



FEDERATION FOR CHILDREN  
WITH SPECIAL NEEDS



INFORMING, EDUCATING, EMPOWERING FAMILIES  
617-236-7210 | [www.fcsn.org](http://www.fcsn.org) | [fcsninfo@fcsn.org](mailto:fcsninfo@fcsn.org)

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FEDERATION FOR CHILDREN  
WITH SPECIAL NEEDS

## Who We Are

The Federation for Children with Special Needs

Is committed to enhancing **educational, health and community** participation opportunities for Massachusetts families with the **greatest need**, due not only to disability, but for those who are the most educationally and economically disadvantaged.

The Federation provides these **families** with information, support and assistance to encourage full participation in community life by all children, especially those with disabilities.

© Federation for Children with Special Needs

*Informing,  
Educating,  
Empowering  
Families*

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FEDERATION FOR CHILDREN  
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## The Federation's Impact on Families

- Assist approximately 40,000 families per year
- Respond to more than 16,000 phone calls and emails per year
- Maintain website, [www.fcsn.org](http://www.fcsn.org), which receives more than 1,500,000 visitors per year
- Present 600 training workshops to 8000 families and 1000 professionals at 100 sites across the state annually
- Publish quarterly newsletter, *Newsline*, with a distribution of 30,000 readers
- Join us on Facebook Twitter and YouTube!

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FEDERATION FOR CHILDREN  
WITH SPECIAL NEEDS

## BASIC RIGHTS

### In Special Education

Parent Training and Information Center  
**617-236-7210    1-800-331-0688**  
[www.fcsn.org/pti](http://www.fcsn.org/pti)

Produced by the Parent Training and Information project at the Federation for Children with Special Needs, supported in part by grant #H328M90005 from the U.S. Department of Education, Office of Special Education Programs and the Massachusetts Department of Elementary and Secondary Education.

1135 Tremont Street • Boston, Massachusetts 02120 • (617) 236-7210 • [www.fcsn.org](http://www.fcsn.org)

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## Workshop Goals

**The Basic Rights workshop will help you:**

- Learn how special education law can support your child as they learn
- Learn the process—how special education law can open doors of support in your school
- Understand your rights so you can effectively collaborate with your professional partners and become a more effective advocate for your child



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FEDERATION FOR CHILDREN  
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**IDEA**  
Individuals with Disabilities Education Act

What is going on in these pictures?

**Individuals with Disabilities Education Act of 2004:**  
 Improving educational results for children with disabilities is an essential element of our national policy of ensuring  
**equal opportunity,  
 full participation,  
 independent living  
 economic self-sufficiency**  
 for individuals with disabilities



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## The Six Principles of IDEA



Parent and Student Participation

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>

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## Free Appropriate Public Education 3-21

Schools provide each eligible special education student an education that: (34 CFR 300.17)

- Is designed to meet the unique needs of that one individual child
- Addresses both academic need and functional need
- ...provides access to the general (educational) curriculum to meet the challenging expectations established for all children (meaning it meets both grade and state standards)
- To enable the child to receive educational benefit...Or access to specialized instruction and related services providing individual educational benefit to the eligible child  
<http://www.monitoringcenter.lsuhsd.edu/PDF%20PPT/What%20is%20Educational%20Benefit...ppt.pdf>
- Provided in accordance with an appropriately developed Individual Education Program (IEP)
- At no cost to the parents/families <http://www.nichcy.org/Pages/fape.aspx>

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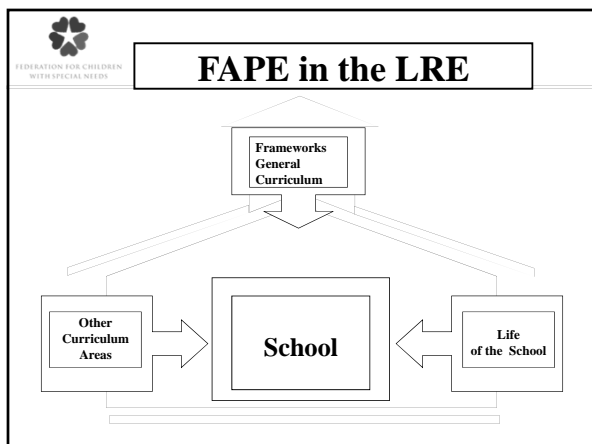
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## Placement

### What is the Least Restrictive Environment? (LRE)

To the greatest extent possible, in the classroom where the child would be enrolled if they did not have a disability.

Changing to a more restrictive environment should only be discussed after supplementary aids and services have been tried and the child has not met with success. [IDEA 2004: CFR 300.114]



Therapeutic day or residential treatment programs may be the LRE to meet the needs of a child

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## Special Education Law

### Federal

Individuals with Disabilities Education Improvement Act (IDEA 2004)  
<http://idea.ed.gov/download/finalregulations.html>

No Child Left Behind (NCLB)  
<http://www.ed.gov/nclb/landing.jhtml>

### State

Massachusetts Special Education Law or Chapter 71 B  
 Previously referred to as "Chapter 766"  
<http://www.doe.mass.edu/sped/>

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## Federal Laws: Civil Rights


### Section 504 of the Rehabilitation Act of 1973 Or Office of Civil Rights

Commonly referred to as "Section 504"  
<http://www.ed.gov/about/offices/list/OCR/index.html?scr=mr>

617-223-9662 or 617-635-2500

### Americans with Disabilities Act (ADA)

<http://www.usdoj.gov/crt/ada/adahom1.htm>



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## Access to the General Ed Curriculum

**IEP should have skills focus, rather than a curriculum focus**



The goal of the IEP process is not to have the student master an isolated Framework/standard, but to master skills impacted by the disability...  
so that learning can take place.

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## Mass Tiered System of Support

**What is it?**  
A multi-tiered approach to providing each child with the services and interventions to access learning.

**Tier 1** consists of general education program based on evidence based practices (review of data: report cards, assessments)

**Tier 2** interventions involve more intensive, relative short-term interventions (multi-disciplinary team meets to address concerns of student, progress monitoring)

**Tier 3** are long-term interventions that may lead to special education (team meets to review progress this may lead to evaluations)



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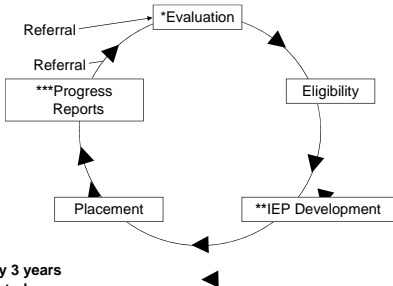
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## Special Education: The Full IEP Process



\* Every 3 years  
\*\*Updated once per year  
\*\*\*As often as report cards

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## The Special Education Evaluation Process:



### Timelines for Evaluations

**Referral:** Parent or professional identifies a child as possibly needing special education and related services.

**Consent:** Within **5 school days** of the receipt of a referral, the school district notifies the parent and asks for written consent to evaluate.

**Evaluation:** Within **30 school days** of written parental consent, credentialed trained specialists complete the evaluation.

Team Meeting within 10 school days from receiving the evaluations

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## Evaluation Process:

Parents have a chance to talk to the special education administrator (Special Ed Director) or his/her representative (Team Chair) to discuss:



**Concerns and/or information about the child**  
**Reasons for the referral, hopeful outcomes**  
**Content of the evaluation**

- Agree to some or all of the proposed assessments
- Ask for additional assessments
- Ask the school to accept an outside evaluation
- Ask who the evaluator will be & credentials

[603 CMR 28.04 (1)(c)]

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## Evaluations/Reevaluations

★ Evaluation data drives the eligibility process.

**Evaluations include:**

- Evaluations/assessments
  - **academic, developmental, and functional**
- Information from parents
- Current local, state, and classroom-based evaluations
- Observations by teachers and related service providers



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## Referral and Evaluation:

**\* School districts cannot refuse to do an initial evaluation**


Evaluations continue to be required prior to a finding of no eligibility

**Parents may request that their children be evaluated once per year in any area of disability or suspected disability.**

**Language of evaluations must be:**

- provided in the child's native language or
- other method of communication
- in the method most likely to provide accurate information

\*unless it is clearly not feasible to do so [IDEA 2004: CFR 300.304]



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## Required Evaluations

**•Specialist Evaluations**  
**in all areas related to a suspected disability.**

Examples:  
functional behavioral assessments,  
assistive technology, speech and  
language, vocational evaluation

**Educational Evaluations—**  
includes information about  
educational history and progress in  
the general educational curriculum.

Psychological is **not** required.



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## IEP Process Prior to the Team Meeting:

**Make a written request for copies of evaluation reports including recommendations.**

603 CMR 28.04 (2)(C)



**•You have a right to receive copies at least 2 days prior to the team meeting. 603 CMR 28.05(1)**

**•Provide in advance any reports you wish the Team to review for the meeting.**

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## Eligibility Requirements Overview



### Questions of Eligibility

Does the child have a disability? What type?

Is the child **not** making effective progress in school due to the disability?

Does the child require specialized instruction to make effective progress or require related services in order to access the general curriculum?

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## First Question of Eligibility:

### 1) Does the Child Have a Disability? What Type?

Autism  
 Developmental Delay  
 Intellectual Impairment  
 Sensory Impairment: Hearing/Vision/Deaf-Blind  
 Neurological Impairment  
 Emotional Impairment  
 Communication Impairment  
 Physical Impairment  
 Health Impairment

- AD/HD
- Tourette syndrome

Specific Learning Disability: New evaluation procedures  
 [IDEA 2004: CFR 300.8 (10)] [www.doe.mass.edu/sped/iep/sld](http://www.doe.mass.edu/sped/iep/sld)

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## Federal Definition of Autism

### Federal Definition of Autism:



Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. {300.8(1)(i)}

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**MA Autism Law**

When a child has a diagnosis of :  
Autism Spectrum Disorder  
...the IEP team shall consider  
and shall specifically address the following needs:



1. The verbal and nonverbal communication
2. Develop social skills/proficiencies
3. Unusual responses to sensory experiences
4. Resistance to environmental change or change in daily routines
5. Engagement in repetitive activities/ stereotyped movements
6. Positive behavioral interventions, strategies and supports to address any behavioral difficulties resulting from autism spectrum disorder
7. And other needs resulting from the child's disability impacting progress in the general curricula including social and emotional development  
[www.doe.mass.edu/sped/advisories/07\\_11a.html](http://www.doe.mass.edu/sped/advisories/07_11a.html)

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**Questions of Eligibility:**

**2) Is the Child *Not* Making Effective Progress in School Due to the Disability?**



Effective progress is documented growth:

- in knowledge and skills (including social-emotional skills)
- in the general education program
- with or without accommodations
- according to the chronological age and developmental expectations
- according to the individual educational potential of the child
- according to the learning standards and the school district's curriculum.

***IS not determined by passing from grade to grade***

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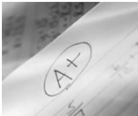
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**Questions of Eligibility:**

**3) Does the Child Require Specialized Designed Instruction to Make Effective Progress?**



**Specially Designed Instruction is Special Education.**

It is:

Modifying the content, the methodology or the performance criteria as appropriate to the needs of a child

- To address the unique needs of the child
- To address the child's needs related to the disability
- To ensure access to the general curriculum
- In order to meet educational standards.

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### Questions of Eligibility:

#### 3) Or Does the Child Require a Related Service in Order to Access the General Curriculum?\*

Assistive technology	Rehabilitation counseling
Audiology	Recreation
Counseling	School Nurse/ Social Worker
Interpreting	Health Services
Medical	Speech and Language Pathologist
Occupational therapy	Transportation
Orientation and mobility	• Travel Training
Parent counseling and training	Other services with the <u>exception</u> of
Physical therapy	a medical device that is surgically
Psychological	implanted

\*Note: Your child can qualify for an IEP even if he/she only needs **one or more** related service(s) {603 CMR 28.02(18), 34 CFR 300.24}

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### Continued Eligibility: Re-Evaluation



District must reevaluate once every 3 years, unless the parent and the district agree that it is not needed

Reevaluation can take place sooner, but not more often than once per year

Formal evaluations are required before a student can be discharged from IEP services. [IDEA 2004: CFR 300.303]

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### The IEP Team Membership:

Child with a disability, if appropriate

Parents

A special education teacher

A regular education teacher

**District representative who is knowledgeable about district resources** {300.321 (4)(iii)}

An individual who can interpret and explain the evaluation results

Other Individuals who may be invited by parent/school:

- Related Service Providers
- Family Support System
- Respite Provider
- Experts

[IDEA 2004: CFR 300.321]




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## The IEP Team Membership:

**~Student Invited at Age 14~**

The **Transition planning** discussion takes place at age 14 in Massachusetts. The student's input on their dream, strengths, interests and preferences is valued by the Team and can lead the development of the IEP.

Transition Planning Form  
[www.doe.mass.edu/sped/28MR/28m9.pdf](http://www.doe.mass.edu/sped/28MR/28m9.pdf)



**~18 is the Age of Majority ~**

- Chapter **688 Referral**  
[www.doe.mass.edu/sped/688/brochure.pdf](http://www.doe.mass.edu/sped/688/brochure.pdf)
- On the Administrative Data Sheet
- Student is presumed competent and is able to make all decisions independently
- Shared Decision Making
- Delegated Decision Making
- Guardianship

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## IEP Team Membership:

**An IEP Team Member does Not Have to Attend:**

If the parent of a child with a disability and the school agree, **in writing**, that

The attendance of the member is not necessary because this person's area of the curriculum or related services is not being modified or discussed in the meeting.  
 [ CFR 300.321(b)(3)(e)-(2)(ii)]




**An IEP Team Member May Be Excused:**

When the meeting **DOES** require a particular member's expertise

If the parent and the school agree **in writing**

**And** the member submits, in writing, to the parent and the IEP Team, input into the development of the IEP prior to the meeting



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## IEP Process: At the Team Meeting


**Within 45 school days of the parent's written consent, the Team meets to decide:**

**Eligibility:** Determine eligibility

**IEP Services:** If the child is eligible for special education, the team **develops an IEP Plan**

**Placement:** The team next discusses and determines placement for the child

A good IEP can be picked up by any outside person and be implemented immediately



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## Team Decision: Not Eligible

Parents are notified in writing within 10 school days.

The school district may agree that the child has a disability and offer a Section 504 plan.

Parents can reject the finding of no eligibility then request an independent evaluation and request a re-determination of eligibility.

Services cannot be removed or reduced without demonstrating that need. Ask "What testing or documentation supports this recommendation?" If necessary – request testing to show the need no longer exists.

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## For Your Reference: 504 Plans vs. IEPs

<u>504 Plan / IEP Require:</u>	<u>504 Plan does NOT Require:</u>
•Team decisions	•Written plan
•Evaluation	•Progress reporting
•Appeals made to BSEA or OCR	•Transition planning
• Program Quality Assurance	•Discipline protections
•Accommodation on standardized testing	
•Related Services	

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## Placement: Continuum of Settings

Standard Classroom

Classroom with Pull Outs

Self Contained Classroom

Collaboratives

Home Based

Hospital


Therapeutic/ Specialized Program- off campus

Private Therapeutic Day Program

Private Residential Treatment Program

IRTP Intensive Residential Treatment Program

- Hospital Continued care
- DMH/ DCF Funding



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### Nonacademic/Extracurricular Activities

**Each school must take steps to:**

**Provide supplementary aids and services** determined appropriate and necessary by the child's IEP Team

**Provide** nonacademic and extracurricular **services and activities** for children with **disabilities**

**Afford children with disabilities** an equal opportunity for participation  
[IDEA 2004: CFR 300.117]

**Field Trips**  
**Counseling Services**  
**Athletics**  
**Transportation**  
**Health Services**  
**Recreational Activities**  
[IDEA 2004: CFR 300.107]

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### Timelines: At the Close of the Team Meeting

Parents should receive at least a summary of their child's goal areas and a completed service delivery grid describing the types and amounts of special education and/or related services being proposed.



- If parents receive the above in hand at the close of the meeting they can expect the full proposed IEP in no more than two calendar weeks.
- If parents prefer to **not** wait 2 calendar weeks for the IEP, the district must respond to such requests with a completed IEP within 3-5 days of the team meeting.
- <http://www.doe.mass.edu/news/news.asp?id=3182>

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### Timelines: After the Team Meeting

**Parents decide:** Parents need to respond to the proposed IEP services and placement within **30 calendar days** of the receipt of the IEP.

**Services begin:** If parents agree with the proposed IEP, they are to sign the IEP and return it to the district. The services and placement begin immediately once it is signed and returned to the district.

Be sure to make a decision and sign the IEP do something so you don't risk services or placement...



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## Parent Responses to the IEP

**IEP Response Options**

Accept IEP in Full

Reject IEP in Full

Reject IEP in Part



**Placement Form Response Options**

Accept Placement

Reject Placement

**TIPS:**

- Do not reject your first IEP in full—accept something
- You can reject the lack of services.
- Portions not rejected are accepted and implemented.
- You may reject an IEP at any time.

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## Expectations once the IEP is signed


**Progress reports/ Report Cards:** Parents receive progress reports as frequently as report cards.

**Annual review:** At least annually, the team reviews and based on skills need rewrites the IEP.

**Ask what goals and the child has met before creating a new IEP**

**Re-evaluation:** Every three years the school reevaluates the child unless the parent and school agree that re-evaluation is not necessary.

**Accessible Records:** Parents can access their child's school records at any time.



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## Amending or Modifying the IEP

**After the Annual IEP Meeting**

**Amend or modify IEP:** Parents and school districts may agree to change an IEP without a meeting, without redrafting the entire IEP. [IDEA 2004: CFR 300.324 (a)]

Parent consent is still required for all changes to the IEP

**These changes must be provided in writing to all individuals implementing the IEP**



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## Resolving Differences:

### Independent Educational Evaluations (IEE)



If the **parent disagrees** with the **Team** about eligibility, program, placement, or services, the parent should request an IEE in any or all areas assessed.

- Parents need to request the IEE within 16 months of the school's evaluation.
- There is a right to only one IEE in each area of disability or suspected disability each year.

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## Resolving Differences:

### Independent Educational Evaluations (IEE)

**If the parent requests an IEE:**

- the parent chooses an independent evaluator. (The school district only pays the rate set by the state.)
  - The district may provide additional funds based on the "unique circumstances of the child" requiring additional hours of testing.
- there is a state voluntary cost-sharing program for parents with a sliding scale fee based on income. The family is asked to provide financial information.
 

\*Within 5 days the district either:  
 agrees to pay or  
 initiates a hearing through BSEA to show that their evaluation was "comprehensive and appropriate."

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## Resolving Differences:

### IEE Team Meeting

The Team reconvenes to consider an independent evaluation within 10 school days of receiving the report.

**The Team meets to:**

- **consider the results and**
- **discuss how to include the results in the IEP.**

This is a good opportunity to informally resolve any areas of disagreement

If this meeting is unsuccessful, the next step is an appeal through the **Bureau of Special Education Appeals (BSEA).**

*\*The parent can pay or use insurance for an independent evaluation at any time.*

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## Resolving Differences:

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### Due Process Rights

At the BSEA there are a number of options:

- Facilitated IEP** 781-338-6443
- Mediation** (can be requested at any time)
- Advisory Opinion**
- Resolution Meeting**
- Pre-hearing conference calls/ Settlement Agreements**
- Hearing**
- SpedEX** 781-338-6402 (FAPE in the LRE)



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## Resolving Differences:

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**If the IEP Process is Not Followed or Services are NOT Provided as Agreed**

**Contact the**

Massachusetts Department of Elementary and Secondary Education  
Program Quality Assurance (PQA) to file a written complaint

781-338-3700

**\*\*This is different than filing with BSEA\*\***

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## Strategies for Success

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- **Knowledge of your child's Basic Rights**
  - What does the law require?
  - What does their child need?
- **Effective communication & advocacy skills**
- **Know your emotional limits**
- **Be prepared to be an active participant**
  - Concerns
  - Strengths
  - Vision
- **Access to technical assistance from FCSN or legal resources**
- **Education is serious business - stick to facts and data**
- **Ongoing support**
- **Say "Thank-you!" to teachers and therapist who made a difference in your child's life using examples**
- **Never go alone always bring support**
- **Three P's – positive, pleasant, persistent**



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*"We are  
committed to  
listening to  
and learning  
from families  
and  
encouraging  
full  
participating  
in community  
life by all  
people,  
especially  
those with  
disabilities."*

## FCSN provides ongoing Support

Go to FCSN web site to access info below [www.fcsn.org](http://www.fcsn.org)

Technical Assistance by the Call Center 617-236-7210

Workshops in English, Spanish, Portuguese, Chinese

Parent Consultant Training Institute

Parent Consultant Networks

Choose the right support

FCSN Conference

Ask the Advocate

Planning a Life

IEP Clinics

Mass PAC

Newsline

GALA

Please contact us for more information on No Child Left Behind,  
Bullying Solutions with Positive Behavioral Supports,  
Homelessness, Ed Reform, Discipline, Civil Rights-504, Vision,

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## Resources



Federation for Children with Special Needs (FCSN) [www.fcsn.org](http://www.fcsn.org)

Parent Training & Information Center at FCSN <http://fcsn.org/pti/>

MA Department of Elementary and Secondary Education [www.doe.mass.edu](http://www.doe.mass.edu)

MA PIRC at FCSN-Parent's PLACE [www.pplace.org](http://www.pplace.org)

Family TIES at FCSN [www.massfamilyties.org](http://www.massfamilyties.org)

NAMI National Alliance on Mental Illness [www.naminmass.org](http://www.naminmass.org)

Disability Law Center [www.dlc-ma.org](http://www.dlc-ma.org)

Massachusetts Arc <http://www.arcmass.org/>

Massachusetts Advocates for Children [www.massadvocates.org](http://www.massadvocates.org)

Mass. Association of Special Education PACs <http://www.masspac.org/>

Parent Professional Advocacy League (PAL) <http://ppal.net/default/>

Parent's Guide <http://www.fcsn.org/parentguide/pgintro.html>

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