

Defending the Rights of Students with Special Needs

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Rights of Students with Special Needs

- Students with special needs may be eligible for services and protections if they have a **disability**.
 - Individuals with Disabilities Education Act (IDEA)
 - Section 504 of the Rehabilitation Act of 1973 (Section 504) and Americans with Disability Act (ADA)
 - New York State Human Rights Laws
 - New York City Human Rights Laws

Defending IDEA Rights

Special Education

New York City Public Schools (NYC DOE) is required to provide special education services to students who have disabilities and those disabilities are affecting the student's ability to learn.

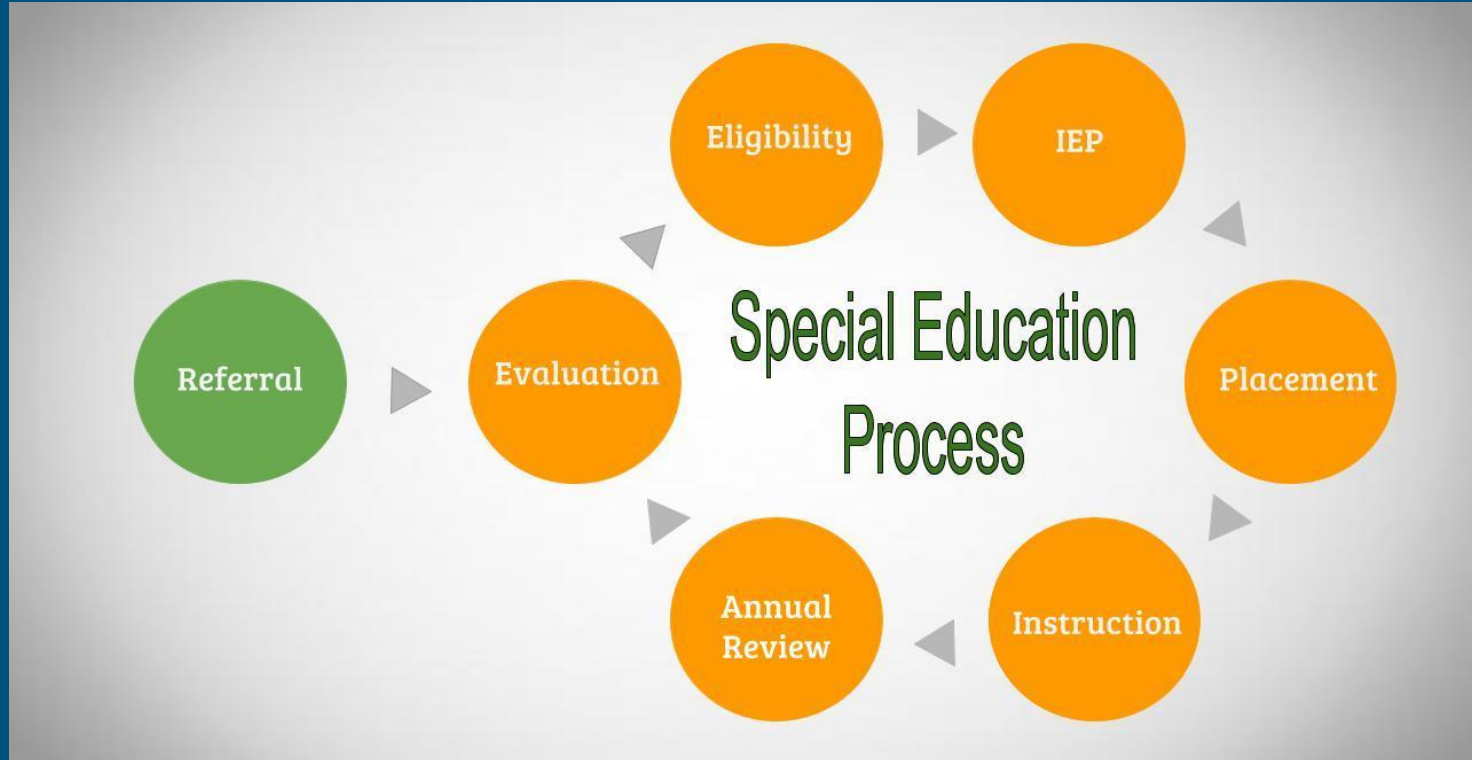
The special education services have to be

1. free and appropriate (FAPE) to meet the student's individual needs;
and
2. provided to the student in the least restrictive environment (LRE)
when possible based on the student's individual needs

The Special Education Process in NYC

1. Identify – Immediately
2. Refer – Immediately
3. Evaluate – By 60 calendar days from consent
4. Eligibility – By 60 school days from consent
5. Recommendations – By 60 school days from consent
6. Placement – By 60 school days from consent
7. Review IEP – Once every calendar year or upon request
8. Reevaluate – Once every 3 calendar years or upon request
9. Transition – Develop plan at age 14 and provide services by age 15

Special Education Process



Independent Educational Evaluations (IEE)

As a parent/caregiver, you have a right to a second opinion on your child's evaluations. By law, the school district has to pay a private provider of your choice to conduct new evaluations of your child. The school district can challenge your request by filing for an impartial hearing.

Make request to principal or CSE chairperson:

Dear Principal ____/ CSE Chair _____,

I am writing on behalf of my child, _____. I have concerns regarding my child's evaluations and I am requesting an independent educational evaluation for my child at this time. I am requesting that the IEE be done by _____(provider). Please provide me with the information on how I can start the process.

Sincerely,

Parent/Caregiver

IEP MEETING TIP SHEET



BEFORE the Meeting

There is no IEP team without YOU:

As the parent your full participation is **important** in creating your child's IEP. You have a say in the services your child is to receive and what areas the school will work on with your child.

Understand what is in your child's special education records:

You have a right to get copies of your child's records before the meeting. All documents should be translated in the language you most understand. You also have the right to have all of your child's educational information fully explained to you, including all evaluation results either before or at the meeting. Read all the documents that the IEP team will look at **before** the meeting and you have the right to ask for more time to review the records.

Your child's records should include the current and previous IEP's, evaluations, report cards, any letters or emails between you and school staff (teachers, providers, administrators).

Keep an organized binder:

Once you have your child's records, put them in a binder. Bring the binder to **every** IEP meeting so you have all the documents you may need to refer to when advocating for your child.

Prepare your "evidence":

Often if you want to change your child's services you will need to prove that your child needs these services. Collect the documents that help show your child needs these services and bring them to the meeting in your binder along with a copy for the team.

If your child's doctor/therapist/teacher/counselor supports the services you are asking for, have her/him write a letter or participate in the meeting in person or by phone. *If you do not share this information with the team, you may not be able to use this information later to challenge the team's decision.*

Make a list of the things you want the team to consider or change in your child's IEP. List at least three goals you would like the school to work on with your child for the coming year. If you have a child 14 or older, the IEP team needs to think about your child's **transition** to life after high school. You should think about what the school can do to help with your child's transition.

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Jane Aoyama-Martin, Project Director | Joseph P. Moodhe, Board Chair



Find someone to support you at the meeting:

Have a friend or family member attend the meeting with you. Their presence can be calming and very helpful. They can take notes of the meeting, freeing you to concentrate on the conversation. They can also help remind you of issues or concerns you want to discuss, or questions you want to ask.

At the IEP Meeting

Speak up:

You do not have to agree or accept any recommendations and you should let the team know that you disagree and explain why. Signing the attendance form is not the same as agreeing to the recommendations. The attendance form is just documentation that you were there.

You have the right to have an interpreter at the IEP meeting if you do not understand English or if English is not your primary language. Make the request before the meeting.

The services your child needs must be on the IEP:

A school cannot refuse to add a service your child needs to an IEP simply because they do not offer that service in their school. Any service and/or support your child needs to make **meaningful progress** must be put in writing on the IEP and provided by the school your child attends. If the school refuses you can challenge it through mediation or an impartial hearing.

After the Meeting

Right to challenge school's decisions:

If you disagree with the recommendations of your child's IEP team, and you do not believe that your child is receiving appropriate services, you have the right to challenge that decision through **mediation** or an **Impartial Hearing**. You can also ask for a new IEP meeting but the school does not have to give you one.

Placement offer:

The school will send a letter after the meeting summarizing the recommendations for your child. If the letter recommends a new school for your child, you should visit the school before you make the decision. On your visit make sure to learn as much about the school and the program before you decide if you will turn it down.

Helpful resources: <https://www.understood.org>
<https://www.includenyc.org/>

If you need **legal help**, please contact **Legal Services NYC** citywide hotline: **917-661-4500**.

Get Your Child's Documents Together

- Ask school for copies of your child's records.
 - All special education records.
 - All documents the IEP team will be using at the IEP meeting.
- Ask professionals working with your child to provide information.
 - Ask them to participate in the meeting.
 - Get copies of your child's records so you can share them with the IEP team.

Understand Your Child's Records

- Look over your child's current progress.
 - Review report cards and school work.
 - Review progress reports.
- Be familiar with your child's evaluations.
 - Look over the child's most recent evaluations.
 - Get copies from your child's school.

Think About What You Want

- What would you like to see changed about your child's special education services?
- Are there areas that your child needs more help with?
- Are there areas you want to see your child improve?
- Prepare a list.
- Never too early to plan for transition.

Advocate at the IEP Meeting

- Bring a friend, or relative to help support you at the meeting. Have your child's doctor / therapist / specialist participate in the meeting.
- Right to record the meeting. Let the school know before the meeting if you want to record the meeting.
- Speak up. Any services your child needs must be on the IEP. If it is not on the IEP, your child will not get them from the school/district.

What to do if you disagree?

1. Raise concerns with school staff or CSE (e.g., teacher, principal, school psychologist, etc.).
2. Contact superintendent for the school or district's family support coordinator.
3. Contact 311 or SpecialEducation@schools.nyc.gov .
4. File complaint with NYS Educt. Dept.'s Special Education Quality Assurance office (SEQA).
5. Request mediation or an impartial hearing.

Defending Section 504 Rights

Rights and Protections Under Section 504

- Students and parents with disabilities are protected from discrimination;
- All public schools (including Charter Schools in NYS) must provide reasonable accommodations for students and parents who have a disability;
- Students are entitled to a Free and Appropriate Public Education (FAPE).

What is a disability under Section 504?

- have a physical or mental impairment that substantially limits one or more major life activities; or
- have a record of such an impairment; or
- be regarded as having such an impairment.

FAPE Under Section 504

- School districts are required to provide “regular or special education and related aids and services designed to meet the student’s individual educational needs as adequately as the needs of nondisabled students are met.”
- Typically students receive services and/or accommodations to ensure they have access to the public education. Districts and schools develop a 504 Plan to provide these services and/or accommodations.

Defending Your Rights Under Section 504

- Document everything related to your child's situation.
- Notify your child's school administration about your concerns.
- Try to resolve your concerns with the school and/or school district.
- Formal complaint:
 - Impartial Hearing
 - Mediation
 - Lawsuit
 - US Office of Civil Rights (?)

Helpful Resources

Special Education Quality Assurance (SEQA) (NYS ED) (718) 722-4544

Office of Civil Rights (US Dept. of Education) (?) (646) 428-3800

Office of Pupil Transportation (OPT) (NYCDOE) (718) 392-8855

NYS Division of Human Rights: <https://dhr.ny.gov/>

NYC Commission on Human Rights:

<https://www.nyc.gov/site/cchr/index.page>

NYCPS Special Education Office: SpecialEducation@schools.nyc.gov

NYCPS Related Services: RelatedServices@schools.nyc.gov

Helpful Legal/Advocacy Resources

Advocates for Children (212) 947–9779;

<http://www.advocatesforchildren.org>

IncludeNYC (212) 677-4660; <https://includenyc.org/>

Legal Services NYC (917) 661–4500; <http://www.legalservicesnyc.org>

Mobilization for Justice (212) 417–3700; <http://mobilizationforjustice.org>

New York Lawyers for the Public Interest (212) 244–4664;

<http://www.nylpi.org>

New York Legal Assistance Group (212) 613–5000; <http://www.nylag.org>