who can interpret the instructional implications of the evaluation (this person is typically the school psychologist).
- A parent member (this person is a parent in your school district whose child is receiving special education services) **only** if you or the school district request his or her presence *in writing* at least 72 hours prior to the meeting.
- The school district physician, **only** if you or the school district request his or her presence *in writing* at least 72 hours prior to the meeting.
- Any other person having knowledge or special expertise about your child. You and the school district can invite anyone that you believe has special knowledge about your child to be a member of the committee on special education.

What is the role of the parent member?

- Help bridge the gap between you and the CSE
- Promote mutual respect
- Help you understand the CSE process
- Support you as the parent of a child with a disability
- Maintain confidentiality

The parent member is **not** your personal advocate. If you are interested in assistance in advocating for you or your child during a Committee meeting, please see the *Resource* section of this guide for a list of organizations in your area.

COMMITTEE ON SPECIAL EDUCATION (CSE/CPSE) MEETING

What happens at the CSE/CPSE or IEP Team Meeting?

After the evaluation is completed, your child's evaluators will explain the test results and you will be invited as a member to a CSE/CPSE meeting to talk about the results. **You should attend this meeting** because you have important information to share about your child. If you cannot attend, you have the right to request that the meeting be held at a **mutually convenient time and location**. The District must provide the opportunity to participate by phone if you are unable to attend in person. At the meeting, the Committee will review the evaluation results. Based on that information, and information that you provide, the Committee decides if your child is eligible or ineligible to receive special education programs and/or services. *8 NYCRR 200.4(c)*

In order to be eligible a child must be identified as having a disability because of mental, physical or emotional reasons that affects his/her ability to learn. *8 NYCRR 200.1(zz)* The Committee must determine if you child falls into one of the following classifications:

- Autism;
- Deafness;
- Deaf-blindness;
- Emotional disturbance;
- Hearing Impairment;
- Learning disability;
- Intellectual disabilities;
- Multiple disabilities;
- Orthopedic Impairment;
- Other Health-impairment;
- Speech or language impairment;
- Traumatic brain injury; and
- Visual impairment including blindness. *8 NYCRR 200.1(zz)(1)-(13)*

What happens if your child is ineligible for special education services?

If you, with the Committee, decide that your child does not require special education services or programs, the Committee must provide you with written notice indicating why your child is ineligible. *8 NYCRR 200.4 (d) and 200.5(d).* If your child is of school-age (5-21) the Committee must:

- Send information to the principal of your child's school. The principal will be able to work with professionals in the school or with your child's current teacher, the reading teacher, the guidance counselor, or another specialist to help your ~~son or daughter~~; and
- Consider making a referral under Section 504 of the Rehabilitation Act of 1973 (a Federal civil rights law) to another multidisciplinary team within the school. See *Section 504 Accommodation Plans* starting on page 34.

If you disagree with the decision of the Committee you have several options which are detailed in the *Due Process* Section.

What happens if your child is eligible for special education services?

If you and the other members of the Committee decide your child is eligible for special education services, the Committee will create an Individualized Education Program (IEP). *8 NYCRR 200.4(d)(2)*

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

What is an IEP?

An Individualized Education Program (IEP) is a written plan that identifies a student's unique needs and how the school will strategically address those needs. The IEP describes the special help your child must receive in school. The IEP must be based on your child's individual needs, and must respond to the concerns raised by your child's evaluations. *8 NYCRR 200.1(y)*

Beginning with the 2011–2012 school year all New York State schools must use a standardized IEP form created by the New York State Department of Education. See http://www.p12.nysed.gov/specialed/formsnotices/IEP/home.html

How is an IEP developed?

The Committee must consider:

- Your child's strengths;
- Your concerns for your child's education;
- The results of your child's evaluation;
- The results of any State or district-wide tests or assessments; and
- Any unique needs related to your child's disability (such as communication needs, behavior, etc.) *8 NYCRR 200.4(d)(2)*

The Committee should create the IEP in a specific order. This order is established by the IEP document.

FIRST: The Committee discusses the classification of the child. The Committee must choose from one of the thirteen classification listed on page 11. *8 NYCRR 200.4(d)(2)(ii)*

SECOND: The Committee discusses how your child is doing in school (present level of performance), your child's strengths and weaknesses. The Committee must discuss your child's strengths and weaknesses in four categories including:

Academic achievement, functional performance and learning characteristics (Your child's current level of knowledge and development in subject and skill areas, including activities of daily living, level of intellectual functioning, adaptive behavior, expected rate of progress in acquiring skills and information and learning style).

Social Development (The degree and quality of your child's relationship with peers and adults, feelings about self and adjustment to school and community environments).

Physical Development (The degree and quality of your child's motor and sensory development, health, vitality, and physical skills or limitations that pertain to the learning process).

Management Needs (The nature of and degree to which environmental modifications and human or material resources are required to enable your child to benefit from instruction. *8 NYCRR 200.1(ww)(3)(i).*

Special Considerations which include but are not limited to behavior and communication needs.

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

THIRD: The Committee agrees on the goals your child should be working towards in this school year. The IEP must list *measurable* annual goals, which means that your child's progress towards these goals can be tracked by some form of evaluative criteria or data collection. These goals are created from the needs that the Committee documented in the SECOND step above. These goals must also address your child's needs so that he or she can make progress in the general education curriculum. *8 NYCRR 200.4(d)(2)(iii)*

FOURTH: The Committee discusses the supports, services and modifications that your child needs. The Committee must write in the IEP the specific special education supports and services your child needs. These services must be individualized based on your child's unique needs and assist your child in reaching his or her goals from the THIRD step. *8 NYCRR 200.4(d)(2)(v)*

FIFTH: The Committee determines where those special education services will be provided (location and placement). The location and placement of the services must be in the *least restrictive environment*, which means a location that looks as much as possible like the classroom and location that students without disabilities attend. If the services are not going to be provided in the general education classroom setting, the Committee must explain why your child cannot receive those services in the general education setting in the IEP document. *8 NYCRR 200.4 (d)(2)(xii); 8 NYCRR 200.4(d)(4)(ii)*

For more information on the appropriate way to develop an IEP see ***Guide to Quality IEP Development and Implementation*** on NYSED's website (www.nysed.gov) or http://www.p12.nysed.gov/specialed/publications/iepguidance/IEPguideDec2010.pdf

The Five Steps to Developing an IEP

Committee discusses classification of your child and picks one of thirteen classifications.

↓

Committee discusses your child's strengths and weaknesses in four areas and considers other special factors related to learning.

↓

Committee agrees on measurable annual goals to address your child's weaknesses.

↓

Committee discusses special education supports, services and modifications your child needs to meet his or her annual goals.

↓

Committee discusses the location and placement of the special education services in the *least restrictive environment*.

ANNUAL REVIEW/REEVALUATION

What happens after the Committee creates the IEP?

The Board of Education for your school district must make arrangements to implement the special education programs and services on your child's IEP. There are timelines for implementing (starting) your child's IEP. There should not be any delay in implementing the IEP while the school district decides how it will pay for or arrange the special education services.

You should receive a copy of your child's IEP at no cost to you, and your child's teachers and service providers (who are involved in implementing the IEP) will have access to a copy of the IEP. Each teacher and service provider must be informed about his or her specific responsibilities to implement the IEP and specific accommodations, modifications and supports that must be provided to your child. *8 NYCRR 200.4 (e)(1)(i); 8 NYCRR 200.4 (e)(3)(iv); 8 NYRCC 200.4(e)(3)(iii)*

What is annual review?

Once the Committee agrees on an IEP, your child must receive the services listed in ~~the IEP~~. These services will be provided unless and until another Committee meeting is held and the Committee decides to change services. At least once a year~~–~~, you and other members of the Committee will review your child's current IEP and develop an IEP for the coming school year. If you would like to discuss your child's program before or after annual review, you may request a meeting at any time ~~by *written* letter~~ to your CPSE/CSE chairperson. *8 NYCRR 200.4(e)(4); 8 NYCRR 200.4(e)(7)*

Your yearly meeting to discuss changes in your child's IEP is called *annual review*. Together, you will make decisions about any necessary changes to your child's program. If you intend on suggesting changes to your child's IEP, it is recommended that you let the CSE/CPSE chairperson and your child's teachers know of your suggestions prior to ~~the time of~~ your meeting. You are not required tell the Committee members of your suggestions prior to the meeting and you may make additional suggestions that were not discussed prior to the meeting ~~during your Committee meeting~~. If you believe ~~that~~ the Committee will need additional time to discuss your suggestions, you should tell your chairperson ~~before the meeting is scheduled~~ so ~~that~~ more time can be allotted for your meeting. *8 NYCRR 200.4(f)*

What happens at my annual review?

The Committee must follow the same steps as you followed from your first CSE/CPSE meeting. **See Chart on page 15**. *8 NYCRR 200.4(f)(1)*

When is my child reevaluated?

At least every three years, your school district must reevaluate your child. The school district must have your written consent prior to conducting this evaluation. The results of the reevaluation will be used to determine your child's individual needs and progress, whether your child still requires special education services, and what should be changed to address your child's needs. Your child can be reevaluated more frequently if the school district and you agree but not more than one time per year for each type of evaluation. *8 NYCRR 200.4(b)(4)*

TIMELINES

What are the time periods a school district must follow?

Pre-School Student (3-5)

Initial Evaluation (Your Child's First Evaluation)

If your preschool child is being evaluated for the first time the CPSE must complete this evaluation *and* develop a recommendation within **60 calendar days** of receipt of your written **consent to evaluate.** The CPSE must also implement services by whichever of the following occurs ***soonest:***

- ***30 school days*** from the date that the CPSE recommendations are developed; or
- ***60 school days*** from the date of the parent's consent to evaluate.

8 NYCRR 200.16(f)(1)

Review (Your Child's Reevaluations)

The school district must arrange for your preschool child with a disability to receive his or her special education program either starting with the July, September, or January start date on the IEP. When a child is re-evaluated the school district must meet, recommend services and implement services (if any) no later than 60 school days from the date of the parent's signed consent to re-evaluate. ***8 NYCRR 200.16(f)(1)***

School-Age Student (Age 5-21)

Initial Evaluation (Your Child's First Evaluation):

If your child is being evaluated for the first time the school district must complete this evaluation within **60 calendar days** of receipt of your written **consent to evaluate.** The CSE must also decide whether your child has a disability in a CSE meeting and if so, ~~must~~ provide the special education services and programs in your child's IEP within **60 school days** of receiving your written **consent to evaluate** ~~your child~~. *8 NYCRR 200.4(b)(7); 8 NYCRR 200.4(e)(1)*

Review (Your Child's Reevaluations)

If your child ~~is a child with a disability whose~~ special education program and services are being reviewed (annual review) the school district must provide the approved special education services on the IEP by the start date listed on the IEP. If your child is being re-evaluated for eligibility of special education services the school district has ***60 school*** **days** to evaluate, recommend services and implement services of receiving your written **consent to evaluate** ~~your child~~. *8 NYCRR 200.4(e)(2)*

The school district must not delay in implementing a preschool or a school-age student's IEP, even if the payment source for providing or paying for special education is being determined.

The school district must make sure that each student with a disability has an IEP in effect at the beginning of each school year. *8 NYCRR 200.4(e)(1)(i)-(ii)*

LEAST RESTRICTIVE ENVIRONMENT/CONTINUUM OF SERVICES

Where must services be provided to my child?

When creating an IEP for your child, the CSE must be sure that services will be provided in the ***Least Restrictive Environment*** (LRE). Least restrictive environment means that students with disabilities will not be placed in special classes, separate schools or otherwise removed from the regular classroom unless the nature or severity of the disability is such that even with the use of ***supplementary aids and services*** and ***program modifications and accommodations***, education cannot be satisfactorily achieved.

In addition, placement of a student in the least restrictive environment shall:

(1) provide the special education needed by the student;

(2) provide for education of the student to the maximum extent appropriate to the needs of the student with other students who do not have disabilities; and

(3) be as close as possible to the student's home. *8 NYCRR 200.1(cc)*

What are supplementary aids and services?

Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings and in extracurricular and nonacademic settings to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate in accordance with the least restrictive environment. *8 NYCRR 200.1(bbb)* Some examples of supplementary aids and services include a note taker; assignment of paraprofessional staff; study guide outlines of key concepts, etc.

What are Program Modifications and Accommodations?

Program modifications may be used to describe a change in the curriculum or measurement of learning, for example, when a student with a disability is unable to comprehend all of the content an instructor is teaching (e.g., student tested on fewer concepts or simpler version of concepts; alternate grading system).

Accommodations means adjustments to the environment, instruction or materials (e.g., instructional materials in alternative format such as large print or Braille, fewer items on each page; extra time to complete tasks) that allow a student with a disability to access the content or complete assigned tasks. Accommodations do not alter what is being taught.

LEAST RESTRICTIVE ENVIRONMENT/CONTINUUM OF SERVICES

Is there a range of services and placements available to my child?

Yes. Each school district must provide a "**continuum of services**" to meet the special education needs of every student with a disability. The continuum of services is an array of services to meet an individual student's needs that includes:

- consultant teacher services (direct and/or indirect);
- resource room support with a special education teacher [services];
- related services such as occupational, speech-language and physical therapy, counseling, specialized reading instruction;
- integrated co-teaching services special and/or self-contained class.

These services can be provided alone or in combination, and may be offered in any placement. In addition, supplementary services, program modifications, and accommodations may be provided in any placement. 8 *NYCRR 200.6*

The **continuum of placement** options in NYS includes: public schools, boards of cooperative educational services (BOCES), private approved day and residential schools and home and hospital instruction. Note that placement refers to location, not services.

Regular classroom → Integrated Classroom → Self-contained classroom → Residential/home instruction

Least Restrictive → **Most Restrictive**

Can my child be placed with children who have substantially different needs?

No. Students with disabilities who are placed together for purposes of special education (including resource room, special class, consultant teacher services, integrated co-teaching and related services groups) must be grouped by **similarity of individual needs** in accordance with these four areas:

1. *Academic achievement, functional performance and learning characteristics*
2. *Social development*
3. *Physical development*
4. *Management needs*

For more information on the Continuum of Services and Least Restrictive Environment, see *Continuum of Special Education Services for School-Age Students with Disabilities*, NYS Education Department, April 2008: http://www.p12.nysed.gov/specialed/publications/policy/schoolagecontinuum.html

TRANSITION

Beginning with the first IEP when the student is age 15 the IEP *must* include a statement of needed transition services and a statement of the responsibilities of the school district (and other participating agencies) for the provision of services and activities that promote movement from school to post-school opportunities before the student leaves the school setting. *8 NYCRR 200.4(2)(ix)*

What is transition planning?

~~The CSE must develop a coordinated set of activities for a student with a disability, designed to be results-oriented, and focused on improving the academic and functional achievement of the student with a disability so the student can move from school to post-school activities including employment, post-secondary education and independent living.~~ The CSE must consider the following post-school activities:

- Postsecondary education;
- Vocational ~~T~~training;
- Integrated ~~E~~employment (including supported employment);
- Continuing and adult education;
- Adult services; and
- Independent living or community participation.

What must be included in the student's IEP?

The CSE must include a statement of the student's need for transition in the present levels of performance section of the IEP, taking into account the student's strengths, preferences and interests as they relate to transition ~~from school to post-school activities.~~ *8 NYCRR 200.4(2)(ix)(a)*

The IEP also must include measurable postsecondary goals. These goals must be based upon an age-appropriate transition evaluation/assessment in the areas of training; education; employment, and where appropriate to the student's needs independent living skills. *8 NYCRR 200.4 (2)(ix)(b)*

Who is responsible for transition planning?

The IEP must include a statement of the responsibilities of the school district and, when applicable, participating agencies for the services and activities listed on the student's IEP. A participating agency is a state or local agency, other than the school district, which is responsible for providing the student with transition services. *8 NYCRR 200.4(2)(ix)(e)*

What role does the participating agency play in the CSE process?

With your permission as parent (or the student's permission who is 18 years of age or older) the school district must invite a representative of any participating agency that is responsible for providing or paying for transition services to the CSE meeting where transition services will be discussed. If the invited agency does not attend the CSE meeting the school district must take other steps to include the other agency in the planning of any transition services to the student.

For more information about transition planning on an IEP see ***Guide to Quality IEP Development and Implementation*** on NYSED's website (www.nysed.gov) or http://www.p12.nysed.gov/specialed/publications/iepguidance.htm

ASSISTIVE TECHNOLOGY

What is Assistive Technology?

Assistive technology means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a student with a disability. ~~Such term~~ does not include a medical device that is surgically implanted, or the replacement of such a device. NYCRR 200.1(e)

What is an AT Service?

Assistive technology service means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

(1) the evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;
(2) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by students with disabilities;
(3) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
(4) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
(5) training or technical assistance for a student with a disability or, if appropriate, that student's family; and
(6) training or other technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that student. 8 NYCRR 200.1(f)

Who should be considered for AT?

The CSE must consider each student's need for AT devices and/or services. If a student needs ~~such devices and/or services~~, the appropriate sections of the IEP must specify the:

- nature of the assistive technology to be provided;
- services the student needs to use the ~~assistive technology~~ device;
- frequency, duration of ~~such~~ services;
- location where the assistive technology devices and/or services will be provided; and
- whether ~~such device~~ is required to be used ~~in the student's~~ home or another setting ~~in order~~ for the student to receive a free appropriate public education.

What happens to the AT device when my child exits high school?

The CSE discusses the possibility of the AT device going with the student when the student exits high school. See NYSED Memo: AT Transfer Policy www.p12.nysed.gov/specialed/publications/persprep/assisttech.htm

SPECIAL TRANSPORTATION

When does a student require Special Transportation?

In developing recommendations for special transportation, the CSE/CPSE should consider and document the needs of the student relating to his/her disability. For example:

- **Mobility**-nonambulatory
- **Behavior**-fearful in noisy environments; self- abusive
- **Communication**-hard of hearing; nonverbal; limited understanding of questions and directions; non-English speaking
- **Physical**-needs assistive devices to maintain a sitting position; needs assistance walking and going up and down stars
- **Health Needs**- seizures; fatigue; may fall asleep on the bus; requires oxygen equipment

The IEP must include specific transportation recommendations to address each of the student's needs as appropriate. It is not appropriate for the IEP to simply indicate "special transportation needed," without including the nature of the special transportation.

How does the CSE/CPSE document a student's special transportation needs in the IEP?

There are a number of ways that the CSE/CPSE may document the need for special transportation on the IEP. For example:

- **Special seating-**away from the window; seating not adjacent to another student; seating in the front of the bus; etc
- **Vehicle and/or equipment needs-**braces; car seat; walker; wheelchair; safety vest; service animal; AT device; medical equipment; adapted buses; or lifts and ramps
- **Adult Supervision-**bus attendant; specialized training for the bus attendant; a one-on-one bus attendant; nursing services; special monitoring; or interpreter; etc.
- **Type of transportation-**door-to-door pick up and drop-off; a small bus with few students; or individual transportation; etc.
- **Other Accommodations-**personal items or to use electronic devices such as radio

For more information about documenting the need for special transportation see NYSED Memo Special Transportation for Students with Disabilities at www.p12.nysed.gov/specialed/publications/policy/specialtrans.htm

Is there a maximum amount of time a student may spend on a school bus?

Education Law § 3635 does not contain a maximum length of time that a student may be expected to spend riding on a school bus. However, it is widely accepted that the en route time must be reasonable. Many districts attempt to limit the time en route to one hour, but there are situations because of the distances traveled, where it is not possible to complete the trip within one hour. For more parent information on student transportation go to the NYSED website at www.p12.nysed.gov/schoolbus/parents.html

YOUR GENERAL RIGHTS AS A PARENT

As a parent you are a necessary member of your child's educational planning team. When a parent is involved and well-informed a child benefits more from the educational program. As a team member, you need to understand the special education process, your rights, and how to become involved in your child's program. Now that you are familiar with the special education process, you will want to know more about your rights and protections under the law and regulations.

What are my rights to be involved in the development of my child's educational program?

You must be given opportunity to participate in the discussion and decision-making process about your child's need for special education. You should receive notice **at least five school days** before the meeting with the CSE or CPSE inviting you to participate in the development of your child's educational program. This notice also tells you the school personnel that will be attending your meeting. You may invite someone to your meeting that is not listed on this notice. If you would like a particular person to attend your meeting you should make this request **in writing** to your CPSE/CSE chairperson. If you are unable to make the scheduled time of the meeting you may request **in writing** that the meeting be postponed to a *mutually convenient time and location*. *8 NYCRR 200.5 (c); 8 NYCRR 200.5(d)*

You have a legal due process right under Federal and State laws to be involved and make sure that your child receives an appropriate education:

- You must receive **written notice** several times during the process of identifying, evaluating, placing your child and providing your child with special education services and/or programs. If your school district refuses to do any of these things, you must be notified. See *Prior Written Notice* Section. *8 NYCRR 200.5(a)*

- Certain actions may not be carried out without your written **consent**. See *Consent* later in this document. *8 NYCRR 200.5(b)*

- If you **disagree with decisions** made by the Committee, you may ask for meetings, an independent evaluation, mediation and/or impartial hearings to resolve (settle) disagreements between you and your school district about your child's evaluations, identification, classification), placement or educational program. See *Due Process Rights* starting on page 24. *8 NYCRR 200.5(h); 8 NYCRR 200.5 (i)*

WHAT ARE MY RIGHTS TO ACCESS MY CHILD'S EDUCATIONAL RECORDS?

The Family Educational Rights and Privacy Act (FERPA) is a federal law that gives parents certain rights with respect to their children's education records. You have the right to **inspect and review** your child's educational records unless the district has been legally notified in writing that your rights have been terminated or otherwise limited by a court order. *20 U.S.C.A. 1232g(1974)* * *Please see page 6.*

What are my rights to inspect and review my child's school records?

Upon your request, the school district must make your child's records available to you:

- Within a reasonable time;
- In no case more than 45 calendar days after you ask;
- Before any meeting about your child's individualized education program (IEP);
- Before any due process hearing about your child's special education needs. *20 U.S.C.A. 1232g(a)(1)(A)*

What if I have a question about my child's records?

You have a right to ask for and read records about your child. If you do not understand something in your child's records you have a right to ask for an explanation of these records. If you are unable to read your child's records you have a right to have a person **you choose** read your child's records to you. *34 C.F.R. 99.10(a);(c);(d)(2)*

Can I get a copy of my child's records?

You have a right to ask for and receive copies of your child's education records. The school district may charge you a reasonable cost for copies of records, unless the cost would prevent you from inspecting or reviewing those records. The school district **cannot charge you any cost** if you want to make an appointment to view your child's records. *34 C.F.R. 99.11(a)-(b)*

Who else can see my child's records? *20 U.S.C.A. 1232g(b)(1)(A);(4)(A)*

Each school district must keep a record of who has looked at your child's educational records including the person's name, the date permission was given, and the reason the person asked for the records. However, the school district does not have to keep a record when you and authorized employees of the school district look at your child's records. Authorized employees are school officials such as your child's teacher who have been determined by the school district to have appropriate educational interest in your child.

Can I have remove documents from my child's records?

You have a right to request that a school correct records which you believe to be inaccurate or misleading. If the school district decides not to change the record, you then have a right to a formal hearing. After the hearing, if the school still decides not to amend the record, you have the right to place a statement with the record setting forth your view about the inaccuracy or misleading portion of your child's educational records. *20 U.S.C.A. 1232g(a)(2); 34 C.F.R. 99.21(b)(2)*

For additional information or technical assistance, you may call (202) 260-3887 (voice). Individuals who use TDD may call the Federal Information Relay Service at 1-800-877-8339.

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INDEPENDENT EDUCATIONAL EVALUATION

What ~~do I do~~ if I disagree with the school district's evaluation?

The school district must complete its evaluations of your child and hold a Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE) meeting to discuss the results. If you disagree with the evaluation, you may obtain an **independent educational evaluation** (IEE) and request that it be paid for by the school district. *8 NYCRR 200.5(g)* See *Sample Letters* Section.

What is an Independent Educational Evaluation (IEE)?

An IEE is an independent evaluation paid for by the school district where the *parent* selects a qualified examiner who does not work for the school district or other public agency responsible for your child's education. You may get the IEE paid for by the school district if you disagree with the district's evaluation. The school district must pay for the entire evaluation as long as the fee by charged by the independent evaluator is consistent with equally qualified evaluators charge in the geographic area; the school district cannot place a "cap" on cost if cap is less than the going rate in the area. *8 NYCRR 200.1(z); 8 NYCRR 200.5(g)*

In order to obtain an IEE you **must** make a *written* request to the school district stating that you disagree with a school district's evaluation and you want the school district to pay for an IEE. The school district may ask, but **not require** that you explain the reason why you object to the district's evaluation. *8 NYCRR 200.5(g)(iii).* When a parent requests that the school district pay for the costs of the IEE, the school district **must**, **without unnecessary delay**, either:

- Agree to pay for the IEE; **or**
- Initiate an impartial hearing so that the district can demonstrate that its evaluation is appropriate.

Please note, these are the ONLY two options the school district has in response to a letter requesting an IEE. If the district does not exercise one of these options, you may consider contacting the Quality Assurance Office at the Education Dept. (see page 5) to request mediation or an impartial hearing. 8 NYCRR 200.5(g)(iv)

How do I find an Independent Educational Evaluator?

The school district must provide you, when you request an IEE, information about where an IEE may be obtained. However, you are not required to use the persons or organizations provided by the District. You may also use the *Resource* section of this document to find individuals that may be able to assist you in finding an Independent Educational Evaluator. *8 NYCRR 200.5(g)(i)*

How will an IEE assist me in getting special education for my child?

You have a right to have the results of an IEE discussed by the Committee as part of its review in the development of your child's Individualized Education Program (IEP). You may also have your Independent Evaluator present at your Committee meeting or participate by phone; you should discuss this with your evaluator prior to the completion of your child's evaluation. The results of an IEE can also be used as evidence at an impartial hearing. See *Impartial Due Process Hearings* Section.

CONSENT

What does it mean to give my consent?

Consent means ~~that~~:

- You have been informed in the language you speak, or your form of communication, of all the information about the activity for which your permission is asked;
- You understand and agree in writing to the activity for which your permission is needed;
- Your permission is given freely and may be withdrawn at any time. However, if you withdraw your consent, it is not retroactive (which means that it does not apply to actions the school district has already taken). *8 NYCRR 200.1(1)*

When is my consent required?

Your consent is required when:

- You want your child evaluated for the first time to decide if he or she has a disability and needs special education.
- Your child is recommended to receive special education services and programs for the first time.
- Your child is recommended to receive twelve-month special education services (programming during July and August) for the first time.
- Your child will be reevaluated;
- The school district wants to use your private insurance. In this case, you must be notified that if you refuse to allow the school district to access (use) your private insurance, the district is still responsible to provide all required services at no cost to you.
- An agency other than a school district requests to review your child's educational records. The request must include information about the records that will be released and to whom they will be given. *8 NYCRR 200.5(b)*
- A parent and school district agree to excuse a necessary member of the CSE from attending the student's CSE meeting. (See *CSE Members* on pg. 12 of this guide). To excuse a member of the CSE:
- A school district **must** obtain a parent's consent **in writing 5 days prior** to the date of the CSE meeting. If the CSE member's area of curriculum or related service is being discussed the school district must provide the parent with written input from the member **5 days prior to the meeting**;
- A parent at any time may **request or agree in writing** to the excusal of a member of the CSE. If the parent requests or agrees to the excusal the school district must submit written input from the CSE member who is being excused to the parent within a reasonable time **prior** to the meeting or **prior** to obtaining written consent of the parent to the excusal. *8 NYCRR 200.3(f)*

If you, as a parent, do not consent to an initial evaluation of your child, your child may not be eligible for special education supports and services. *8 NYCRR 200.5(g)(4)*

DUE PROCESS

What ~~should I do~~ if I disagree with a decision about my child's eligibility and/or IEP?

Informal discussions

If you have concerns about your child's educational program, discuss these concerns with appropriate staff at the school district (e.g. therapists, psychologist, social worker). The staff may also include your child's teachers, ~~your child's~~ related service providers, ~~your child's~~ principal or your CPSE/CSE chairperson.

If you disagree with evaluation results or other proposed actions of the Committee, such as the recommendation, placement, or implementation of the program, you should express your disagreement and dissatisfaction. By clearly stating your concerns and the reasons for your concerns, you are making sure that the other members of the Committee understand your point of view. Try to work out differences informally with your school district as soon as they happen.

Ask for a meeting to talk in person or schedule a phone conference to discuss your concerns with

(a) your child's teacher and/or related service providers,

(b) principal or assistant principal,

(c) ~~C~~hairperson of the CSE or CPSE or

(d) ~~I~~nstructional ~~S~~upport ~~T~~eam.

Write down what was discussed at the meeting, the people ~~that were~~ present and steps that were discussed to resolve your concerns. If necessary, request a follow-up meeting with a reasonable amount of time to revisit your concerns and ~~to~~ ensure ~~that~~ the steps identified above were implemented as planned. If it is not possible to resolve disagreements informally, you may consider more formal processes including *mediation*, *formal complaints* and *impartial hearings* which are discussed later in this document.

Who should I contact at my school district for an informal discussion?

You should always contact your child's teachers or principal ~~if you want~~ an informal discussion. You may ask that a district representative responsible for overseeing special education be present at that meeting. If you are not satisfied with the way or time in which your concerns are addressed, you should ask for a formal CPSE/CSE meeting.

DUE PROCESS RIGHTS
PRIOR WRITTEN NOTICE

What is prior written notice?

Prior written notice is a *written* statement provided to you a reasonable time before the school district proposes to or refuses to initiate or change the identification, evaluation, or educational placement of your child or the provision of a free appropriate public education ~~to your child~~. *8 NYCRR 200.5(a)*

Therefore, *before* the school district ~~or~~ refuses to change your child's IEP, they must provide you with prior written notice. If you believe ~~that~~ you are entitled to prior written notice, but have not received ~~this notice,~~ you should send a letter to the CSE/CPSE chairperson requesting prior written notice. *8 NYCRR 200.5(a)*

What information does prior written notice ~~give me~~?

Prior written notice must include:

- A description of the action proposed/refused by the district;
- An explanation of why the district is proposing/refusing to take action;
- A description of any other options the district considered and the reasons why those options were rejected;
- A description of each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;
- A description of the factors relevant to the district's proposal or refusal;
- A description of the student's rights under the *Procedural Safeguards Notice*; and
- Sources for parents to contact in order to obtain assistance in understanding prior written notice.

You can obtain a copy of your *Procedural Safeguards Notice* at www.vesid.nysed.gov (search "Procedural Safeguards Notice")

DUE PROCESS RIGHTS
MEDIATION

What is Special Education Mediation?

Parents have the ability to resolve disputes involving any matter for which an impartial due process hearing may be brought through a mediation process. Mediation is voluntary on the part of the parent. All school districts must offer mediation to parents. The mediation process cannot be used to deny or delay a parent's right to a due process hearing. *8 NYCRR 200.5 (h)(1); 8 NYCRR 200.5(h)(1)(i) -(ii)*

The mediation session is conducted by a qualified and impartial mediator who is trained in effective mediation techniques, and is knowledgeable in laws and regulations relating to the provisions of special education services. Each mediation session must be scheduled in a timely manner and must be held at a location that is mutually convenient for both you and the school district. *8 NYCRR 200.5(h)(iii); 8 NYCRR 200.5(iv).*

How do I request mediation?

~~If you decide to use mediation,~~ you must ask for it by writing to the Board of Education for your school district. ~~A parent~~ may also elect to engage in mediation while also pursuing an impartial hearing. In this instance the request for mediation can be submitted with the request for an impartial hearing, or before or after the request for impartial hearing is filed.

What happens at mediation?

~~Mediation is a~~ discussion facilitated by a mediator between you and a school district representative. All discussions during a mediation session are **confidential** and may not be used as evidence against you or the school district in any due process hearings or civil proceedings. You and the school district may be required to sign a confidentiality pledge ~~prior to~~ the ~~commencement~~ of the process. *8 NYCRR 200.5(h)(1)(v)*

If you and the school district reach a resolution you will execute a legally binding ~~written~~ agreement ~~that sets forth~~ the resolution and that states that all discussions that occurred during the mediation process are confidential. The agreement must be signed by both you and a representative of the school district who has authority to bind the school district. If the written agreement is different than the current IEP, ~~then~~ the IEP must be immediately amended to be consistent with the mediation agreement. *8 NYCRR 200.5(h)(1)(vi); 8 NYCRR 200.5(h)(3)*

What does mediation cost?

Mediation does not cost you or the school district any money. *8 NYCRR 200.5(h)(4)*

What are the benefits of mediation?

Unlike an impartial hearing where the hearing officer makes the final determination as to what is appropriate for your child, a mediator assists you and the school district to reach a mutually agreeable determination. By asking questions and discussing information with you and the school district representative, the mediator helps both parties to have a more complete understanding of each others' concerns and reach an agreement about your child's special education program in a cooperative and timely manner.

DUE PROCESS RIGHTS
IMPARTIAL DUE PROCESS HEARINGS

What is an impartial or "due process" hearing?

An impartial hearing is a **formal** legal process where the disagreements between you and the school district are presented to an Impartial Hearing Officer ("IHO"). An impartial hearing can be held regarding any matter relating to the identification, evaluation or educational placement of your child, or the provision of a free appropriate public education to the student. *8 NYCRR 200.5(j)(1); 8 NYCRR 200.5(k); 8 NYCRR 200.5 (j)(3)(xii); 8 NYCRR 200.5(j)(5).*

When do I request an impartial hearing?

You may make a written request for an impartial hearing any time you disagree with a decision or action by the school district related to your child's special education needs. For example, an impartial hearing might be requested if the district refuses to classify your child, refuses to provide a service or program, or fails to implement your child's Individualized Education Program. You must file your due process complaint within (2) two years of when the action(s) occurred or within (2) two years of when you discovered the action(s) with which you disagree. **Please note that the 2 year time limit may change in coming months. You should check with your local Parent Center or the State Education Department to confirm the current time limit.** It is generally preferable to request an impartial hearing when the action(s) you disagree with occur, or as soon as possible thereafter. *8 NYCRR 200.5(j)(i).*

How do I request an impartial hearing?

A request for an impartial hearing is called a "Due Process Complaint Notice." This Notice must be in writing and mailed to the Board of Education of the school district. In addition, a copy of the Notice must be sent to the New York State Education Department, Office of Vocational and Education Services for Individuals with Disabilities, Room 1624 One Commerce Plaza, Albany, New York, 12234: Attention Impartial Hearing Reporting System. *8 NYCRR 200.5(i)(1)*

A Sample Due Process Complaint Notice developed by the State Education Department is available at http://www.p12.nysed.gov/specialed/publications/policy/dueprocess7105.htm. You may use this form or write your own letter as long as it includes the required information.

What is the required information that must be in my due process complaint notice?

The Due Process Complaint Notice must include the following information:

1. The name of your child.
2. The address of the residence of your child (or in the case of a homeless student, additional contact information and the name of the school the student is attending).
3. The name of the school your child is attending.
4. A description of the problem (why you believe your child is being denied a free and appropriate public education; what did the school district do or not do?)
5. A proposed resolution of the problem (what do you want the district to do to resolve this problem?) *8 NYCRR 200.5 (i)(1)(i)-(v)*

What happens at the impartial hearing?

The impartial hearing is an administrative hearing and is similar to a trial in a court house, but usually less formal. Before the hearing begins there is often an off-the-record (not recorded) discussion led by

DUE PROCESS RIGHTS
IMPARTIAL DUE PROCESS HEARINGS

~~Where does my child go to school if I file a hearing request?~~

Where does my child go to school if I file a hearing request?

During any hearing you have a right to insist that your child's placement and services remain the same as specified in the last IEP ~~that~~ you and the school district agreed on. This right is often called "pendency" or "stay put." This right does not mean that you have a right to have your child stay at a specific placement or location, instead, this means you have a right to have your child attend a program that offers the particular services, setting, and level of support written on your child's IEP. You and the school district can agree in writing to another placement ~~than the one your child is currently attending~~ during the ~~time that you are at a~~ hearing. *8 NYCRR 200.5(m)(1)*

If your child has never been recommended for services and does not have an IEP, special education services can be obtained during the impartial hearing **ONLY** if the school district agrees to provide the services. *8 NYCRR 200.5(j)(1)*

What happens after I file my hearing request?

Within two days of receiving your ~~D~~due ~~P~~process ~~C~~complaint ~~N~~notice (your written request), the school district must appoint an impartial hearing officer (IHO). The IHO may contact you to schedule dates for your hearing. The school district must make arrangements for a "resolution session." *8 NYCRR 200.5(j)(3)(i)(a); 8 NYCRR 200.5(j)(3)(xi)* See *Resolution Session* Section.

Who is the impartial ~~H~~earing ~~O~~fficer?

The impartial hearing officer is a person (usually an attorney) who has been trained and certified by the New York State Education Department to conduct hearings. This ~~hearing officer~~ acts as a judge would in a trial. The hearing officer cannot be an employee of the Department of Education or your school district. The hearing officer cannot have an interest in the outcome of the hearing. *8 NYCRR 200.1 (x)(3)-(4)*

How much does an impartial hearing cost?

Generally, the hearing is conducted at no cost to the parent. However, if you would like to have an advocate or attorney represent you at this hearing you will have to pay any fees that your advocate or attorney charge you for representation. If you win your hearing, you will likely be entitled to reimbursement of the cost of your attorney's fees unless the school district appeals the case and wins. The district must provide you with a list of free or low-cost legal service providers when you request a hearing. You may also refer to the *Resource* Section of this document for a list of advocacy organizations. *8 NYCRR 200.5 (j)(1)(iii)*

DUE PROCESS RIGHTS
RESOLUTION SESSION

What is a resolution session?

A resolution session is a meeting between you and an employee of the school district who has "decision-making authority" to try to settle the issues you raised in your due process complaint notice (hearing request). The meeting is an opportunity to try and resolve your issues so that you do not have to go to a hearing. *8 NYCRR 200.5(j)(2)(i)*

When does the resolution session happen?

A resolution session must happen within 15 days from when the school district received your due process complaint (hearing request). *8 NYCRR 200.5 (j)(2)(i)*

Do I have to attend the resolution session?

Yes, you must attend this meeting unless you and the school district agree, in writing, to waive the resolution session or agree to use the mediation process instead. *8 NYCRR 200.5(j)(2)(iii)*

Can I bring an attorney to the resolution session?

You may bring an attorney or any other person to represent you at the resolution session. If you do not bring an attorney, the school district may **not** have an attorney represent them during this session.

Do I have to settle my complaint at a resolution session?

You do not have to agree to settle your hearing complaint at this session. You *may* agree to resolve a portion of your concerns during this session, in which case you must be certain that any agreement papers you sign say that this settlement is only partial and that you still want to have a hearing on the remaining issues.

If you and the school district agree on some or all of the issues, a resolution agreement is written and signed by you and a representative of the school district. This document is a legally binding contract that is enforceable in a court. You and the school district have (3) three business days to change your minds and withdraw the agreement. *8 NYCRR 200.5(j)(2)(iv)*

What happens if the school district and I cannot agree to a resolution?

If you and the school district cannot agree to resolve your issues within 30 days of when you filed your due process complaint notice, the hearing must begin. In most cases, the impartial hearing officer will contact you and the school district to select a date for your hearing. *8 NYCRR 200.5(j)(2)(v)*

DUE PROCESS RIGHTS
IMPARTIAL DUE PROCESS HEARINGS

Where is the impartial hearing held?

The hearing must be conducted at a time and place that is reasonably convenient for you and your child. The hearing is not open to the public unless you request an open hearing. In areas outside of New York City, the impartial hearing is typically held at the school district's district office or in a conference room at one of the school district's schools. *8 NYCRR 200.5 (j)(3)(x)*

Who attends the ~~impartial~~ hearing?

You and a representative from the school district must attend the hearing. You can represent yourself or bring an advocate or an attorney to represent you at this hearing. You may also bring witnesses, such as a therapist that works with your child, to testify at this hearing. These witnesses may testify by telephone if they are unable to appear in person at the hearing. The school district will likely have its own attorney, even if you do not. The district can have its own witnesses including your child's teachers, providers and school psychologist. In addition to the impartial hearing officer, a court reporter will also be present. A court reporter will transcribe the hearing and provide you with a written transcript of the hearing at no cost to you. Your child also may attend the hearing, but is not required to do so. Parents usually determine whether it is appropriate for the student to attend. *8 NYCRR 200.5(j)(3)(xii)-(xiv)*

What happens at the ~~impartial~~ hearing?

The impartial hearing is an administrative hearing and is similar to a trial in a court house. Before the hearing begins there is often an off-the-record discussion (not recorded) led by the hearing officer to understand the issue(s) you raised and discuss evidence, order of witnesses, timing, ground rules, and other issues. The hearing officer may then summarize these discussions "on-the-record." You will have a right to present evidence about your case, ask your witnesses questions, and question the school district's witnesses. All witnesses must take an oath of truthfulness. *8 NYCRR 200.5(j)(3)(xii); 8 NYCRR 200.5(j)(3)(iv)*

Unless specifically noted by the impartial hearing officer, everything that occurs at the hearing is "on the record" including witness testimony and communications among parties, attorneys and the hearing officer. All documents admitted into evidence are also part of the "Record." Only statements or documents included in the "Record" will be considered by the hearing officer and any officer or judge in a future appeal. *8 NYCRR 200.5(j)(5)(v)*

Can the school district stop me from presenting evidence at my hearing?

Both you and the school district have a right to prohibit the introduction of any evidence that was not shared at least five business days before the hearing. This means if you want to present a document, a witness, an evaluation or any other evidence at your due process hearing you must share it in writing with the school district at least 5 business days before the hearing **even if you know that the school district already has the information.** *8 NYCRR 200.5(J)(3)(xii)*

DUE PROCESS RIGHTS
IMPARTIAL DUE PROCESS HEARINGS

How long does a hearing last?

The hearing may last several hours to several days depending on the number of witnesses and the difficulty of the case.

When will I receive the decision of the impartial hearing officer?

The IHO must provide you with a written decision within 45 days from when the date he or she was appointed as your hearing officer. However, in most cases, the IHO has the authority to grant extensions of up to 30 days during any phase of the process after the time for the resolution session has passed. This means that either you or the school district may ask that the hearing time frame is extended and this would extend the time period that the hearing officer has to render a decision. In making the decision to grant an extension, the hearing officer must consider the following factors:

- the impact on the child's educational interest or well-being which might be ~~occasioned~~ by the delay;
- the need of a party for additional time to prepare or present the party's position at the hearing in accordance with the requirements of due process;
- any financial or other detrimental consequences likely to be suffered by a party in the event of delay; and
- whether there has already been a delay in the proceeding through the actions of one of the parties. *8 NYCRR 200.5(j)(5)(i)-(ii)*

Do I need an attorney for an impartial hearing?

You are not required to have an attorney to represent you at the impartial hearing. However, in most cases, the district will be represented by an attorney even if you are not. If you decide to represent yourself, it is very important that you become familiar with the specific regulations governing impartial hearings. These regulations can be found on the New York State Education Department's website at http://www.p12.nysed.gov/specialed/lawsregs/sect2005.htm. *8 NYCRR 200.5 (i),(j),(k)*

Can I challenge the decision of the hearing officer?

Yes, the impartial hearing officers' decision may be appealed by both you and the school district. An appeal of the IHO decision must be made in writing to the State Review Officer within 30 calendar days after you and the school district receive the decision of the IHO. There are specific procedures and time lines for appealing to the State Review Officer. The State Review Officer will make an independent decision after a complete review of the hearing record within 30 calendar days after receiving the request for review. *8 NYCRR 200.5(k)(1)-(2)*

Where can I find more information about appealing to the State Review Office?

The State Review Officer's website at http://www.sro.nysed.gov. *8 NYCRR 200.5(k)*

DUE PROCESS RIGHTS
NEW YORK STATE EDUCATION DEPARTMENT COMPLAINT

What is a New York State Education Department Complaint?

If you, or any other individual or organization believes that a school district or public agency (such as a Board of Cooperative Educational Services (BOCES), charter school or school operated by a State agency) has violated the education rights of students with disabilities, you may submit a written, signed State complaint to the New York State Education Department (NYSED).

How do I file a complaint with the New York State Education Department?

Your complaint must be made in writing. New York State Education Department has a form that you can use to submit a complaint. This form can be found at http://www.p12.nysed.gov/specialed/formsnotices/samplecomplaint.htm. You do not need to use this form to submit a complaint, but if you ~~decide to~~ write a letter you must provide the required information, as appropriate, ~~as~~ indicated on the sample form. *8 NYCRR 200.5(l)*

Your complaint must include:

- a statement that a school district or public agency has violated a requirement of Part B of IDEA or State law/regulation related to students with disabilities;
- the facts on which the statement is based;
- ~~the~~ signature and contact information ~~of the person filing the complaint~~;
- if alleging violations with respect to a specific child, include:
  - ~~the name and address of the residence of the child~~;
  - the name of the school ~~the child is attending~~;
  - in the case of a homeless child or youth, available contact information for the child and the name of the school ~~the child is attending;~~
  - a description ~~of the nature of the~~ problem ~~of the child~~; and
  - a proposed resolution of the problem ~~to the extent known and available~~.

When must I file my complaint?

The NYS Education Department will not consider complaints about violations that occurred more than one year ago. Therefore you complaint should be filed as soon as possible after the violation ~~but must be filed~~ within one year of the violation. *8 NYCRR 200.5(l)(1)(iii)*

Do I have to notify the school district that I have complained?

Yes, ~~the individual filing the complaint~~ must forward a copy of the complaint to the school district or other public agency serving the child at the time ~~the person files the~~ complaint with NYSED. *8 NYCRR 200.5(l)(1)(v)*

DUE PROCESS RIGHTS
NEW YORK STATE EDUCATION DEPARTMENT COMPLAINT

What happens after I submit my complaint?

After New York State Education Department receives your written complaint it will determine if the alleged violation occurred and issue a written decision of its findings. The school district or public agency must give the procedural safeguards notice to you upon receipt of the first State complaint in a school year. You will be given an opportunity to submit additional information, either orally or in writing, about the allegations in the State complaint. The school district or public agency has the opportunity to respond to the State complaint, including, at a minimum: (a) at the discretion of the school district or public agency, a proposal to resolve the complaint and (b) an opportunity for the school district or public agency and the parent who filed the complaint to voluntarily engage in mediation. *8 NYCRR 200.5(l)(2)*

How long does New York State Education Department have to respond to my complaint?

Within 60 calendar days after a complaint is filed (received), NYSED will issue a written decision to you that addresses each allegation in the complaint and contains findings of fact and conclusions and the reasons for the final decision. NYSED will include, if needed, procedures for effective implementation of its final decision, including technical assistance, negotiations and corrective actions to achieve compliance. *8 NYCRR 200.5(l)(2)(vi)*

NYSED can grant an extension of the 60-calendar-day time limit only if exceptional circumstances exist with respect to a particular State complaint or the parent, individual or organization and school district or other public agency involved voluntarily agree to extend the time to resolve the matter through mediation. *8 NYCRR 200.5(l)(2)(vi)(1)-(2)*

What if I request a due process hearing and file a complaint at the same time?

New York State Education Department will stop investigating your complaint as soon as a due process hearing request is filed until the hearing is concluded. Any issues in the complaint that are not part of the due process hearing must continue to be investigated and resolved. If you receive a decision from the impartial hearing officer that is binding, New York State Education Department must send you a notice stating that they cannot investigate your complaint because the decision of the hearing office is binding. *8 NYCRR 200.5(l)(2)(viii)*

DUE PROCESS RIGHTS
U.S. DEPARTMENT OF EDUCATION COMPLAINT

What is the Office of Civil Rights (OCR)?

The U.S. Department of Education Office of Civil Rights is responsible for resolving complaints of discrimination based on race, color, national origin, sex, age or disability in public and private programs that receive Federal funds from the U.S. Department of Education. These include most schools and colleges and some other entities such as vocational rehabilitation agencies and libraries.

How do I file a complaint with OCR?

There are two ways to file a complaint with OCR. You may contact the New York OCR enforcement office to obtain a complaint form at:

New York Office
Office for Civil Rights
U.S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005-2500
Telephone: 646-428-3900
FAX: 646-428-3843; TDD: 877-521-2172
Email: OCR.NewYork@ed.gov

You can also complete an on-line complaint form ~~which can be found~~ at http://www2.ed.gov/about/offices/list/ocr/complaintintro.html.

What do I need to include in my complaint?

~~You should l~~et OCR know which school you are complaining about, the name of your child ~~who has been discriminated~~ against~~,~~ when the discrimination occurred~~, and you should s~~ign and date the letter. ~~You should also let OCR know how you can reached by phone and letter.~~ If filing on-line, you will still need to provide an original signature by mail, which may be done by printing and mailing a "Consent Form" linked from the bottom of the on-line complaint form.

How soon after the discrimination do I need to file?

You need to file your complaint within 180 calendar days after the discrimination. There are certain limited circumstances that allow OCR to grant a waiver of this time period. If you need more information about your situation, contact the OCR enforcement office responsible for the state in which your school is located.

What if I am already pursuing my complaint with the school district?

OCR will not accept a case that is already being investigated by the New York State Department of Education or through a ~~D~~due ~~P~~process ~~H~~earing. Once the other complaint process is completed, OCR allows you 60 days to file/refile your complaint with OCR. OCR's first step will be to determine whether to defer to the result reached in the other process.

For more information about OCR go to http://www2.ed.gov/about/offices/list/ocr/know.html

SECTION 504 ACCOMMODATION PLANS

What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is a federal law designed to protect the rights of individuals with disabilities in any program or activity that receives federal financial assistance. New York State public schools receive federal financial assistance and must comply with the requirements of Section 504. *34 C.F.R. 104.4* * *See Page 6.*

How can Section 504 help my child in school?

Section 504 is designed to ensure that students with certain disabilities can participate in school programs and activities. Section 504 covers academic instruction, nonacademic settings (e.g., lunchroom and library) and school activities (assemblies, graduation, field trips and after-school programs offered by the school). *34 C.F.R. 104.34*; *34 C.F.R. 104.37*

Even if your child does not have an education-related disability and does not qualify for an Individualized Education Program ("IEP") he or she may still be able to receive accommodations under Section 504. Parents with disabilities may also qualify for Section 504 accommodations so that they can effectively participate in their child's education. *34 C.F.R. 104.33*

What kind of accommodations can be provided under Section 504?

Many accommodations can be provided ~~under Section 504~~ to assist students with disabilities. For example, if a child uses a wheelchair and needs a barrier-free school or physical assistance at school, a "504 plan" or "accommodation plan" can be developed to permit use of an elevator, or assistance carrying school materials. Accommodations may include, but are not limited to, providing a structured learning environment, repeating and simplifying test instructions, using behavioral management techniques, adjusting class schedules, modifying test delivery, and providing assistive technology, medical and transportation services. All services offered under an accommodation plan must be provided at no cost to students or parents. *34 C.F.R. 104.44*

How is Section 504 different from the IDEA?

Section 504's definition of an individual with a disability is broader than that of the IDEA. Section 504 does not require that a student's disability impact his or her ability to learn in a general education setting, instead, Section 504 asks whether the disability interferes with the student's ability to access the offered services at the school. A child who is not considered to have a disability under the IDEA and does not receive special education services may still qualify for accommodations under Section 504. *34 C.F.R. 104.33*

What if my child has an IEP?

If your child has an IEP and you or the school's staff believe that your child needs Section 504 accommodations, the accommodations will be listed on the IEP.

SECTION 504 ACCOMMODATION PLANS

Who is eligible for Section 504 accommodations?

~~For a student t~~o be eligible for accommodations under Section 504, ~~he or she must~~ have a physical or mental impairment that *substantially limits one or more major life activities* ~~as determined by the 504 team. *34 C.F.R. 104.4* The 504 team must review eligibility at least annually.~~ *34 C.F.R. 104.36(d)*

- Physical or ~~M~~ental ~~I~~mpairment: can be any physiological condition that affects a body system, such as the respiratory, musculoskeletal, or neurological systems; any mental or psychological disorders, such as emotional or mental illness and intellectual disabilities; or specific learning disabilities. *34 C.F.R. 104.3(i)*
- Major ~~L~~ife ~~A~~ctivities: means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive and may include other functions. *34 C.F.R. 104.3(i)*
- Substantially limits: means that the impairment (see physical or mental impairment) results in considerable impairment with a permanent or long-term impact. A substantial impairment prevents or severely restricts a person from performing major life activities. Determining whether a child has a substantial impairment is based on a child's disability without any assistive measures (such as a wheelchair, one-to-one assistance, extra time on tests, etc) with the exception of the use of ordinary eyeglasses or contact lenses.

How do I request Section 504 accommodations?

If you believe ~~that~~ your child might need an accommodation, ~~you should~~ submit a request *in writing* for accommodations to your school ~~district~~ principal or administrator. See *Sample Letters* Section.

What happens after I made a request for Section 504 accommodations?

After receiving your request the administrator for your child's school or your school district Section 504 Coordinator will put together a "504 team" and schedule an assessment meeting. The school district will contact you to arrange a mutually agreeable time and place for a meeting, and provide written notice of this meeting. If, after receiving the notice, you do not attend the meeting, the team may decide issues related to accommodations without your participation, ~~b~~ut to implement a plan, the team requires your consent. *34 C.F.R. 104.35 – 104.36*

Who is a part of the 504 Team?

In addition to the parents, the team will include other ~~team~~ members ~~who are~~ familiar with your child's abilities. These team members must be able to interpret any reports or evaluations related to the request for accommodations and be aware of the available accommodations. These team members may include school psychologists, nursing staff, and teachers. The school district may also bring in medical and other professionals if necessary to develop a plan for your child. The team must consider all available relevant information, including reports, evaluations, or diagnoses provided by parents, as well as the child's grades, disciplinary referrals, health information, language surveys, parent information, standardized test scores, and teacher comments. *34 C.F.R 104.35*

What if I disagree with the Section 504 Teams determination?

If you have a complaint about a violation, lack of accessibility, failure to provide agreed-upon services or discriminatory treatment, you may file a complaint with the U.S. Department of Education's Office of Civil Rights. For more information on filing a complaint see http://www2.ed.gov/about/offices/list/ocr/complaintprocess.html.

SECTION 504 VS IDEA

	Section 504	IDEA
Background	Section 504 of the (federal) Rehabilitation Act is a civil rights law that prohibits discrimination based on disability. Its purpose is to eliminate barriers that exclude participation in programs or activities receiving or benefiting from federal financial assistance. Recent updates to the Americans with Disabilities Act have also helped to expand the overall interpretation of Section 504, including in public schools. Qualified individuals are those with a physical or mental impairment that substantially limits one or more major life activities. Major life activities include the operation of bodily functions (such as neurological, respiratory, circulatory, bowel/ bladder, etc.), and activities such as learning, speaking, seeing, walking, hearing, caring for one's self, performing manual tasks. Individuals who have a history of, or who are regarded as having a disability are also covered.	The IDEA (Individuals with Disabilities Education Act) is a federal law that entitles children with disabilities to a Free Appropriate Public Education in the Least Restrictive Environment, designed to meet their individual needs. IDEA establishes minimum standards for special education services and provides funding to state and local educational agencies to provide special education and related services for children who qualify under the eligibility provisions of the act. In NY State, the Individualized Education Program (IEP), developed in CSE/CPSE meetings, is the `cornerstone' of special education services.
Main Differences	Section 504's eligibility requirements are broad and more flexible than special education eligibility. Children with disabilities who are not eligible for special education services under IDEA may be eligible under 504. Section 504 services may receive less monitoring because of fewer specific requirements regulations, and significantly less due process rights for parents. Overall, Section 504 does not apply to a specific age group; it applies for the lifespan of a person with a disability, including students with disabilities. In addition to preventing discrimination in schools, Section 504 also safeguards the rights of a person with a disability in employment, public access to buildings, transportation, and higher education. Section 504 can cause a school or agency to lose its federal financing for non-compliance, but does not provide additional funding for services.	The IDEA has specific eligibility requirements and only covers children who fall under the specific categories defined within the statute. Children who are eligible under the IDEA will automatically be eligible for coverage under Section 504. IDEA provides more specific regulations for providing services to a child with a disability in regard to time frames, parental participation, and formal paperwork requirements. IDEA only applies to children with disabilities up to the age of 21 if they have not earned a high school diploma. The IDEA provides educational agencies with additional federal funding in order to provide children with disabilities with special education and related services to meet a child's individual needs.
Eligibility and Identification of Children with Disabilities	Public schools receiving federal financial assistances must provide children with disabilities with reasonable accommodations comparable to those provided to their peers. Section 504 does not require a school district to seek out identify and evaluate all children suspected of having a disability, however, a school may not discriminate based on a child's disability. Section 504 does not require that a child needs special education in order to qualify for 504 services. Eligibility for coverage under Section 504 is also broader than under IDEA.	Under the IDEA, school districts are required to identify and evaluate all children suspected of having a disability whose family lives within the district. In order to be suspected of having a disability under IDEA a child with a disability means: (1) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), emotional disturbance, orthopedic impairment, autism, traumatic brain injury, other health impairments, or learning disabilities, and (2) who by reason of that disability needs special education and related services.

Chart Provided By:
Syracuse University Parent Advocacy Center

http://www.supac.org

SECTION 504 VS IDEA

	Section 504	IDEA
Evaluations	Under Section 504, the evaluation draws on information from a variety of sources. Decisions about the child evaluation date, and placement options are made by knowledgeable individuals and do not require the written consent from the parents (only that the parents are notified). Section 504 only requires periodic evaluations. However, a re-evaluation is required before a significant change in placement is made. Section 504 does not address the issue involving an independent evaluation at the school's expense.	IDEA requires the child to be fully and comprehensively evaluated by a multidisciplinary team. The school district is required to obtain parental consent before an evaluation (and initial placement in special education.) Re-evaluation of the child is required at least once every three years and may be conducted more frequently. IDEA provides for parents to seek an independent evaluation at the school district's expense if the parents disagree with the district's evaluation.
Responsibility for providing FAPE	Section 504 requires a plan, but not specifically an IEP. Under Section 504, placement is usually in a general education classroom; children can receive specialized instruction, related services, or accommodations within the general education classroom. If needed, Section 504 provides for related services. Under Section 504, "appropriate" means an education comparable to the education provided to those students who do not have disabilities.	IDEA requires an Individualized Education Program (IEP) for each child. Placement may include any combination of special education and general education classrooms, and if required, related services. Examples of related services include: speech and language therapy, occupational therapy, counseling services, psychological services, social services, transportation, etc. Generally speaking, under the IDEA "appropriate" means a program designed to provide educational benefit for a student with a disability.
Procedures for Due Process	Under Section 504, school districts must have an appeal procedure available to parents of students with Section 504 plans. A parent may request a hearing when they disagree with the Section 504 plan, including implementation of the plan. Parental due process rights are much more limited under Section 504. Section 504 is enforced by the United States Department of Education, Office of Civil Rights (OCR). A formal OCR complaint may also be filed when the parent alleges that the school is discriminating against their child based on the disability.	Under IDEA procedures are in place to handle disagreements between parents and school districts. IDEA requires school districts to provide due process rights when there is a disagreement with the identification, evaluation, or placement of the child. Due Process rights include receiving timely notices about CPSE/CSE meetings and decisions after meetings, evaluations, parental consent for evaluations and initial placement in special education, and the procedures for a parent to appeal special education and/or disciplinary decisions. Formal appeal procedures include NYSE Education Department Complaints, Mediation, and Impartial hearings. There are many more specific Parental due process rights in special education than in Section 504, including rights during disciplinary actions.

Chart Provided By:
Syracuse University Parent Advocacy Center

http://www.supac.org

GENERAL SCHOOL DISCIPLINE ISSUES

What are my child's rights when disciplined by a public school?

Before a school can suspend any student from school, the school must first follow certain rules (Due Process). A student with a disability may have more rights when being disciplined than a student without a disability. See *Disciplining Students with Disabilities* Section.

Why might my child be suspended from school?

A school district may suspend a student for violating any part of the school's disciplinary code which is available upon request to the school. This could include misconduct such as:

(l) insubordination (Ex. back talk);
(2) disorderly or disruptive conduct;
(3) conduct which endangers the safety, morals, health or welfare of others; or
(4) violent conduct

"Violent conduct" generally includes:
(l) any acts of violence against teachers, administration, staff or other students while on school property
(2) *possession* of dangerous instruments on school property.
(3) *threatened use* or dangerous instruments, and
(4) the intentional damaging or school district's property or property of another person. *NYS Educ. Law 3214(2)(a)* * *See Page 6.*

Who is allowed to suspend my child?

Only a building principal, superintendent of schools, or a Board of Education may suspend a student. An assistant principal is not authorized to suspend a student out of school. *NYS Educ. Law 3214(3)(a)*

How long can my child be suspended for?

A violation of a student disciplinary code can be punished by suspensions ranging from 1 day to expulsion but generally out-of-school suspensions can be generally thought of in two groups:

(1) suspensions carrying a penalty of 5 days or less
(2) suspensions carrying a penalty of more than 5 days

Is the school district required to do anything before suspending my child out of school for 5 days or less?

Yes, to suspend a student for 5 days or less, the school district must give notice to the student and his/her parent of the charged misconduct. If the student denies the misconduct, the district must give an explanation of the basis for the suspension. The student and his/her parent or guardian also have the right to an informal conference with the school principal if the parent or guardian requests it. At the informal conference the parent must be allowed an opportunity to question both the complaining witness and the principal at the same time. *NYS Educ. Law 3214(3)(b)(1)*

GENERAL SCHOOL DISCIPLINE ISSUES

What kind of "notice" is required?

The school district must contact the parent or guardian by telephone. However, oral communication alone is not sufficient. Notice must be delivered within 24 hours of the decision to suspend, by personal messenger, express mail, or an "equivalent means reasonably calculated to assure receipt." The notice must include a description of the violation. The notice must inform the parent of their right to request an informal conference with the school principal. The notice must be in the parent's dominant language or mode of communication. *NYS Educ. Law 3214(3)(b); 8 NYCRR 100.2(l)(4)*

What must the school district do to suspend my child out of school for more than 5 days?

No student may be suspended for more than five days unless the student and his or her parent or guardian has an opportunity for a fair hearing ("Superintendent's hearing") after being given reasonable notice. *NYS Educ. Law 3214(3)(c)*

How do I know if I got "reasonable notice" prior to my child's fair hearing? What does the school district have to tell me?

In addition to the notice that is required for a suspension of 5 days or less (see above), a school district intending to suspend a student for more than 5 days must also provide the following information to the parent:
(1) the parent has the opportunity for a fair hearing
(2) the parent and student have the right to be represented by a lawyer at the hearing
(3) the student has the right to call and examine witnesses, and present evidence on his/her behalf
(4) a hearing officer or the Superintendent will hear the case
(5) the student's prior disciplinary record may be reviewed at the hearing

What is a fair hearing or a Superintendent's hearing?

The Superintendent for a district will hold a two-part hearing, similar to a trial. First, the Superintendent will determine if the child is guilty of the charged misconduct. Then, if found guilty, the Superintendent will make a determination of punishment. The Superintendent could also appoint a hearing officer to run the hearing instead. If a hearing officer is appointed, his or her report is advisory only. The final decision is then made by the Board of Education or the Superintendent. *NYS Educ. Law 3214(3)(c)*

What are my child's rights during a Superintendent's hearing?

During a Superintendent's hearing: A student has the right to be represented by a lawyer. A student has the right to question and/or call appropriate witnesses and to present evidence on his behalf. (The witnesses that are called should have some direct knowledge of the facts that led to the disciplining charge.) A student's prior disciplinary record may be used against him/her at a hearing when determining the penalty for a disciplinary violation. A student's prior disciplinary record may not be used when determining the guilt of the student. The school district is obligated to keep a record of a Superintendent's hearing. Generally, a tape recording of the hearing is sufficient. *NYS Educ. Law 3214(3)(c)*

GENERAL SCHOOL DISCIPLINE ISSUES

If I disagree with the Superintendent's opinion, is there anything that I can do?

Yes, a student may appeal a Superintendent's determination to the local Board of Education and then to the Commissioner of Education. *NYS Educ. Law 3214(3)(c)* An appeal to the Commissioner of Education must be made within 30 days from the date on which the district decided to suspend the student. *8 NYCRR 275.16* Although there is no specified time limit for appeals to the local Board, the appeal should be done as soon as possible. Commissioner decisions have dismissed appeals when the appeal to the local Board was not timely. For suspensions of five days or less, a student should ask the local school district about the district's policy for appealing such a suspension, which generally will vary from school to school.

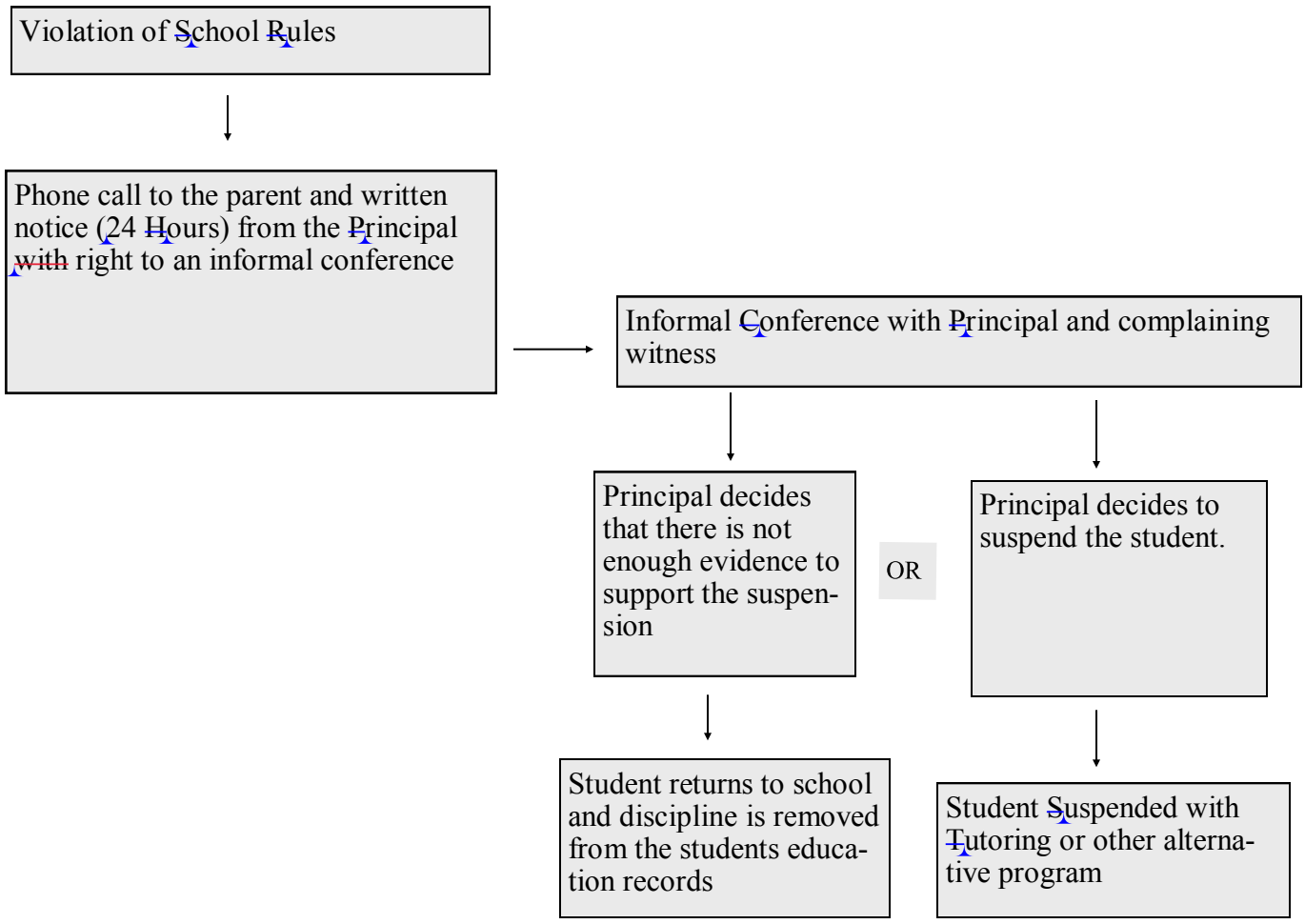
If my child is suspended, does the school have to provide any educational services while he/she is out of school?

Yes, students between the ages of 6 & 16 are considered compulsory school age, and by law must attend school. When such a student is suspended, the district must take immediate steps for alternate instruction no matter the length of the suspension. *NYS Educ. Law 3214(3)(e)*

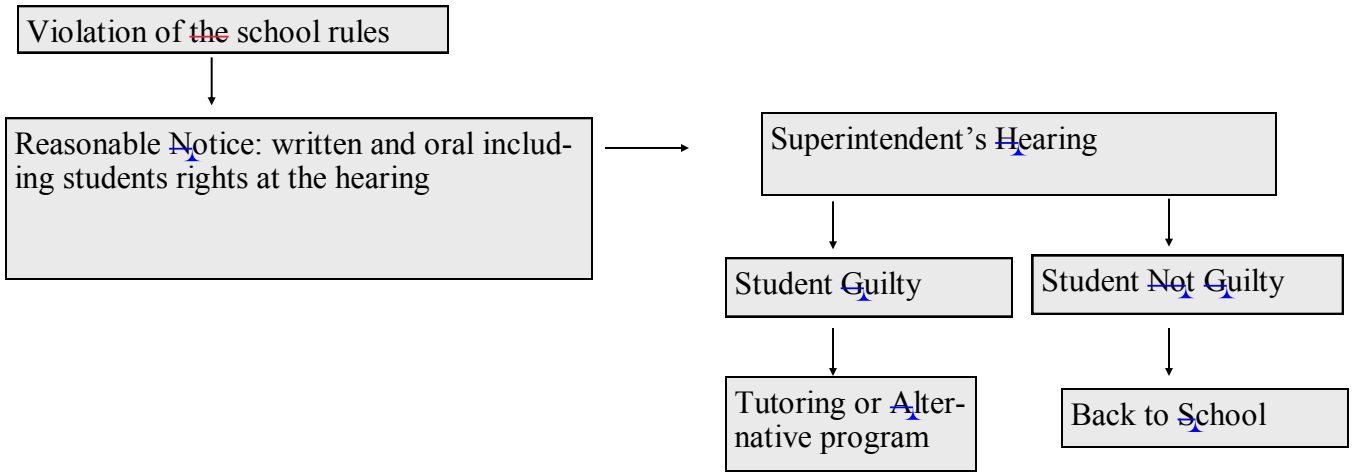
Alternative instruction should be started as soon as is reasonable after a suspension is handed down. Alternative instruction does not need to provide the same amount, or quality of instruction as does the student's regular program, but must be sufficient so the student can complete all his/her required course work. The Education Law suggests that children in elementary school must receive at least 5 hours of instruction (tutoring) per week, while middle school and high school students must receive at least 10 hours of instruction per week. *8 NYCRR 175.21; Appeal of A.L., Jr., 42 Ed. Dept. Rep ____, Decision No. 14,883 (2003).* * See *Page 6.*

GENERAL SCHOOL DISCIPLINE ISSUES

Suspension of 5 days or less



Suspension of 5 days or more



DISCIPLINING STUDENTS WITH DISABILITIES

Can my child be suspended from school even though s/he has a disability?

Yes, any student may be suspended from school for violating the schools disciplinary rules. Students ~~that are~~ identified as having a disability are subject to the same disciplinary procedures and suspensions as all other students, unless the resulting suspension lasts for more than 10 days or it constitutes a "disciplinary change in placement.

Can my child with a disability be suspended for more than 10 days over the course of the school year?

Yes, generally, a child with a disability may be suspended for more than 10 days, and in certain situations (see discussion of IAES~~'~~s below) for periods up to 45 days. However, if a child with a disability is suspended for more than 10 days, then a "change in placement" is said to have occurred. This 10~~-~~day limit does not have to be reached by a single suspension. If your child with a disability has been suspended multiple times, for similar conduct or similar lengths of time, then these suspensions may be added together and if greater than 10 days, could be equal to a change in placement. *8 NYCRR 201.2(e)*

If the school district plans to give a suspension that results in a disciplinary change in placement your child is entitled to a "manifestation determination" once he or she is suspended. *8 NYCRR 201.4(a)*

What does the ~~D~~District have to do if my child's suspension does not result in a disciplinary change of placement?

~~If the suspension does not amount to a disciplinary change in placement~~ the school district is still obligated to provide alternative instruction, usually in the form of tutoring or special programming; ~~h~~however, the school district must only provide the level of instruction that they would otherwise be obligated to provide to non-disabled children. *8 NYCRR 201.10(b)*

The ~~E~~ducation ~~L~~aw suggests ~~that~~ children in elementary school must receive at least 5 hours of instruction (tutoring) per week, while middle school and high school students must receive at least 10 hours of instruction per week. *8 NYCRR 175.21; Appeal of A.L. Jr., 42 Ed. Dept Rep ____, Decision No. 14,883 (2003).*

What does the ~~D~~District have to do if my child's suspension does result in a disciplinary change in placement?

~~When a disciplinary change in placement occurs a~~ school district is to conduct a manifestation determination. Additionally, the district must perform a "functional behavioral assessment" (FBA) and then put in place a behavioral plan ~~that is~~ designed to prevent the behavior which lead to the suspension~~,~~ from happening again. Please see question below for more on ~~M~~anifestation ~~D~~etermination and FBA. *8 NYCRR 201.10(e)*

DISCIPLINING STUDENTS WITH DISABILITIES

What is a manifestation determination?

A manifestation determination is a meeting held to decide if there is a relationship between the student's disability and the behavior that is the subject of the disciplinary action. This meeting should be held immediately, but no longer than 10 days after a student with a disability has been suspended in a way that constitutes a change in placement. This meeting must take place within 10 days of the district's decision to suspend the child for 10 or more days, or for a period of time that otherwise constitutes a disciplinary change in placement.

Generally at a manifestation meeting, two main questions will try to be answered:

1) Was the misconduct caused by or did it have a direct and substantial relationship to the student's disability? OR

2) Was the conduct in question the direct result of the school district's failure to implement the IEP?

Ex.) If a student with Attention Deficit Hyperactivity Disorder (ADHD) was accused of getting into a fistfight at school, the manifestation determination team would consider whether the child's ADHD caused the child to engage in the fistfight. *8 NYCRR 201.4(c)*

Who will take part in a manifestation determination?

Generally, the manifestation team is composed of the following people: a representative of the school district who is knowledgeable about the child, and is trained to interpret information about the child's behavior, the parent or guardian of the child, and any other members of the CSE that the parent or school district think would be helpful at the hearing. Additionally, the parent must receive prior written notice of the manifestation meeting to ensure that the parent has the opportunity to attend. *8 NYCRR 201.4(b)-(c)*

What things will be considered at a manifestation determination?

The manifestation determination team should consider all relevant information that is in the student's file, such as IEPs, past disciplines, and teacher observations, or other information provided by the parent.

What happens if the manifestation team finds that my child's actions were not a result of his/her disability?

If the manifestation team determines that your child's actions were not a result of his/her disability then the child will serve the punishment that was decided at the superintendent's hearing. Essentially, the child will be disciplined just as a non-disabled student would be. In this case the student should immediately begin to receive home tutoring and other services necessary to meeting the goals set forth on the IEP.

DISCIPLINING STUDENTS WITH DISABILITIES

What happens if the team finds that my child's actions were a result of his/her disability?

If the manifestation team decides that your child's actions were a result of his/her disability then a CSE meeting must be called, and a "functional behavioral assessment" (FBA) must be conducted. The results of the FBA will be formed into a "behavioral intervention plan" (BIP). Once the BIP is in place, the child should be returned back to his/her original program, unless you agree to change your student's placement as part of modifications of the IEP. *8 NYCRR 201.4(d)* However, if your child's conduct involved serious bodily injury, weapons, illegal drugs or controlled substances, the Superintendent has the right to remove your child to an Interim Alternative Education Setting (IAES) for up to 45 days even if it was determined that the student's conduct was a manifestation of his/her disability. *8 NYCRR 201.7(e)*

What is a functional behavioral assessment and behavior intervention plan?

A functional behavior assessment (FBA) involves the process of determining why a student engages in problem behaviors that disrupt learning. Additionally, the assessment also considers the relationship of those behaviors to the student's school placement. *8 NYCRR 200.1(r)* This evaluation results in a behavioral intervention plan (BIP). A behavioral intervention plan should at least include:

- a description of your child's problem behaviors
- suggestions as to what causes the problem behavior
- description of strategies that will be used to prevent the behavior in the future. *8 NYCRR 201.2(b)*

Detailed information about FBAs and BIPs can be found at 8 NYCRR 200.22

What happens if my child's actions were a result of the school not following my child's IEP?

If the manifestation team determines that your child's conduct was a result of the school district's failure to follow the IEP or that the current IEP is defective for any reason, then the CSE must take immediate steps to fix the IEP or determine ways to better implement the current IEP. In either case, your child should be placed back into his/her original program as soon as possible. *8 NYCRR 201.4(e)*

Can I appeal the team's determination that my child's actions were not a manifestation of his/her disability?

Yes, a parent can appeal both the decision to place a student in an IAES or a decision that a child's action was not a manifestation of his/her disability. The appeal should be made to the Superintendent of Schools and the Board of Education for your district. If a parent makes such an appeal, the school district must conduct a hearing within 15 days of the request. During the appeal process, your child will remain in the IAES or suspended until the conclusion of the case, unless the suspension would expire prior to that time anyway. *8 NYCRR 201.11(c),(e)*

DISCIPLINING STUDENTS WITH DISABILITIES

Summary of Special Education Discipline

Violation of School Rules

Various procedural safeguards including written notice, Superintendent's hearing, resulting in a suspension for **10 days or more**.

Manifestation Team Meeting

Yes, manifestation
The behavior was directly and substantially related to the disability or caused by deficit in IEP

No manifestation

CSE Meeting

BUT, if drugs, weapons, or serious bodily injury is involved.

The student may suspended from school with home tutoring and other related services to meet the goals on the student's IEP and the general education curriculum.

Interim Alternative Educational Setting (IAES) for up to 45 days. THE CSE DECIDES THE PLACEMENT OF THE IAES.

Functional Behavioral Assessment and Behavioral Support Plan OR Agreement on modification of deficit IEP.

SAMPLE LETTERS

Sample Letter Requesting Special Education Evaluations

LETTER REQUESTING INITIAL SPECIAL EDUCATION EVALUATIONS

Date:

Parent Name
Address
Phone Number
E-Mail address

(Name of Special Education Director)
(Name of School District)
(Address of School)

Dear (Name of Special Education Director):

My child, (child's name) (date of birth) attends (school name). I believe that s/he might have unidentified disabilities. The following difficulties support my concern:

(List your observations – here are some examples)
• S/he does not respond normally to sensory input;
• S/he shows no desire to explore her environment through touch;
• S/he has difficulty holding a pen or pencil with a mature grasp;
• S/he has difficulty when applying decoding skills when writing; and
• S/he has poor short-term memory.

Please evaluate (child's name) under the Individuals with Disabilities Education Act [IDEA] and Section 504 of the Rehabilitation Act to see if s/he has a disability and if related services are necessary. Please consider this letter my consent to evaluate (child's name) for special education needs and services. Obviously (child's name), the school district and I will feel much better once we understand what is going on with (child's name). I would appreciate it if you would schedule the evaluations as quickly as possible. Please call me at home to arrange ~~times and places.~~ I will need my copies of all written evaluations at least three school days before the IEP Team meeting. I will advise you of my IEP Team meeting availability dates ~~by~~ separate letter.

Thank you for giving (child's name) evaluations your immediate attention. I will work with you to address and achieve (child's name) educational goals.

Sincerely,

(Your name)

Sample Letter Provided by Family Resource Network, Inc.
Reminder: ~~A parent~~ should keep a copy of the signed letter with the date that the letter was provided to the school.

SAMPLE LETTERS

Sample Letter Requesting Educational Records

LETTER REQUESTING RECORDS

Date:

Parent ~~N~~ame
Address
Phone ~~N~~umber
E-~~M~~ail address

Name of CSE ~~C~~hairperson/~~S~~pecial ~~E~~ducation ~~D~~irector
Name of ~~S~~chool ~~D~~istrict
~~Address of School~~
~~City, State, Zip Code~~

Dear (~~*Insert*~~ CSE ~~C~~hairperson/~~D~~irector of ~~S~~pecial ~~S~~ervices ~~N~~ame):

I am the parent of (~~C~~hild's ~~N~~ame), date of birth (00/00/0000) and who is a student ~~in the (N~~ame of School) in the (__) grade.

I am requesting to review my child's educational records prior to our next CSE meeting. It is my understanding that upon my request, the school district must make my child's records available to me within a reasonable time~~;~~ I understand that you must make these records available to me no more than 45 calendar days from the date of receipt of this letter.

It is my understanding the school district may charge me a reasonable cost for copies of my child's records, unless the cost would prevent me from inspecting or reviewing my child's records. Until I have reviewed the records and see how many copies I will need I cannot say yet if the cost would be a financial hardship.

Should you have any questions about this request, please contact me at the above numbers.

Thank you for your immediate attention to this request.

Sincerely,

Signature

(Your Name)

cc: (List of other people to whom you are sending a copy of this letter)

Reminder: ~~A parent~~ should keep a copy of the signed letter with the date that the letter was provided to the school.

SAMPLE LETTERS

Sample Letter Requesting Re-Evaluation

LETTER REQUESTING RE-EVALUATION

Date:

Parent Name
Address
Phone Number
E-Mail address

Name of CSE Chairperson/Special Education Director
Name of School District
Address ~~of School~~
~~City, State, Zip Code~~

Dear (~~*Insert*~~ CSE Chairperson/Director of Special Services Name):

I am the parent of (Child's Name), date of birth (XX/XX/XXXX) and who is a student in the (X) grade at (Name of School) ~~school~~.

My child has not been doing well in school and I have discussed this in our team. I also discussed these concerns at a CSE meeting and no changes were made to my child's program. In order to understand what changes may be needed in my child's special education program or services, I am requesting that (Child's Name) receive a complete reevaluation.

It is my understanding the school district must complete this reevaluation within 60 days of receipt of my signed consent; therefore please send me the "permission to evaluate form" immediately.

I am requesting copies of all written evaluations at least three to five days schools days before the CSE meeting so ~~that~~ I may review them. I am also requesting that you let me know in writing when you will start testing.

I look forward to working with the CSE to review the results of this reevaluation so that we may have a better understanding of my child's educational needs. Should you have any questions about this request, please contact me at the above numbers.

Sincerely,

Signature
(Your Name)

cc:(List of other people to whom you are sending a copy of this letter)

Reminder: ~~A parent~~ should keep a copy of the signed letter with the date that the letter was provided to the school.

SAMPLE LETTERS

Sample Letter Requesting Independent Educational Evaluation

LETTER REQUESTING INDEPENDENT EDUCATIONAL EVALUTION

Date:

Parent Name
Address
Phone Number
E-Mail address

Name of CSE Chairperson/Special Education Director
Name of School District
Address ~~of School~~
~~City, State, Zip Code~~

Dear (~~*Insert*~~ CSE Chairperson/Director of Special Services Name):

I am the parent of (~~Your~~ Child's Name), date of birth (XX/XX/XXXX) and who is a student in the (X) grade at (Name of School).

I am requesting an Independent Education Evaluation because I disagree with the evaluation the district has conducted. I do not feel the district's evaluation gave an accurate measure of my child's performance and I am looking to obtain a valid and reliable evaluation ~~that is needed~~ to plan my child's educational program.

It is my understanding that the school district has two options: to pay for the Independent Education Evaluation or ~~to~~ initiate an impartial hearing so ~~that~~ the district can demonstrate that its evaluation is appropriate without unnecessary delay. It is furthermore my understanding that if the district agrees to pay for the IEE ~~then~~ the school district must provide me with a list of Independent Evaluators.

Upon receipt of this request, please inform me in writing within seven days whether you intend to honor my request or you intend to initiate a hearing on this issue. Should you have any questions about this request, please contact me at the above numbers.

I look forward to hearing from you soon.

Sincerely,
Signature
(Your Name)

cc: (List of other people to whom you are sending a copy of this letter)

Reminder: ~~A parent~~ should keep a copy of the signed letter with the date that the letter was provided to the school.

SAMPLE LETTERS

Sample Letter Requesting Committee on Special Education Meeting

LETTER REQUESTING CSE/ IEP TEAM MEETING

Date:

Parent Name
Address
Phone Number
E-Mail address

Name of CSE Chairperson/Special Education Director
Name of School District
Address ~~of School~~
~~City, State, Zip Code~~

Dear (~~*Insert*~~ CSE Chairperson/Director of Special Services Name):

My child, (child's name) (date of birth) attends (school name). I am making a formal request that a CSE/ IEP Team meeting be scheduled for the following reasons: (*describe the issues you would like to discuss, such as your child's program, placement or progress*). I would like the following people to be present at the this meeting as I have not had communication with them since our last CSE/IEP Team meeting.

OR

My child, (child's name) (date of birth) attends (school name). ~~I felt the need to let you know I do~~ appreciate your time at our last CSE meeting on (~~*Add date*~~); however there was not enough time to discuss all my child's educational needs. I am requesting a CSE meeting ~~so that I do not feel rushed while working~~ on ~~our son~~'s IEP. I believe the issues we have to discuss will require at least (*one*) hour.

AND

It is my understanding that a CSE/IEP Team meeting must take place within a reasonable amount of time which in most case is 30 days. Please contact me to schedule a CSE/IEP Team meeting at a mutually agreeable time and place.

I appreciate your willingness to meet with me to discuss my concerns. The following dates and times (*provide a list of dates and times*) would be most convenient for me: _____. Should you have any questions about this request, please contact me at the above numbers. I look forward to hearing from you soon.

Sincerely,
Signature
(Your Name)

cc: (List of other people to whom you are sending a copy of this letter)

Reminder: ~~A parent~~ should keep a copy of the signed letter with the date that the letter was provided to the school.

SAMPLE LETTERS

Sample Letter Requesting Prior Written Notice

LETTER REQUESTING PRIOR WRITTEN NOTICE

Dear _____,

As the minutes of (name of child) CSE meeting on (date) of this year should show, I requested written Prior Notice of the district's refusal to provide _____.

As stated in part 200.5 (Due process procedures) of the Regulations of the Commissioner of Education, written prior notice of a change in services must be given in a reasonable time before the school district proposes to or refuses to initiate or change the identification, evaluation, educational placement of the student or the provision of a free appropriate public education.

This notice must include:

(i) a description of the action proposed or refused by the district;
(ii) an explanation of why the district proposes or refuses to take the action;
(iii) a description of any other options that the district considered and the reasons why those options were rejected;
(iv) a description of each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;
(v) a description of any other factors that are relevant to the district's proposal or refusal;
(vi) a statement that the parents of a student with a disability have protection under the procedural safeguards of this part, and the means by which a copy of a description of the procedural; safeguards can be obtained; and
(vii) sources for parents to contact to obtain assistance in understanding the provisions in this part.

I believe that the district has had ample time to respond to my request, and would appreciate hearing from your office on this matter within 48 hours from receipt of this communication.

Thank you,

_____

Sample Letter Provided by Family Resource Network, Inc.

SAMPLE LETTERS

Other sample letters available at:

The Family Resource Network
46 Oneida Street
Oneonta, NY 13820
(607) 432-0001
1-800-305-8814
parentcenterinfo@familyrn.org
http://www.familyrn.org/resources/sample_letters.html

Notes

RESOURCES

New York State Department of Education
Policy Guides and Documents Issued by the New York State Education Department

The New York State Department of Education develops policy and guidance documents to assist school districts and families in understanding special education services and supports. Below is a list of some of these policy and guidance documents. A comprehensive list of documents can be found at http://www.p12.nysed.gov/specialed/publications/topics.htm

Individualized Education Programs (IEPs)

Guide to Quality IEP Development and Implementation (December 2010)
http://www.p12.nysed.gov/specialed/publications/iepguidance.htm
Extremely useful guide to understanding all the parts of an IEP and WHY present levels, goals, and other parts are needed. Also describes required members of CPSE and CSE meetings and their roles. This is a MUST for every parent of a child with an IEP.

Special Education Services and Accommodations

Continuum of Special Education Services (April 2008): http://www.p12.nysed.gov/specialed/publications/policy/schoolagecontinuum.html
Excellent descriptions of the wide array of special education services, supports and placements in easy to understand question and answer format.

Test Access and Accommodations for Students with Disabilities (May 2006)
http://www.p12.nysed.gov/specialed/publications/policy/testaccess/policyguide.htm
Describes state testing, accommodations available to students with disabilities and the decision making procedure to determine appropriate accommodations.

Testing Accommodations for Former Limited English Proficient/English Language Learners (Oct 2008)
http://www.p12.nysed.gov/apda/ac-general/archive/flep-accommodations10-08.pdf
Describes testing accommodations that may be particularly appropriate for students who may be learning English.

Extended School Year Programs and Services - Questions and Answers (June 2012)
http://www.p12.nysed.gov/specialed/applications/2012ESY-qa.htm
This document explains eligibility requirements and the types of special education services related to Extended School Year (summer) Services.

Transition from School to Post School for Students with Disabilities
http://www.p12.nysed.gov/specialed/transition/
This link will bring you to a web page exclusively devoted to transition-related laws, policies, work/career training information and parent/student information.

RESOURCES

Policy Guides and Documents Issued by the New York State Education Department Continued

Behavior Issues at School

Functional Behavior Assessments (May 2011)
http://www.p12.nysed.gov/specialed/publications/topicalbriefs/FBA.htm
Whenever a student's behavior interferes with his or her learning or the learning of others, the CSE must consider whether positive behavioral strategies are appropriate. Those strategies should be based on a Functional Behavior Assessment (FBA) and this policy brief describes when and how that assessment is conducted.

Behavior Intervention Plans (May 2011)
http://www.p12.nysed.gov/specialed/publications/topicalbriefs/BIP.htm
This policy brief describes the components of a behavior intervention plan based on a functional behavior assessment.

Response to Intervention (RtI)

A Parent's Guide to Response to Intervention (RTI) (June 2010)
http://www.p12.nysed.gov/specialed/RTI/parent.htm
RtI is a school process used to determine if a student is responding to classroom instruction and progressing as expected. Some schools may try RtI strategies before determining if a student has a disability that would make them eligible for special education. This guide describes RtI and parent and student rights during that process.

RESOURCES

New York State Department of Education
Special Education Quality Assurance Offices (NYS Education Department)

NYSED Special Education Quality Assurance oversees preschool and school-age special education services through a quality assurance review process that emphasizes attainment of positive results for student with disabilities. Regional Associates, located in several regional offices across New York State, coordinate the review process and also provide technical assistance to parents, school district personnel, and private providers. Regional Associates in these offices work with local school districts, parents, and other stakeholders to assist them in both understanding the complex issues related to special education services and resolving concerns that may arise.

Albany Location
NYS Education Department
Special Education Quality Assurance
89 Washington Avenue, Room 309 EB
Albany NY 12234
(518) 402-3589
(518) 486-7693 (fax)

Eastern Regional Office
Special Education Quality Assurance
89 Washington Avenue, Room 309 ED
Albany NY 12234
(518) 486-6366
(518) 486-7693 (fax)

Central Regional Office
Special Education Quality Assurance
Hughes State Office Building
333 East Washington Street, Suite 527
Syracuse NY 13202
(315) 428-3287
(315) 428-3286 (fax)

New York City Region
Special Education Quality Assurance
Room 545
55 Hanson Place
Brooklyn NY 11217-1580
(718) 722-4544
(718) 722-2032 (fax)

Hudson Valley Regional Office
Special Education Quality Assurance
One Gateway Plaza, 3rd Floor
Portchester, NY 10573
(914) 934-8270
(914) 934-7607 (fax)

Long Island Region
Perry B. Duryea, Jr. State Office Building
Room 2A-5
250 Veterans Memorial Highway
(631) 884-8530
(631) 884-8540 (fax)

Western New York Region
Special Education Quality Assurance
2A Richmond Avenue
Batavia NY 14020
(585) 344-2002
(585) 344-2422 (fax)

RESOURCES

New York State Special Education Parent Centers

There are 12 Special Education Parent Centers across New York State. Other stakeholders to advocate and actively participate in their children's education program.

The Long Island Parent and Family Technical Assistance Center/Just Kids
Center for Community Inclusion
Brentwood Campus, Long Island University
100 Second Avenue
Brentwood, NY 11717
(516) 589-4562
Region served: Long Island

Parent Network of Western New York
1000 Main St
Buffalo, NY 14202
(716) 332-4170 Main number
(716) 332-4175 Information and referral
Region served: Western Region

Resources for Children with Special Needs, Inc.
NYC Parent Partnership
116 E. 16th Street, 5th floor
New York, New York 10003
(212) 677-4660 (English)
(212) 677-4668 (Spanish)
Region served: NYC – Brooklyn, Manhattan, Bronx, Queens

Parent to Parent NY, Inc.
Staten Island Special Education Parent Center
1050 Forest Hill Road
Staten Island, NY 10314
(718) 494-4872
Region served: NYC - Staten Island

The Advocacy Center, Inc.
590 South Ave
Rochester, NY 14620
(800) 650-4967
(585) 546-1700
Region served: Mid-West Region

The Westchester Institute for Human Development
Cedarwood Hall, Room A106
Valhalla, NY 10595
914-493-7665
914-493-8118 Fax
Region served: Hudson Valley Region

Wildwood Programs Inc.
Parent Network of the Capital Region
1190 Troy Schenectady Road
Latham, NY 12110
(518) 640-3320
(518) 640-3401 Fax
Region served: Eastern Region

Southern Tier Independence Center, Inc.
135 Frederick St
Binghamton, NY 13904
(607) 724-2111
Region served: Southern Tier Region

Syracuse University Parent Advocacy Center
Center on Human Policy, Law, and Disability Studies
Syracuse University
805 S. Crouse Avenue
Room 110 Hoople
Syracuse, NY 13244
315-443-4336
877-824-9555 (Toll Free)
Region Served: Mid-State Region

RESOURCES

New York State Early Childhood Direction Centers

The Early Childhood Direction Centers (ECDCs) provide information about programs and services for young child, age birth through five, who have physical, mental or emotional disabilities and help families obtain services for their children.

Albany, Clinton, Columbia, Essex, Franklin, Fulton, Greene, Hamilton, Lewis, St. Lawrence, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, Washington Counties

Early Childhood Direction Center
Capital Region BOCES
900 Watervliet Shaker Road
Albany, NY 12205
(518) 464-6356
http://www.capitalregionboces.org/ProgramsServices/SchoolSupportServices/ECDC.cfm

Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida Counties

Early Childhood Direction Center
Madison-Oneida BOCES
4937 Spring Road
Tilden Hill Triplexus
Verona, NY 13478
(315) 361-5654
http://www.moboces.org/ecdc

Putnam, Rockland, Westchester Counties

Early Childhood Direction Center
Westchester Institute for Human Development
Cedarwood Hall, Room A 106
Vahalla, NY 10595
(914) 493-1709
http://community.wihd.org/ecdc

Dutchess, Orange, Sullivan, Ulster Counties

Early Childhood Direction Center
Independent Living, Inc.
5 Washington Terrace
Newburgh, NY 12550
(845) 565-1162 ext. 209
http://myindependentliving.org/EN-Services/EarlyChildhoodDirectionCenter

Allegheny, Broome, Chemung, Chenango, Delaware, Greene, Madison, Otsego, Schoharie, Schuyler, Steuben, Tioga and Tompkins Counties

Early Childhood Direction Center
Southern Tier Independence Center
135 E. Frederick Street
Binghamton, NY 13904
(607) 724-2111
http://stic-cil.org/services.html#ecdc

Cayuga, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego Counties

Early Childhood Direction Center
Syracuse University
805 So. Crouse Avenue
Syracuse, N Y 13244-2280
(315) 443-4444 Toll Free: 1-800-962-5488
http://ecdc.syr.edu/

Cayuga, Genesee, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne, Wyoming and Yates Counties; Rochester City

Regional Early Childhood Direction Center
15 Linden Park
Rochester, NY 14625
(585) 249-7817 Toll free: 1-800-462-4344
http://www.monroe.edu/supportservices.cfm
(on left under Navigation, go to Regional Early Childhood Direction Center)

Allegany, Cattraraugus, Chautauqua, Erie, Niagara, Orleans Counties

Early Childhood Direction Center
People Inc. Building
3131 Sheridan Drive
Amherst, NY 14226
(716) 880-3875 or 1(800) 462-7653
www.wchob.org/ecdc/

RESOURCES

Early Childhood Direction Centers Continued

Bronx (NYC)

Early Childhood Direction Center
AHRC New York City
2488 Grand Concourse
Room 405
Bronx, NY 10458
(718) 584-0658
http://www.ahrcnyc.org/services/services.htm#bronx

Brooklyn (NYC)

Early Childhood Direction Center
UCP of NYC, Inc, SHARE Center
160 Lawrence Avenue
Brooklyn, NY 11230
(718) 437-3794
http://www.ucpnyc.org/info/agency/youthbrooklyn.cfm

Manhattan (NYC)

Early Childhood Direction Center
New York Presbyterian Hospital
435 East 70th Street, Suite 2A
New York, NY 10021
Phone: (212) 746-6175
Website: http://nyp.org/socialwork/cli_pro/
(under Pediatric Specialty Program, go to Early Childhood Direction Center)

Staten Island (NYC)

Early Childhood Direction Center
Staten Island University Hospital
242 Mason Avenue, 1st Floor
Staten Island, NY 10305
Phone: (718) 226-6670
Website: http://www.siuh.edu/childhood.html

Queens (NYC)

Early Childhood Direction Center
Queens Center for Progress
82-25 164th Street
Jamaica, NY 11432
Phone: (718) 374-0002 Ext. 465
Website: http://ecdc-queens.webs.com

Nassau and Suffolk Counties

Early Childhood Direction Center
Variety Child Learning Center
47 Humphrey Drive
Syosset, NY 11791-4908
Phone: (516) 364-8580
Website: http://www.vclc.org/ecdc/

RESOURCES

Protection & Advocacy and Client Assistance Program (P&A/CAP) System

In June, 2013, Disability Advocates, Inc. was designated by Governor Andrew Cuomo as the Protection & Advocacy (P&A) System for persons with disabilities in New York. We are now named Disability Rights New York (DRNY). As the P&A for New York, we advocate for the civil and legal rights for New Yorkers with disabilities.

DISABILITY RIGHTS NEW YORK
Phone: (518) 432-7861
TTY: (518) 512-3448
Toll Free: (800) 993-8982
Fax: (518) 427-6561
Email: mail@DisabilityRightsNY.org
Website: www.DisabilityRightsNY.org

New York residents with disabilities can contact DRNY for assistance with problems directly related to their disabilities. DRNY administers the following grant-based programs:

PADD - Protection and Advocacy for Individuals with Developmental Disabilities

PAIMI - Protection and Advocacy for Individuals with Mental Illness

PAIR - Protection and Advocacy for Individual Rights

PAAT - Protection and Advocacy for Assistive Technology

CAP - Client Assistance Program

PAVA - Protection and Advocacy for Voter Access

PATBI - Protection and Advocacy for Individuals with Traumatic Brain Injuries

PABSS - Protection and Advocacy for Beneficiaries of Social Security

DRNY investigates complaints and provides direct assistance to callers with disability-related issues under the terms of the grants listed above and our annual goals and priorities.

RESOURCES

Parent to Parent of NYS

Parent to Parent of NYS is a statewide not-for-profit organization with a mission to support and connect families of individuals with special needs. There are 11 offices located across NY, staffed by Regional Coordinators, who are parents or close relatives of individuals with special needs.

Statewide Office
Parent to Parent of New York State
500 Balltown Road
Schenectady, NY 12304
(518) 381-4350
1-800-305-8817
Fax: (518) 393-9607

Capital District Office
500 Balltown Rd.
Schenectady, NY 12304
518-381-4350 or 1-800-305-8817

Finger Lakes
c/o FL DDRO Office
2165 Brighton-Henrietta Townline Road
Room #124
Rochester, NY 14623
1-800-650-4967, 585-546-1700 ext. 242

Hudson Valley Office
The Family Connection
WIHD / Cedarwood Hall, Room 335
Valhalla, NY 10595
1-800-305-8816
914-493-2635

Long Island
415-A Oser Ave.
Hauppauge, NY 11788
1-800-559-1729, 631-434-6196

North Country
P.O Box 1296
Tupper Lake, NY 12986
1-866-727-6970, 518-359-3006

New York City
25 Beaver Street, 4th FL
New York, NY 10004
1-800-405-8818, 646-766-3459

Staten Island
c/o IBR, 1050 Forest Hill Road, #108
Staten Island, NY 10314
1-800-866-1068, 718-494-3462

North Central Office (Syracuse area)
Exceptional Family Resources
1820 Lemoyne Ave
Syracuse, NY 13208
(315) 478-1462 Ext. 322
1-800-305-8815

South Central NY-Oneonta
213 Tracy Creek Road
Vestal NY 13850
1-607-786-9063

Southern Tier
P.O. Box 205, 210-12th St. #210
Watkins Glen, NY 14891
1-800-971-1588, 607-535-2802

Western NY
1200 East & West Road
Building 16, Room 1-131
West Seneca, New York 14224
1-800-305-8813, 716-517-3448

RESOURCES

New York State Dispute Resolution Association

1450 Western Avenue Suite 101
Albany, ~~New York~~ 12203
(518) 687-2240
Email: nysdra@nysdra.org

The New York State Dispute Resolution Association (NYSDRA) is a not-for-profit association, serving the needs of the dispute resolution field and of consumers seeking quality conflict management. Our members include Community Dispute Resolution Centers (CDRC) who serve each county in New York State.

Upper Hudson Region

Mediation Matters
www.mediationmatters.org

Albany County: (518) 446-0356
Rensselaer County: (518) 446-0356
Saratoga County: (518) 584-6361
Washington County: (518) 584-6361
Warren County: (518) 584-6361

The Center for Community Justice
www.thecenterforcommunityjustice.org

Schenectady County: (518) 346-1281

Common Ground Dispute Resolution, Inc.
www.commongroundinc.org

Columbia County: (518) 943-0523
Greene County: (518) 943-0523

Tri-County Mediation
www.catholiccharitiesfmc.org/tricountymediation.htm

Fulton County: (518) 842-4202 x 3133
Montgomery County: (518) 842-4202 x 3133
Schoharie County: (518) 842-4202 x 3133

North Country Region

Rural Law Center of New York
www.rurallawcenter.org

Clinton County: (518) 324-5144
Hamilton County: (518) 548-3000
Franklin County: (518) 358-2255
Essex County: (518) 523-0102
St. Lawrence County: (315) 769-2500

Lower Hudson Region

Dispute Resolution Center
www.drcservices.org

Orange County: (845) 294-8082
Putnam County: (845) 225-9555
Ulster County: (845) 331-6136
Sullivan County: (845) 794-3377

Mediation Center of Dutchess County, Inc.
www.dutchessmediation.org

Dutchess County: (845) 471-7213

Westchester & Rockland Mediation Centers of CLUSTER, Inc.
http://clusterinc.org/

Westchester County: (914) 963-6440
Rockland County: (845) 512-8730

Central/Southern Tier Region

Dispute Resolution Center of Chenango, Delaware & Otsego Counties
www.charitiesccdo.org

Chenango County: (607) 432-0061
Otsego County: (607) 432-0061
Delaware County: (607) 432-0061

ACCORD, A Center for Dispute Resolution, Inc.
www.accordny.com

Broome County: (607) 724-5153
Tioga County: (607) 724-5153

RESOURCES

Community Dispute Resolution Centers Continued

Central/ Southern Tier Region

Dispute Resolution Center of Herkimer County
www.disputeresolutioncenterofhc.org

Herkimer County: (315) 894-9917

Resolution Center of Jefferson & Lewis Counties, Inc.
www.resolution-center.net

Jefferson County: (315) 785-0333
Lewis County: (315) 785-0333

Center for Dispute Settlement
www.cdsadr.org

Cayuga County: (315) 252-4260
Livingston County: (585) 243 –7007
Monroe County: (585) 546-5110
Ontario County: (585) 396-0840
Seneca County: (315) 252-4260
Stueben County: (607) 776-6976
Wayne County: (315) 331-2781
Yates County: (585) 396-0840

Oneida County
www.thepeacemakerprogram.org

Oneida County: (315) 724-1718

New Justice Conflict Resolution Services, Inc.
www.newjusticeservices.org

Cortland County: (607) 753-6952
Madison County: (315) 361-4438
Onondaga County: (315) 471-4676
Oswego County: (315) 343-8370

Western Region

Child & Family Services, Inc., Center for Resolution and Justice
www.childfamilybny.org

Allegany County: (716) 483-7774
Cattaraugus County: (716) 483-7774
Chautauqua County: (716) 483-7774
Erie County: (716) 362-2323
Genesee County: (585) 344-2580 x 2440
Niagara County: (716) 433-3283
Orleans County: (716) 433-3283
Wyoming County: (716) 362-2323

Long Island

EAC Mediation Centers, Mediation Alternative Project
www.eacinc.org

Nassau County: (516) 539-0150
Suffolk County: (631) 265-0490

New York City

New York Peace Institute
http://nypeace.org/

Kings County: (718) 834-6671
New York County: (212) 577-1740

IMCR Dispute Resolution Center
www.imcr.org/

Bronx County: (718) 585-1190

Community Mediation Services
http://mediatenyc.org/

Queens County: (718) 523-6868

New York Center for Interpersonal Development
www.nycid.org

Richmond County: (718) 815-4557

RESOURCES

Technology-Related Assistance for Individuals with Disabilities Program

TRAID's goal is to increase the access and acquisition of assistive technology in the four domain areas of education, employment, community living and information technology/telecommunications. Through the 12 Regional TRAID Centers (RTCs), staff provide information, training, device demonstration and loan, technical assistance and advocacy on how to obtain and use assistive technology services and devices.

Nassau/Suffolk TRAID Centers
Long Island Communities of Practice
P.O. Box 5013
Montauk, NY 11954
(631) 668-4858 (voice/TTY)
Serves: Nassau, Suffolk

Central New York TRAID Center
ENABLE
1603 Court Street
Syracuse, NY 13208
(315) 410-3336 (voice)
(315) 455-1794 (TTY)
Serves: Oswego, Onondaga, Cayuga, Madison, Cortland, Tompkins

Adirondack Regional Technology Center
SUNY Plattsburgh
Alzheimer's Disease Assistance Center
101 Broad Street, Sibley 227
Plattsburgh, NY 12901
(800) 388-0199 (voice/TTY)
Serves: St. Lawrence, Franklin, Clinton, Essex

Lower Hudson Valley Technology Center
Westchester Institute for Human Development
Cedearwood Hall
Alhalla, NY 10595
(914) 493-1317 (voice)
(914) 493-1204
Serves: Rockland, Westchester, Putnam

Genesee-Finger Lakes TRAID Center
Regional Center for Independent Living
497 State Street
Rochester, NY 14608
(585) 442-6470 (voice/TTY)
Serves: Monroe, Wayne, Livingston, Ontario, Yates, Seneca

AIM Independent Living Center
271 East First Street
Corning, NY 14830
(607) 962-8225 x22 (voice/TTY)
Serves: Steuben, Schuyler, Chemung, Cattaraugus, Allegany, Chautauqua

Center for Assistive Technology
3108 Main Street
Buffalo, NY 14214
(716) 836-1350 (voice/TTY)
Serves: Niagara, Erie, Orleans, Genesee, Wyoming

Capital Region TRAID Center
Southern Adirondack ILC (SAIL)
71 Glenwood Avenue
Queensbury, NY 12804
(518) 792-3537 (voice)
(518) 792-0505 (TTY)
Serves: Warren, Washington, Saratoga, Albany, Greene, Schenectady, Rensselaer, Schoharie, Columbia

Southern Tier Independence Center (STIC)
135 East Frederick Street
Binghamton, NY 13904
(607) 724-2111 (voice/TTY)
Serves: Tioga, Broome, Chenango, Otsego, Delaware

Hudson Valley Regional TRAID Center
UCP of Ulster County
250 Tuytenbridge Road, P.O. Box 1488
Kingston, NY 12402
(845) 336-7235 x129 (voice)
(845) 336-4055 (TTY)
Serves: Ulster, Sullivan, Orange, Dutchess

Technology Resources Center
United Cerebral Palsy of New York City
120 East 23rd Street, 5th Floor
New York, NY 10010
(212) 979-9700 x279 (voice)
(212) 253-2690 (TTY)
Serves: Kings, Richmond, Queens, Manhattan, Bronx

TRAID Center
Upstate Cerebral Palsy
3390 Brooks Lane
Chadwick, NY 13319
(315) 737-0912 x241 (voice/TTY)
Serves: Jefferson, Lewis, Oneida, Hamilton, Herkimer, Fulton, Montgomery

RESOURCES

Families Together in New York State, Inc. is a non-profit, family-run organization that strives to establish a unified voice for children and youth with emotional, behavioral and social challenges. Our mission is to ensure that every family has access to needed information, support, and services.

737 Madison Avenue
Albany, NY 12208
888.326-8644 - toll free information & referral line
518.432.0333 - office
518.434.6478 - fax
info@ftnys.org
www.ftnys.org/

Learning Disabilities Association of New York State is the only statewide association in New York that specifically represents the needs and interests of individuals who have learning disabilities and their families. LDANYS works with the Governor's office, members of the state legislature, Board of Regents, and key state agencies that have oversight over programs and services that touch the lives of individuals who have learning disabilities and their families to ensure policies are fair and provide equal access to programs and services for individuals who have learning disabilities.

1190 Troy-Schenectady Rd.
Latham, NY 12110
518-608-8992 –Office
518-608-8993– Fax
ldalongisland@yahoo.com
www.ldanys.org

Brain Injury Association of New York State is a statewide non-profit membership organization that advocates on behalf of individuals with brain injury and their families, and promotes prevention. Established in 1982, BIANYS provides education, advocacy, and community support services that lead to improved outcomes for children and adults with brain injuries and their families

10 Colvin Avenue
Albany, NY 12206
(518) 459-791– Office
(518) 482-5285 - Fax
Family Help line: (800) 228-8201
info@bianys.org
www.bianys.org

Cerebral Palsy Associations of New York State is a multi-service organization with 24 Affiliates. Our mission is to advocate and provide direct services with and for individuals with cerebral palsy and other significant disabilities.

330 West 34th Street 15th Floor
New York, NY 10001-2488
(212) 947-5770
information@cpofnys.org
www.cpofnys.org

LOCAL RESOURCES

Listed below are local resources which provide regional or local assistance. You can add your own additional local resources at the end of this section.

The Family Resource Network, Inc. is a parent run, parent driven, not-for-profit organization serving families of children with special needs in Chenango, Delaware, Otsego, Broome, Tioga, and Tompkins counties. Founded in 1994, FRN has provided information, support, and advocacy services to families who have children with developmental, special health care and mental health needs.

46 Oneida Street
Oneonta, NY 13820
(607) 432-0001
1-800-305-8814
info@familyrn,org
www.familyrn.org/programs/parent_center.html

LEGAL AID SOCIETY OF NORTHEASTERN NEW YORK, INC, The Children's Law Project (CLP) of the Legal Aid Society of Northeastern New York, Inc. provides free civil legal services to low-income children with disabilities. CLP serves Albany, Rensselaer, Schenectady, Fulton, Montgomery, Schoharie, Warren, Washington and Saratoga Counties. We can help with a range of legal issues, including school discipline issues, special education issues, 504 Accommodation Plans, emancipation. The Project has open intake throughout the day, but the best times to call are 11:00-12:00, and 1:00-5:00. For more information, or to see if you or your child is eligible for services through the Children's Law Project.

Albany
55 Colvin Avenue
Albany, NY 12206
(518) 462-6765
(800) 462-2922
(518) 427-8352 (Fax)
Counties Served: Albany, Columbia, Greene, Rensselaer and Schenectady

Amsterdam
1 Kimball Street
Albany, NY 12206
(518) 462-6765
(800) 462-2922
(518) 427-8352 (Fax)
Counties Served: Albany, Columbia, Greene, Rensselaer and Schenectady Counties

Canton
17 Hodskin Street
P.O. Box 648
Canton, NY 13617
(315) 386-4586
(800) 822-8283
(315) 386-2868 (Fax)
Counties Served: St. Lawrence, Franklin, and the St. Regis Reservation

Plattsburgh
100 Court Street
P.O. Box 989
Plattsburgh, NY 12901
(518) 563-4022
(800) 722-7380
(518) 563-4058 (Fax)
Counties Served: Clinton, Essex, Franklin and Hamilton

Saratoga Springs
112 Spring Street
Saratoga Springs, NY 12866
(518) 587-5188
(800) 870-8343
(518) 587-0959
Counties Served: Saratoga, Warren and Washington