




FEDERATION FOR CHILDREN
WITH SPECIAL NEEDS

Understanding Basic Rights In Special Education
Parent Training and Information Center




INFORMING, EDUCATING, EMPOWERING FAMILIES
617-236-7210 | www.fcsn.org | fcsninfo@fcsn.org

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FEDERATION FOR CHILDREN
WITH SPECIAL NEEDS

Who We Are



The Federation for Children with Special Needs promotes quality education, parent participation and access to quality health care services for all children, especially those with disabilities.

The Parent Training and Information Center is a project of the Federation. It provides free information, support, technical assistance and affordable workshops to families who have children with disabilities and the professionals who work with them.



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Workshop Goals

Handout
page 1

- Understand your basic rights under special education law
- Understand basic special education procedures
- Provide information so you can better participate in the team process, collaborate with your school and better support your student



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What Are The Special Education Laws?

Federal

Individuals with Disabilities Education Act (**IDEA**)
20 USC §§ 1400-1487

Regulations
34 CFR Part 300

State

Massachusetts Special Education Law
MGL Chapter 71B

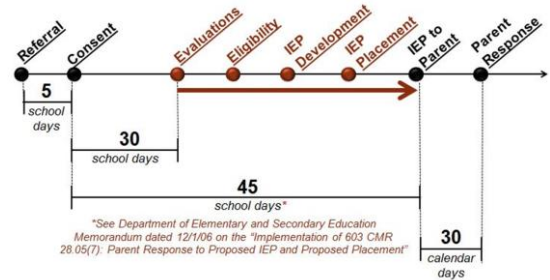
Regulations
603 CMR § 28.00

What Is The Purpose Of IDEA?

The purpose of IDEA is “to ensure that all children with disabilities have available to them **a free and appropriate public education** that emphasizes special education and related services **designed to meet their unique needs** and **prepare them for further education, employment, and independent living**” (emphasis added)

20 USC § 1400(d)(1)(A); 34 CFR § 300.1

Review Of Important Timelines



*See Department of Elementary and Secondary Education Memorandum dated 12/1/06 on the “Implementation of 603 CMR 28.05(7): Parent Response to Proposed IEP and Proposed Placement”

*Proposed IEP to be provided to parents immediately; if parents are provided with completed IEP grid sheet describing types and amount of special education and related services and statement of associated major goals, providing a proposed IEP within 2 weeks is considered immediate unless parents request IEP within 3-5 days.

What Are The First Steps In Special Education Procedures?

Referral See 603 CMR 28.04(1)

Consent Form See 603 CMR 28.04 (1)(a) and (2)

Evaluations See 603 CMR 28.4(2)

Convening the Team meeting


See 603 CMR 28.05(1)

Why and Who Makes the Referral

Are there concerns about the student's development?

A parent or any person in a caregiving or professional position may refer a student for evaluation

The findings from the evaluation will determine whether the student might need special education services in order make effective progress

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When and How to Make the Referral

A referral can be made at any time that you or someone else have concerns about the student

Submit the request in writing to the student's school principal or the director of special education

After the referral is made, the school will give you the consent form, and needs the parent's written permission to perform an evaluation

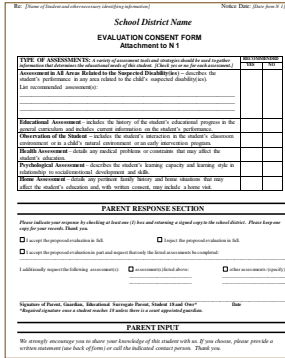
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Evaluation Consent Form


See 603 CMR 28.04 (1)(a) and (2)

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School sends evaluation consent form to parent for signature **within 5 school days** of receiving referral.

School evaluates student **within 30 school days** of receiving parent's signed consent form

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Which Assessments Will Be Performed?


See 603 CMR 28.04(2)(a)

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page 3

I. An assessment in all areas related to the suspected disability

II. An educational assessment by a representative of the school district will include:

- history of the student's educational progress
- assessment of the student's attention skills, participation behaviors, communication skills, memory, and social relations
- description of the student's educational and developmental potential

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Optional Assessments

See 603 CMR 28.04 (B)

The school or parent may request:

- Comprehensive health assessment
- Psychological assessment
- Home assessment

For students with limited English proficiency (LEP):

- Information about the student's language must be considered in determining how to conduct the evaluation to prevent student from being misclassified.
- District must assess the student's proficiency in English and the native language proficiency in reading, writing, speaking and understanding.

What Happens After The Evaluation?

See 603 CMR 28.04 (2)(c)

Evaluator shall summarize in written report:

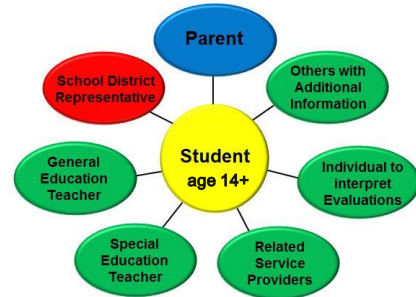
- procedures used,
- results,
- diagnostic impression,
- student's needs, and
- Recommendations to include explicit means of meeting needs.



A Team meeting will be scheduled at a time mutually convenient to school and parents, at which the evaluation will be discussed

If requested **in writing**, a parent can obtain a copy of the evaluation report in writing at least 2 calendar days before the Team meeting

Who is at the Team Meeting?



Who May Be Excused From Team Meeting?

Every member of the Team must attend the meeting unless the parent or guardian agrees in writing to their excusal

If a Team member's expertise is required but the parent has agreed to excuse them, the Team member must still provide written input to the parent and the school before team meeting

In what situations might you excuse someone from the Team meeting? When would you refuse to do so?




What Are the Team's Initial Tasks?

See 603 CMR 28.05 (1)

Within **45 school days of receipt of parent's written consent**, the school shall:

- ✓ Convene a Team meeting
- ✓ Review evaluation results
- ✓ Determine eligibility for special education



17  **Who Is Eligible for Special Education?** Handout page 4

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A. Proceed through the flowchart until an eligibility determination is reached..

1. Does the student have one or more of the following types of disability?

- Autism
- Developmental delay
- Intellectual
- Sensory: Hearing, Vision, Deaf-Blind
- Neurological
- Emotional
- Communication
- Physical
- Specific Learning
- Health

yes →

2. a) Is the student making effective progress in school?
(For reevaluations: Would the student continue to make progress in school without the provided special education services?)

yes →

no →

2. b) Is the lack of progress a result of the student's disability?

yes →

no →

2. c) Does the student require specially designed instruction in order to make effective progress in school or does the student require related services in order to access the general curriculum?

yes →


no →

THE STUDENT IS ELIGIBLE FOR SPECIAL EDUCATION.

Student is not eligible for Special Education but may be eligible for other services in other programs.

If yes, indicate disability type(s):

Student is not eligible for Special Education but may be eligible for accommodations for disability under Section 504 of the Rehabilitation Act or may be eligible for other services in other programs.

18  **Step 1: Does Student Have a Disability?**

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Special Education Eligibility/Initial and Reevaluation Determination

Student Name: _____ DOB: _____ ID#: _____ Date: _____

A. Proceed through the flowchart until an eligibility determination is reached..


1. Does the student have one or more of the following types of disability?

- Autism
- Developmental delay
- Intellectual
- Sensory: Hearing, Vision, Deaf-Blind
- Neurological
- Emotional
- Communication
- Physical
- Specific Learning
- Health

yes →

Student is not eligible for Special Education but may be eligible for other services in other programs.

If yes, indicate disability type(s):

19  **Step 2(a): is Student Making Effective Progress?**
Step 2(b): if Not, is it Due to Disability?

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Special Education Eligibility/Initial and Reevaluation Determination

Student Name: _____ DOB: _____ ID#: _____ Date: _____

2. a) Is the student making effective progress in school?
(For reevaluations: Would the student continue to make progress in school without the provided special education services?)

yes →

no →

2. b) Is the lack of progress a result of the student's disability?

yes →

no →


2. c) Does the student require specially designed instruction in order to make effective progress in school or does the student require related services in order to access the general curriculum?

yes →

no →

THE STUDENT IS ELIGIBLE FOR SPECIAL EDUCATION.

Student is not eligible for Special Education but may be eligible for accommodations for disability under Section 504 of the Rehabilitation Act or may be eligible for other services in other programs.

20  **What Is Effective Progress?**
See 603 CMR 28.02 (17)

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Handout page 5

Effective progress is “the documented growth in the acquisition of knowledge and skills, including social/emotional development, within the general education program with or without accommodations according to chronological age and developmental expectations [and] the individual educational potential of the child”

Effective progress is NOT determined solely by passing grades or being promoted from grade to grade

Step 2c: Does Student Require specialized instruction to Make Effective Progress?

The Special Education Teacher modifies the:

- content,
- methodology and/or
- performance criteria

as appropriate to:

- address the **unique needs** of the child and
- ensure **access** to the general curriculum



Step 2(c): Does Student Require related supports or services to Access Curriculum?

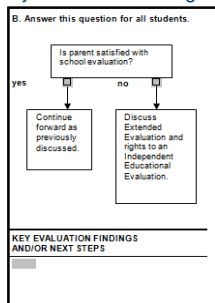
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|----------------------------|-------------------------------|
| • Assistive Technology | • Rehabilitation Counseling |
| • Audiology | • Recreation |
| • Occupational Therapy | • School Nurse/ Social Worker |
| • Orientation and Mobility | • Health Services |
| • Parent Training | • Speech/Language Pathologist |
| • Physical Therapy | • Travel Training |
| • Psychological | • Transportation |

In MA, student can qualify for an IEP if he/she needs specialized instruction and/or related service(s) to access general curriculum

What if Team Decides Student is Not Eligible for Special Education?

Team Chair notifies parents in writing of determination of ineligibility (N-2 form) within 10 school days of Team meeting.

- The student may not be eligible for special education, but may be eligible for other services in other programs
- "If a parent disagrees with an initial evaluation...the parent may request an Independent Educational Evaluation"
- Parents have a right to appeal to the Bureau of Special Education Appeals (BSEA)



Student Ineligible for an IEP May Be Eligible for a 504 Plan

If student does not require specialized instruction or related services to access the curriculum, but does require accommodations to access school, the student may be eligible for accommodations under a *Section 504 plan*.

- 504 plan is **not** "special education" under IDEA and MGL Chapter 71B

REQUIRED for 504 Plan & IEP

- FAPE in LRE
- Disability Determination
- Evaluations
- Accommodations based on *need*
- Accommodations on Testing
- Appeals to BSEA, PRS or OCR

NOT Required for 504 Plan

- Written plan
- Progress Reports
- Annual Team Meetings
- Discipline protections limited
- Transition Planning

If Student is Determined to Be Eligible for Special Education

The Team will proceed to:

1. Develop an IEP
2. Determine placement
3. Hold annual review of IEP and placement
4. Re-evaluate for eligibility every three years



Content of the IEP

JAF CHIEF, JAFBANK
 JAF CHIEF CONTACT PERSON/PHONE #

Individualized Education Program

SP	Date	Type	To	From	Description

Parent/Student Signature

(When completed, send the parent/child/ student report to the administrator. If the SP is a substitute the student/educator?)

(Include: student's name, and his/her teacher's name, location,
 (What are the student's strengths/weaknesses, progress made, significant concerns, strengths and academic achievement?)

(Include: the student's current grade, which grade/level should grade be at, date of last/next progress report, if any?)

Teacher Statement (What is the report for this student?)

Consider the report to be the report for the student?
 If not, explain why? (What is the student's current grade, which grade/level should grade be at, date of last/next progress report, if any?)
 Is the student's current grade/level appropriate? If not, explain why?
 Are there any concerns/weaknesses, strengths, progress made, significant concerns, strengths and academic achievement?

SP 1

The Purpose of an IEP

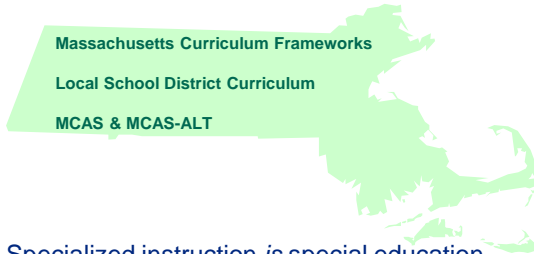
Enables student to access the general curriculum

Massachusetts Curriculum Frameworks

Local School District Curriculum

MCAS & MCAS-ALT

Specialized instruction *is* special education



What is the Content of the IEP?

See 603 CMR 28.05(4)

What is an Accommodation?

1. Change within the learning environment

2. Allows access to the same information

- Extended testing time
- Preferred seating (specify where)
- Digital books & taped lectures
- Sensory breaks & reduced seat time
- Reading & writing software
- Use of a graphic organizer
- Computers & computer-assisted devices
- Large print materials



See 34 CFR 300.42

What is Free Appropriate Public Education (FAPE)?

The standard for providing services:

- **Free** = No cost to parents
- **Appropriate** = Services sufficient to enable student to make meaningful or effective progress according to his/her potential and toward challenging IEP goals.
- **Public** = Provided by public school district or under direction of the public school district
- **Education** = Preschool, elementary and secondary education, including extra curricular and non-academic school activities

What is Least Restrictive Environment (LRE)?

The standard to determining the placement

Means the student is placed, to the maximum extent appropriate, with students who are not disabled with use of supports and services as needed

The Team decides which placement is the least restrictive environment for the student

Possible placements:

- Full Inclusion (80% included)
- Partial Inclusion (60% included)
- Substantially Separate Class
- Separate Day School
- Residential School
- Home-Based Early Childhood
- Center-Based Early Childhood
- Other Placements
- Placements with Non-Educational Agencies

See 34 CFR 300.114; 603 CMR 28.02 (12)

What Happens at Close of Team Meeting?

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Parents receive a summary of the decisions and agreements reached during the Team meeting, including:

- A) completed IEP service delivery grid describing types and amounts of special education and/or related services and
- B) statement of the major goals associated with those services



Expect proposed IEP in two calendar weeks.

Parents are not required to sign an IEP at the Team meeting

What are Parent's Response Options ?

See 603 CMR 25.05(7)

Options for IEP:

1. Accept IEP in full
2. Reject IEP in full
3. Accept IEP in part

Parents should send response within 30 calendar days

Parent can request a Team meeting to discuss rejected portions of the IEP if they check the appropriate box on the response form

"Stay put" rights mean that previously accepted services or placement – now in dispute - remain in place until the issues are resolved or one of the parties request BSEA review

Options for placement:

1. Accept placement
2. Reject placement



Not Sure How To Respond To An IEP?

Do further research

Observe the school placement: Parents and their experts have an unconditional right to observe student's current and any proposed placement

Review school records: Parents have right to request and receive a copy of school records

Consult an independent expert: the Team must reconvene in 10 school days to discuss reports that you submit to the school.

What Happens Once the IEP is Accepted?

Once the parent signs and returns the IEP, the school will implement the accepted parts of it immediately

IEP must be accessible to everyone who has responsibilities for implementing it

Parents should expect:

- Progress reports as often as report cards
- Annual Team meeting to review IEP and progress towards meeting the goals
- Three-year re-evaluation or sooner if necessary.



Can The IEP Be Changed After The Annual IEP Meeting?

Yes, after the annual IEP Meeting, parents and school may agree in writing to update or change an IEP without another Team meeting.

Parent consent is required for all changes to IEP.

See 34 CFR 300.323 and 34 CFR 300.324



Transition Planning by Age 14

Starting by age 14, the *Transition Planning Form (TPF)* is used as the starting place to draft the IEP

Focus is on student's post-secondary vision, including:

- post-secondary or vocational education,
- employment (including supported employment),
- adult services,
- independent living, &
- travel training
- community participation
as appropriate



Resolving Disputes

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page 7



Research shows that when parents and schools work collaboratively to resolve disagreements, the outcomes are more mutually satisfying and beneficial for the student in the long term

Local Dispute Resolution Options



Team
Meeting

Independent
Educational
Evaluation

Meeting with Special
Education Director,
Principal, and/or
Superintendent

Independent Education Evaluation (IEE)

There are three options to obtain an IEE.

Option 1: within 16 months of the school evaluation, the parent can request an IEE as a second opinion if they disagree (income based)

Option 2: If parent requests IEE in an area not assessed by school, does not meet income eligibility standards, the school can agree to pay for IEE,

Option 3: Parent may obtain an independent evaluation at private expense any time

Team must consider all evaluations submitted to the school within 10 school days, but is not bound by the recommendations in the report. Consider having evaluator attend the meeting to the support the report in person or by phone.

External Dispute Resolution Options

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Procedural Safeguards and "Due Process"

Procedural Violations
& Enforcement Issues

PRS
Problem
Resolution System
781-338-3700

OCR*
Office for
Civil Rights
1-800-421-3481

*if civil rights violation

Voluntary Alternative
Dispute Resolution

**Facilitated IEP
Meeting**
617-626-7250

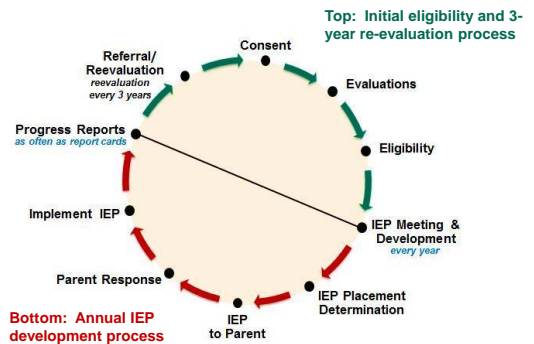
Mediation
617-626-7291

Due Process

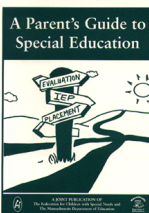
**BSEA
Hearing**
617-626-7250

**Resolution
Meeting**

Review of Full IEP Cycle



Review of Six Key Principles of IDEA



Parent and Student Participation in the Team

Appropriate Evaluation

Individualized Education Program (IEP)

Free and Appropriate Public Education (FAPE)

Least Restrictive Environment (LRE)

Procedural Safeguards (Due Process)

<http://www.fcsn.org/parentguide/parentguide.pdf>


Strategies For Success

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page 9

- ❖ Know your Basic Rights under law
 - Use effective communication skills with school
 - Be prepared to be an active participant on Team
 - What are your child's unique needs?
 - Is your child making progress?
 - Set high expectations for your child
 - Don't allow IEP goals to stagnate from year to year
 - Do you need to verify your child's progress with an evaluation?
 - Access assistance from FCSN Call Center and other resources
 - If you need support, bring someone with you to Team meeting
 - Network with your SEPAC and learn all you can from others
 - Acknowledge and be grateful to teachers and therapists who make a difference in your child's life
 - Three P's – be positive, professional, and persistent




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Resources



Federation for Children with Special Needs (FCSN)
www.fcsn.org
Mass. Association of Special Education PACs
www.fcsn/masspac
Parent's Guide www.fcsn.org/parentguide/pgintro.html
MA Department of Elementary and Secondary Education
www.doe.mass.edu
Massachusetts Advocates for Children www.massadvocates.org
Disability Law Center www.dlc-ma.org
Massachusetts Arc www.arcmass.org/
NAMI National Alliance on Mental Illness www.naminmass.org
Parent Professional Advocacy League (PPAL) www.ppal.net
Special Needs Advocacy Network (SPAN) www.spanmass.org
Wrights Law Special Education Advocacy www.wrightslaw.com/

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Thank You For Coming

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The Parent Training & Information Center is funded by a federal grant. To continue receiving the grant, we need to collect the information in the forms below

Please complete these forms:

1. Demographic Data Collection &
2. Workshop Evaluation

Kindly return completed forms to workshop presenter



Parent Training & Information Center

CALL CENTER

FREE info about
Special Education Rights
<http://fcsn.org/ptic/call-center/>
617-236-7210
Mon-Fri 10am-3pm

The PTIC provides special education training, information, and support groups to families who speak:
Spanish, Portuguese, Chinese and Vietnamese


WORKSHOPS
(FREE to participants)

- A IEP For My Child
- Discipline & Suspension
- Effective Communication


AND MORE!
<http://fcsn.org/ptic/workshops>

Parent Consultant Training Institute

An in-depth training for parents in a 54-hour tuition-based program.
<http://fcsn.org/ptic/parent-consultant-training>



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