



FEDERATION FOR CHILDREN WITH SPECIAL NEEDS



INFORMING, EDUCATING, EMPOWERING FAMILIES

617-236-7210 | www.fcsn.org | fcsninfo@fcsn.org



FEDERATION FOR CHILDREN
WITH SPECIAL NEEDS

*Informing,
Educating,
Empowering
Families*

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.



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*Informing,
Educating,
Empowering
Families*

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, which receives more than 1,500,000 visitors per year
- Annual conference "Visions of Community"
- Present 500 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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BASIC RIGHTS

In Special Education

Parent Training and Information Center
617-236-7210 1-800-331-0688
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 # H328M040001 from the U.S. Department of Education, Office of Special Education Programs and the Massachusetts Department of Elementary and Secondary Education.



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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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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

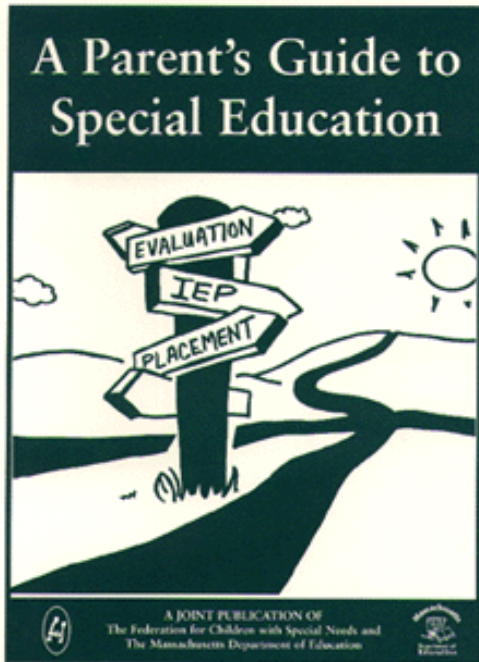
Appropriate Evaluation

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>



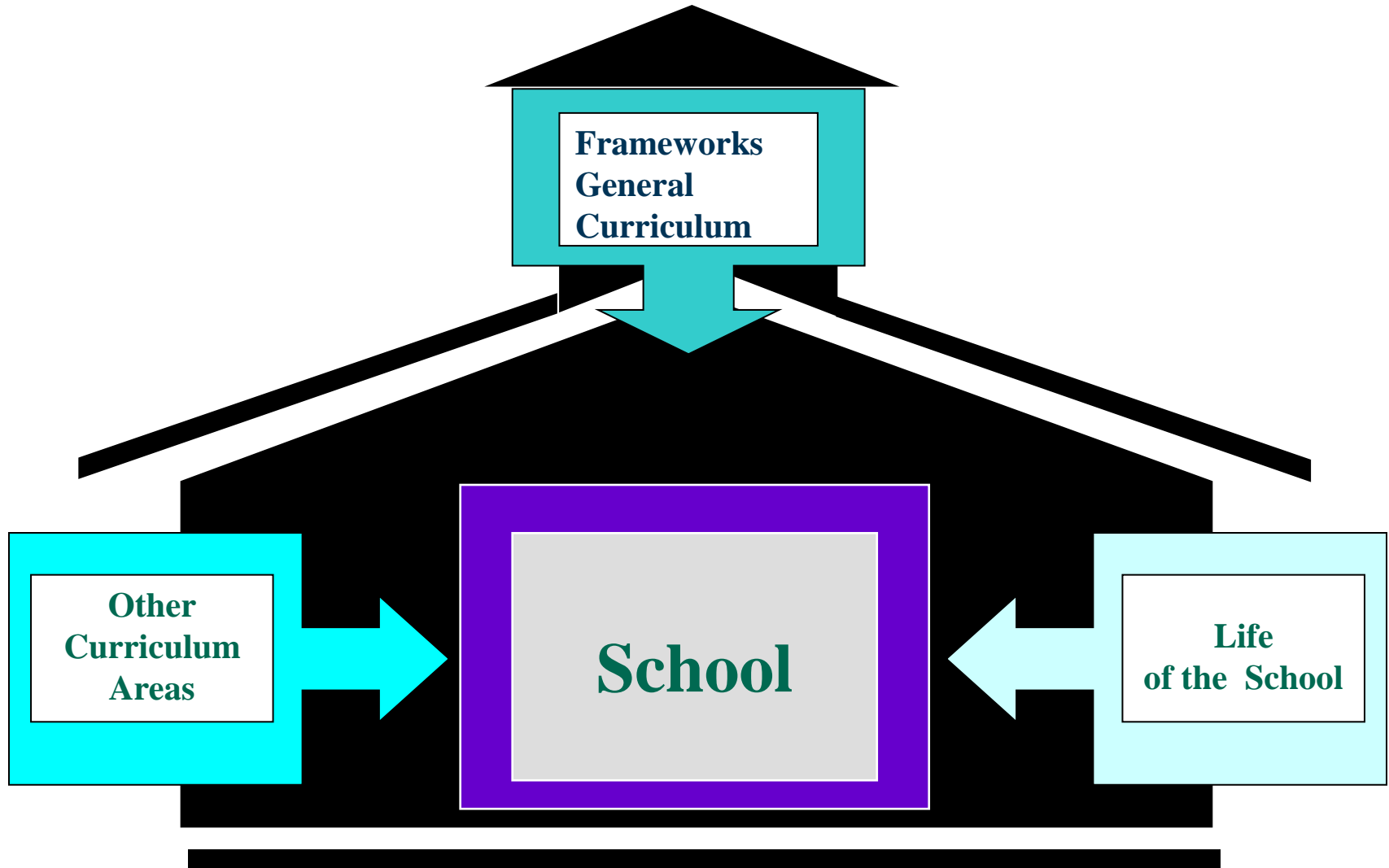
Free Appropriate Public Education 3-21

Schools provide each eligible special education student an education that:

- 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
- Provided in accordance with an appropriately developed Individual Education Program (IEP)
- At no cost to the parents/families



FAPE in the LRE





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. [34 CFR 300.114]

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





Special Education Law



Federal

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

Regulations

34 CFR Part 300

<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”

MGL chapter 71B

Regulations

603 CMR Section 28.00



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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)

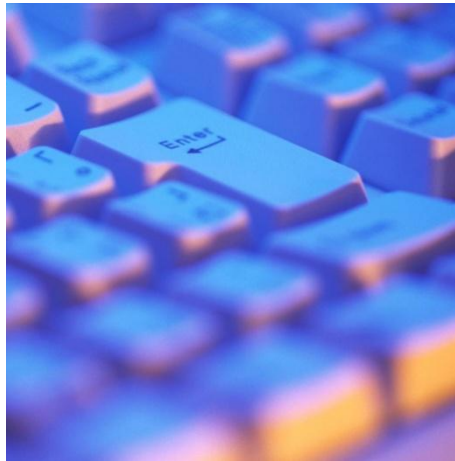
<http://www.usdoj.gov/crt/ada/adahom1.htm>





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.***



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)

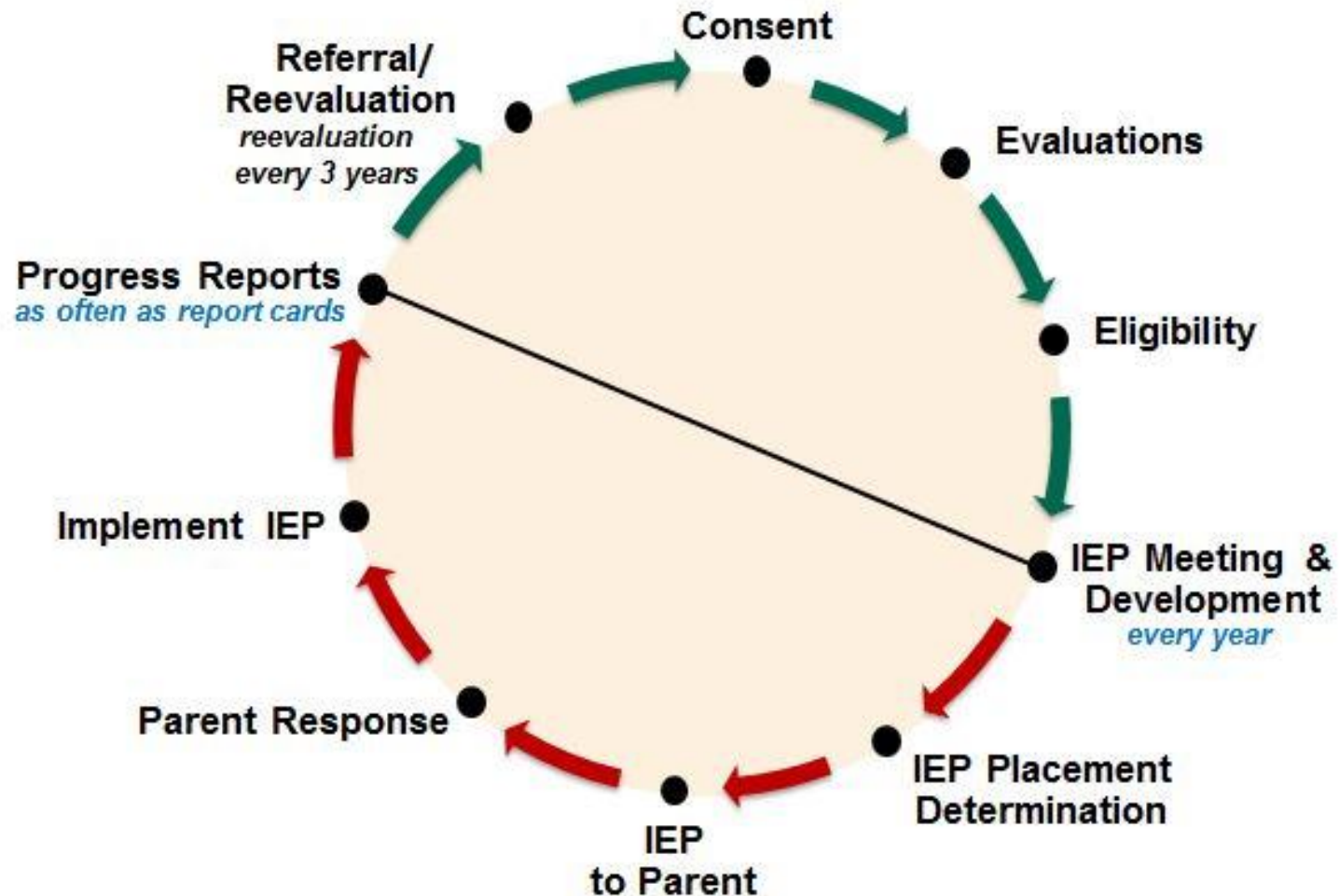
Tier 2 interventions involve more intensive, relative short-term interventions (multi-disciplinary team meets to address concerns of student, progress monitoring)

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





Special Education: The Full IEP Process





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.





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)]





Evaluations/Reevaluations

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★ 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





Referral and Evaluation:

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

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

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 [34 CFR 300.304]





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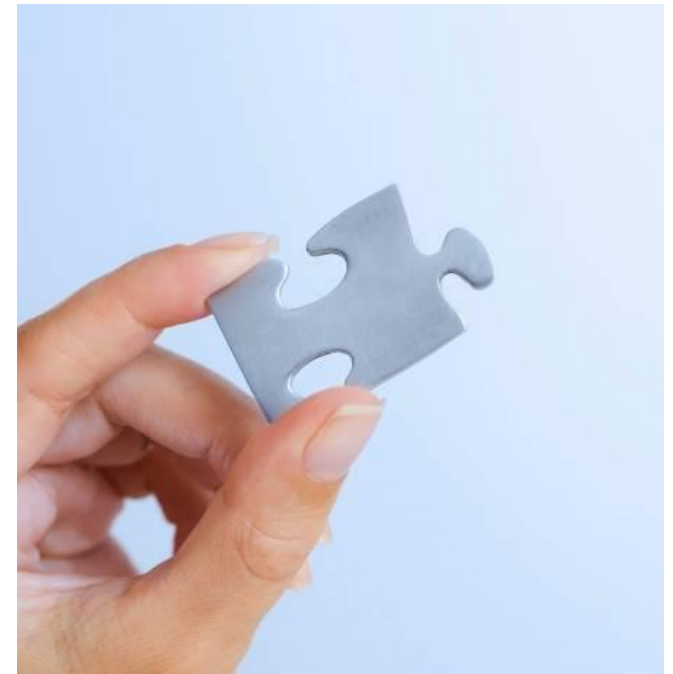
Required Evaluations

• **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.



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.



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*

[34 CFR 300.8 (c)(10)]

www.doe.mass.edu/sped/iep/sld



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. [34 CFR 300.8(c)(1)(i)]





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_1ta.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



Questions of Eligibility:

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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.



Questions of Eligibility:

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

Assistive technology

Audiology

Counseling

Interpreting

Medical

Occupational therapy

Orientation and mobility

Parent counseling and training

Physical therapy

Psychological

Rehabilitation counseling

Recreation

School Nurse/ Social Worker

Health Services

Speech and Language Pathologist

Transportation

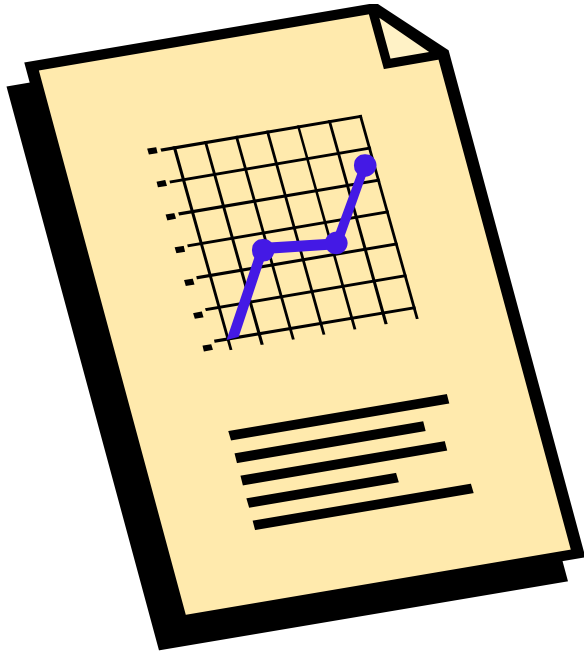
- **Travel Training**

Other services with the exception of a medical device that is surgically implanted

*Note: Your child can qualify for an IEP even if he/she only needs **one or more** related service(s) [603 CMR 28.05(2)(a)(1.)]



Continued Eligibility: Re-Evaluation



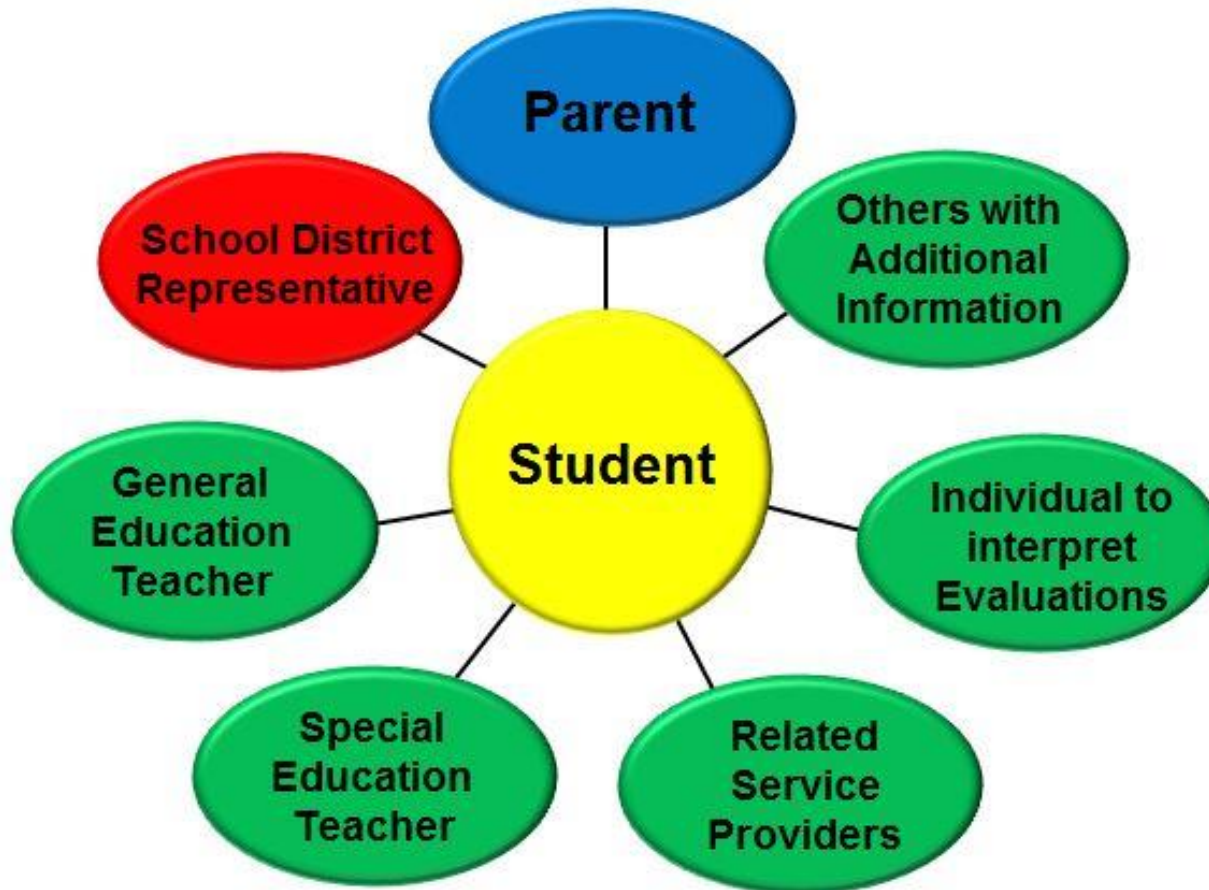
District must reevaluate once every 3 years, unless the parent and the district agree that it is not needed

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. [34 CFR 300.305(e)]



The IEP Team Membership:



See 34 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



~18 is the Age of Majority ~

•Chapter 688 Referral

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



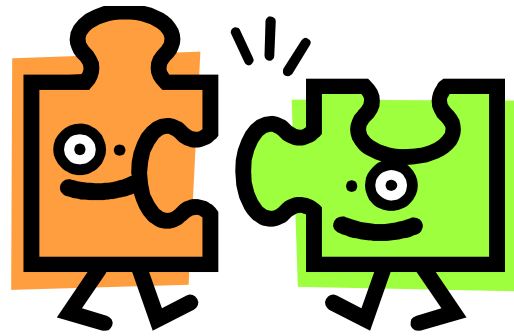
IEP Team Membership:

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.

[34 CFR 300.321(e)(1)]



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**

[34 CFR 300.321(e)(2)]



IEP Process: At the Team Meeting

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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





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.



504 Plans

- Is **not** “special education” under IDEA and MGL Chapter 71B because a student is determined to be “making effective progress”
- Provides for **accommodations** and **related services** ONLY to enable **access** to the General Curriculum (no modifications of content, methodology or performance criteria)

REQUIRED for 504 Plan/IEP

- FAPE in the LRE
- Disability Determination
- Team decisions & meetings
- Periodic Review
- Evaluations
- Appeals to BSEA, PQA or OCR
- Accommodations based on *need*
- Related Services based on *need*
- Accommodations on MCAS
- Discipline Protections

NOT Required for 504 Plan

- Written plan
- Progress Reporting
- Transition Planning



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Placement: Continuum of Settings

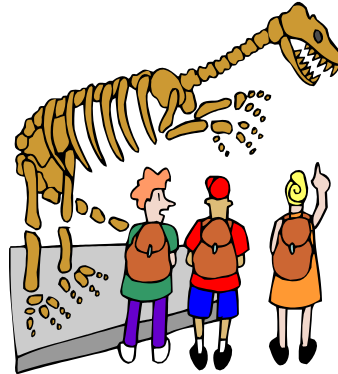
- Standard Classroom
- Classroom with Pull Outs
- Self Contained Classroom
- Collaboratives
- Home Based
- Hospital
- Therapeutic/ Specialized Program- off campus
- Private Therapeutic Day Program
- Private Residential Treatment Program
- IRTP Intensive Residential Treatment Program
 - Hospital Continued 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

[34 CFR 300.117]

Field Trips
Counseling Services
Athletics
Transportation
Health Services
Recreational Activities

[34 CFR 300.107]



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.aspx?id=3182>



Timelines: After the Team Meeting

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



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 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.



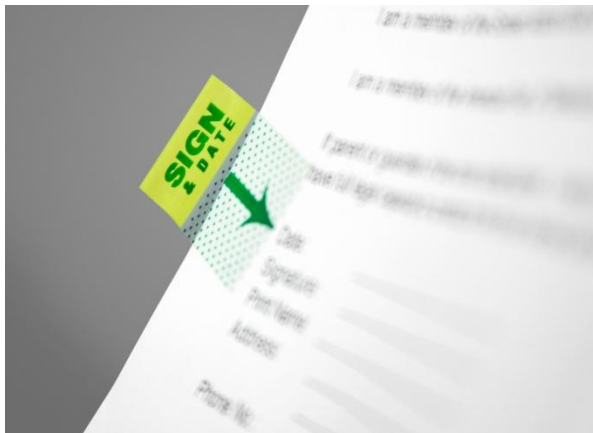
Amending or Modifying the IEP

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.

[34 CFR 300.324(a)(4)(i)]

Parent consent is still required for all changes to the IEP



- **All individuals implementing the IEP must be informed of the changes to the IEP and their responsibilities under the IEP.**

[34 CFR 300.324(a)(4)(ii)]

- **The IEP must be accessible at all times to everyone implementing the IEP.**

[34 CFR 300.323(d)(1)]



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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.

There is a right to only one IEE each time the school conducts an evaluation. [34 CFR 502.(b)(5)]



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.”



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, there are several different dispute resolutions available to Parents.

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



Resolving Differences:

Procedural Safeguards and “Due Process”

Local Options

Independent
Evaluation

IEP Meeting

Meeting with
Principal *and/or*
Superintendent

Procedural Violations & Enforcement Issues

PQA
Program
Quality Assurance
781-338-3700

OCR*
Office for
Civil Rights
1-800-368-1019

**if civil rights violation*

Alternative Dispute Resolution Options

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

Mediation
617-626-7291

SpedEx
david.scanlon@bc.edu

Due Process

**BSEA
Hearing**
617-626-7250

**BSEA
Advisory
Opinion**
617-626-7250



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Resolving Differences:

**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****



Strategies for Success

- **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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How can the Federation help You?

***Call Center
617-236-7210***

***Visit our website
www.fcsn.org***

***Email Us
fcsninfo@fcsn.org***

Follow Us on . . .





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Additional Workshops

An IEP for My Child

Transition Planning for Middle and High School Students

Effective Communication and the IEP

MCAS: Access and Achievement for Students with Disabilities

Understanding My Child's Learning Style

Suspension & Discipline in Special Education

504 Plans



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Resources



Federation for Children with Special Needs (FCSN) www.fcsn.org

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

MA Department of Elementary and Secondary Education www.doe.mass.edu

MA PIRC at FCSN-Parent's PLACE www.pplace.org

Family TIES at FCSN www.massfamilyties.org

NAMI National Alliance on Mental Illness www.naminmass.org

Disability Law Center www.dlc-ma.org

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

Massachusetts Advocates for Children 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>