



FEDERATION FOR CHILDREN
WITH SPECIAL NEEDS

Basic Rights: Evaluation and Eligibility 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



FEDERATION FOR CHILDREN
WITH SPECIAL NEEDS

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.

PTIC



Workshop contents were developed under a grant from the US Department of Education. However, the contents do not necessarily represent the policy of US Department of Education; you should not assume endorsement by the federal government.

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Workshop Goals

- Understand your rights under special education law
- Understand 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

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What Is the Purpose of IDEA? 20 USC § 1400(d)(1)(A); 34 CFR § 300.1

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)

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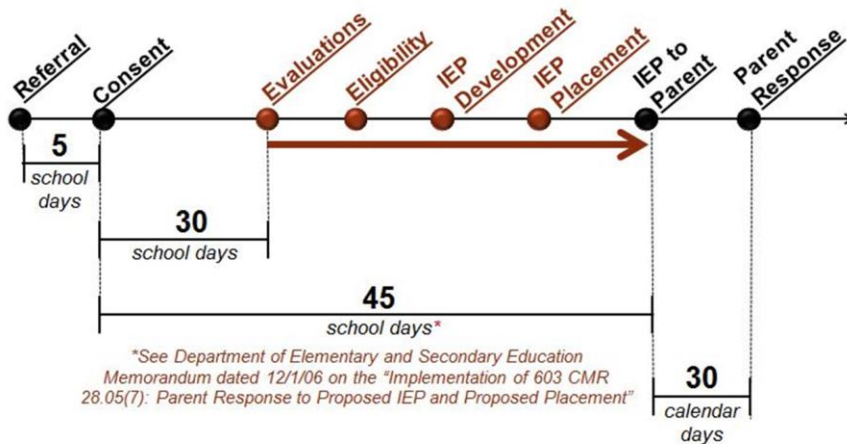
Pause and Reflect on What We Have Learned

What is your take-away thus far?



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Review of Important Timelines



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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 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 parent the consent form. Parent's written permission is required to perform evaluation



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

Re: [Name of Student and other necessary identifying information] Notice Date: [Date from N 1]

School District Name

EVALUATION CONSENT FORM
Attachment to N 1

TYPE OF ASSESSMENTS: <i>A variety of assessment tools and strategies should be used to gather information that determines the educational needs of this student. (Check yes or no for each assessment)</i>	RECOMMENDED	
	YES	NO
Assessment in All Areas Related to the Suspected Disability(ies) – describe the student's performance in any area related to the child's suspected disability(ies). List recommended assessment(s):		
Educational Assessment – includes the history of the student's educational progress in the general curriculum and includes current information on the student's performance.		
Observation of the Student – includes the student's interactions in the student's classroom environment or in a child's natural environment or an early intervention program.		
Health Assessment – details any medical problems or constraints that may affect the student's education.		
Psychological Assessment – describes the student's learning capacity and learning style in relationship to social/emotional development and skills.		
Home Assessment – details any pertinent family history and home situations that may affect the student's education and, with written consent, may include a home visit.		

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

PARENT RESPONSE SECTION

Please indicate your response by checking at least one (1) box and returning a signed copy to the school district. Please keep one copy for your records. Thank you.

I accept the proposed evaluation in full. I request the proposed evaluation in full.

I accept the proposed evaluation in part and request that only the listed assessments be completed.

I additionally request the following assessment(s): assessment(s) listed above. other assessment(s) (specify):

I request access to all summaries of assessment reports at least two days in advance of the Team discussion. [603 CMR 28.04(2)(c)]

Signature of Parent, Guardian, Educational Surrogate Parent, Student 18 and Over* Date

*Required signature once a student reaches 18 unless there is a court appointed guardian.

PARENT INPUT

We strongly encourage you to share your knowledge of this student with us. If you choose, please provide a written statement (see back of form) or call the indicated contact person. Thank you.



Which Assessments Will Be Performed?

See 603 CMR 28.04(2)(a)

- 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.

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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.



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

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

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Pause and Reflect on What We Have Learned

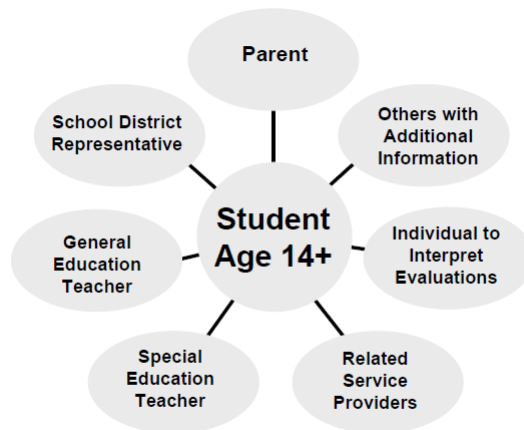
What did we learn about evaluations?

What is your take-away from this section?



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Who Is at the Team Meeting?



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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?



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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



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Pause and Reflect on What We Have Learned

What did we learn about the Team Process?

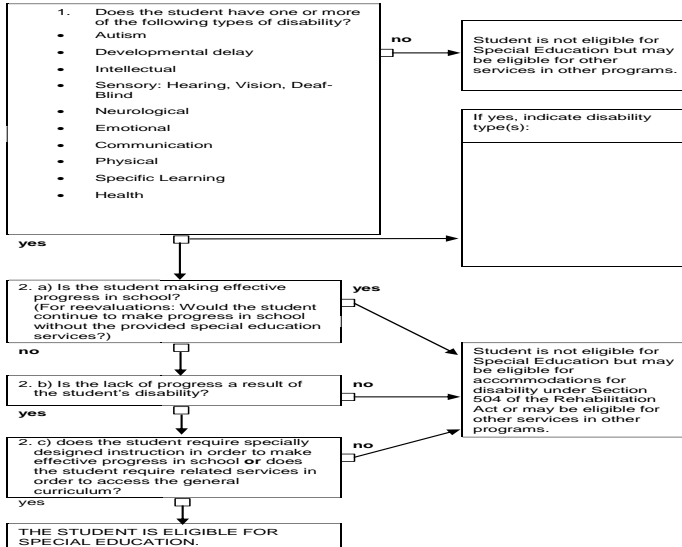
What is your takeaway?



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Who Is Eligible for Special Education?

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



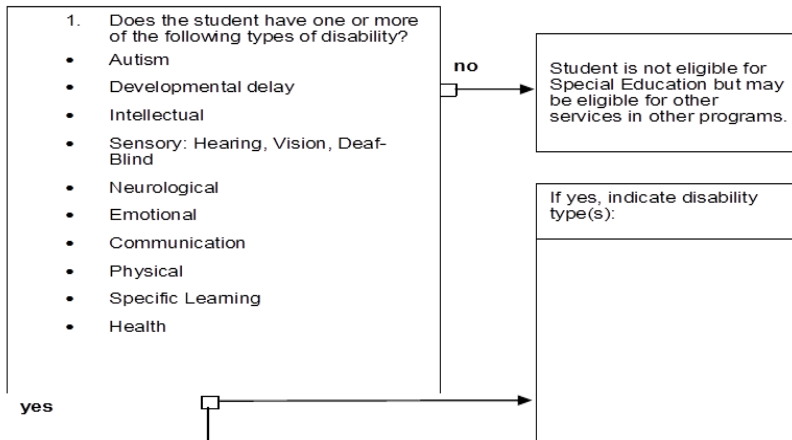
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Step 1: Does Student Have a Disability?

Special Education Eligibility/Initial and Reevaluation Determination

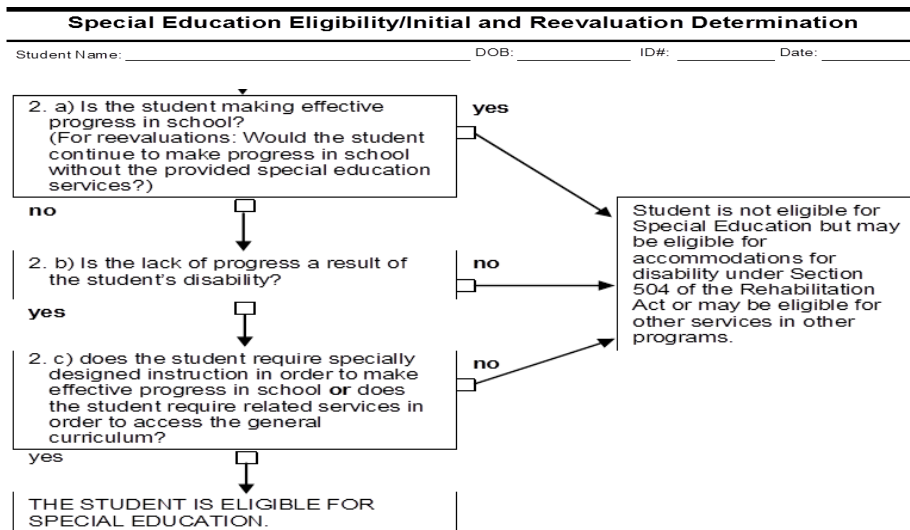
Student Name: _____ DOB: _____ ID#: _____ Date: _____

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



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Step 2(a): Is Student Making Effective Progress? Step 2(b): If Not, Is It Due to Disability?



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

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

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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

Specialized instruction *is* special education

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Step 2(c): Does Student Require **Related Supports or Services** to Access Curriculum?

- | | |
|---------------------------|------------------------------|
| •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

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Pause and Reflect on What We Have Learned

What did we learn about the eligibility process?

What is your take-away from this section?

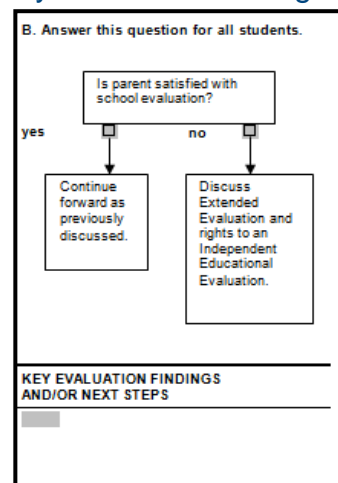


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What if Team Decides Student is Not Eligible for Special Education?

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)



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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

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Pause and Reflect on What We Have Learned

What did we learn about our options if child is found ineligible?

What is your take-away from this section?

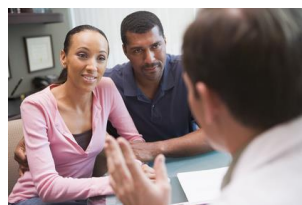


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If Student Is Determined to Be Eligible for Special Education

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



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The Purpose of an IEP

Enables student to access the general curriculum

Massachusetts Curriculum Frameworks
Local School District Curriculum
MCAS & MCAS-ALT

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What Is Free Appropriate Public Education (FAPE)?

The standard for providing services:

- **F**ree = No cost to parents
- **A**ppropriate = Services sufficient to enable student to make meaningful or effective progress according to his/her potential and toward challenging IEP goals.
- **P**ublic = Provided by public school district or under direction of the public school district
- **E**ducation = Preschool, elementary and secondary education, including extra curricular and non-academic school activities

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What Is the Least Restrictive Environment (LRE)?

See 34 CFR 300.114; 603 CMR 28.02 (12)

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

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Pause and Reflect on What We Have Learned

What is your take-away on
the legal standards for determining
services and how they are given?



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What Happens at Close of Team Meeting?

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

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.

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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

Options for placement:

1. Accept placement
2. Reject placement



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

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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.

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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.



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Can the IEP Be Changed After an IEP Meeting?

See 34 CFR 300.323 and 34 CFR 300.324

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

Parent consent is required for *all* changes to IEP.



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Pause and Reflect on What We Have Learned

Do you understand what happens after
the Team meeting?



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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



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Resolving Disputes



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

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Local Dispute Resolution Options



Team Meeting

Independent Educational Evaluation

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

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Independent Education Evaluation (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 recommendations.

Consider having evaluator attend the meeting to the support the report in person or by phone.

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External Dispute Resolution Options

Procedural Safeguards and “Due Process” Rights

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
 781-397-4750

Mediation
 781-397-4750

Due Process

BSEA
Hearing
 781-397-4750

Resolution
Meeting

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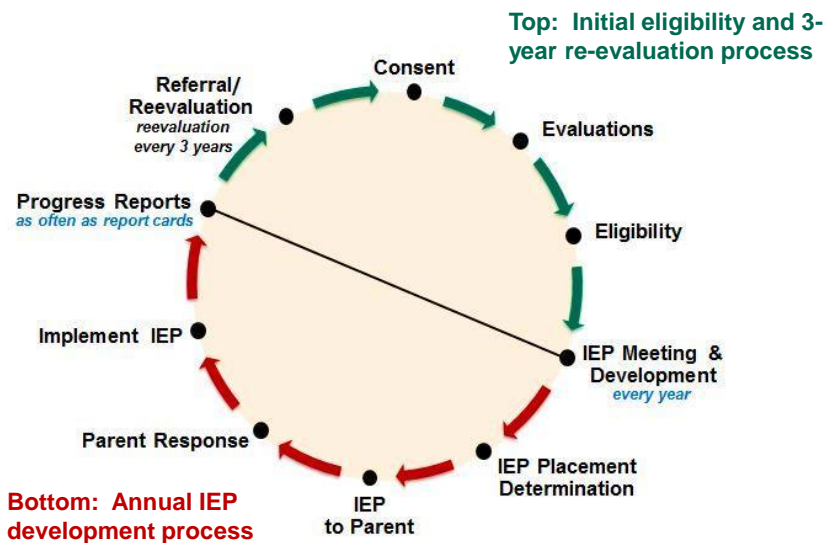
Pause and Reflect on What We Have Learned

What is your take-away on dispute resolution?



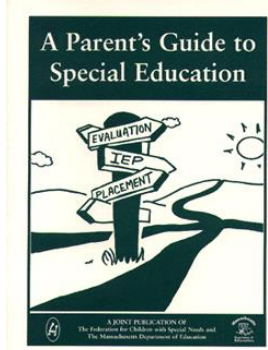
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Review of Full IEP Cycle



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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>

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Strategies For Success

- ❖ 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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Federation for Children with Special Needs (FCSN)

<https://fcsn.org/>



Mass. Association of Special Education PACs

<https://fcsn.org/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

Understood www.understood.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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Parent Training & Information Center

Information Center

FREE info about
Special Education Rights
<https://fcsn.org/information-center-2/>
617-236-7210
Mon-Fri 10am-3pm,
Evening hours by appt.
*Language Line available for
multiple languages*

Outreach

The PTIC provides special
education training, information
and support to families
who speak:

**Spanish, Portuguese,
Haitian and Chinese**

Workshops

FREE to participants

- Understanding the IEP
- Discipline & Suspension
- Effective Communication
and MORE!

<https://fcsn.org/pti/workshops/>

Parent Consultant Training Institute

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





2022 Visions of Community Conference

Our annual Visions of Community (VOC) conference will be held virtually on March 19, 2022.



Please follow us on our social media and on our website for more details.

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How You Can Help Support Us!

Please use the last few minutes of our time and complete the workshop evaluation survey that has been copied into the chat.



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