

Special Education: 10 Questions for parents

1. School Records. *Do you have copies of the school records file?*

Families are entitled to records “as soon as practicable” and within ten calendar days of request (603 CMR 23.07). (see attached form letter requesting records) If the family is about to go into shelter or move around a lot, they should ask for the records immediately and, if possible, take the records with them.

2. Evaluation. *Are you concerned about your child’s development?*

School must evaluate in all areas of suspected need upon parental request. Initial evaluation must be completed within 30 school days from parent consent and team meeting held within 45 days from consent 603 CMR 28.05(1). (see form letter requesting evaluation)

3. Independent Evaluation. *Do you disagree with the school’s evaluation?*

If school evaluation has been completed less than 16 months ago and you disagree with it, you can ask for an independent evaluation(603 CMR 28.04(5)). Free to legal services clients. (Call Massachusetts Advocacy Center, Disability Law Center, Children’s Law Center for suggestions on evaluators specializing in that child’s particular needs)

4. Individual Education Plan (IEP). *Is your child getting the services on his IEP?*

The IEP is a written statement signed by the parent that lists goals and services designed to meet the unique needs of eligible children. It can also contain “related services” to help the child access the general curriculum. Review all the potential services listed on an IEP “grid.” An IEP is legally enforceable.

5. Reviews and Re-evaluations. *Have your child’s needs changed?* Each qualifying child is entitled to an IEP review every year and to a re-evaluation every three years. Can always ask for an unscheduled reevaluation, especially if there are new circumstances. (603 CMR 28.04(3))

6. Rejecting the IEP. *Did the school refuse your child services you believe he/she needs?*

The schools must provide special education and related services that are necessary for the student to benefit from special education or access the general curriculum. Parents can reject or withdraw consent for the IEP if s/he believes services do not meet the child’s unique needs. There is a right to a hearing; encourage parents to get an independent evaluation beforehand.

7. Due Process rights. *Do you disagree with the IEP proposed by the school?* Parents may appeal to the Bureau of Special Education Appeals (BSEA) with further appeal to state or federal court. There are extensive notice requirements and procedural rights. Parents should seek legal advice.

8. Stay Put. During any appeal of the IEP, except in very specific circumstances the child stays in the last agreed upon placement. If child has been placed out of school, seek legal advice.

9. Strong protections against being suspended or expelled from school for more than 10 days. Is your child facing disciplinary proceedings? Was the behavior related to his/her disability? Was there a manifestation determination? Did the school write a behavior plan? Does your child have unidentified special needs? You can refer for an evaluation even after the student is expelled. *Is the school using the courts to avoid providing services?* Legal advice may be needed. (see referral list)

10. MCAS *Has your child with disabilities had difficulties with (or failed) the MCAS ?*

Ask if the child got accommodations needed for the test. Ask if child had a chance to learn the material covered by MCAS. If not, call the MAC MCAS and disabilities hotline (617-357-8431)

PARENTS' REQUEST FOR THEIR STUDENT'S EDUCATIONAL RECORDS

Notes: The starting point for evaluating a special education case is the gathering of school records. Massachusetts school records regulations 603 CMR 23.00 require that records be made available “*as soon as practicable and within ten [calendar] days after request.*” (If the family has a reason to obtain the records earlier, a brief explanation in the letter or by phone might speed things along.) A fee not to exceed the cost of reproduction may be charged *only* if the charge would not prevent the parent or eligible student from exercising their rights under federal law to inspect the record (see also Federal Education Right to Privacy Act known as FERPA 20USC 1232g and regs). Parents hold the right to gain access to records until the student is 14. From age 14-17 (student must be in 9th grade) the student and the parent hold the right jointly and at 18 the right shifts to the student. Parents continue to a right to inspect records, however, and students must expressly limit a parent’s other rights upon reaching 18. Access to records is denied in the case of non custodial parents who are under protective orders, have been denied legal custody based on a threat to the safety of the student or the custodial parent, have been denied visitation or who are ordered to have supervised visitation, unless there is a specific order allowing access. (603 CMR 23.07 (5))

Date _____

Dear Principal,

I am the parent/guardian/surrogate parent/ of ___(Child’s Name)____. I request that you provide me with copies of _____’s entire student school record, including but not limited to regular and special education, discipline, and health records as well as notes, correspondence, and test scores.

(Arrange a time and place to receive the records :)

Please send these records to: OR

Please fax these records to OR

I would like to pick these records up on _____. Please confirm that the records will be available at this time.

Thank you for your attention to this matter.

Sincerely,

Name

Address.

cc: Director of Special Education

EVALUATION REQUEST

Notes: This is a form letter for requesting a special education evaluation to determine eligibility for special education. Parents should either state that they have concerns about the child's development or that they suspect a disability (or both). The school must provide an evaluation within 30 school working days and hold a team meeting within 45 school working days from parent's consent to an evaluation.

Date _____

Special Education Director

Principal

Dear Director _____ and Principal _____

I am parent/guardian/surrogate parent for _____. By this letter I am formally requesting an evaluation to determine his/her eligibility for special education. I have concerns about his/her development.

Sincerely,

Name:

Name of Child:

Address:

INDEPENDENT EVALUATION REQUEST (SECOND OPINION)

Notes for parents and Court Personnel: If a parent *disagrees* with the school's evaluation of the child and wishes more information prior to deciding whether to accept or reject an new IEP or continue with an existing IEP, parent may wish to ask for an independent evaluation. Parents are entitled to an independent evaluation in one or more areas already assessed by the school district for 16 months after the completion of the school's evaluation. (The parent can ask for an evaluation in an area that the school has not tested, but the school may take the parent to a hearing to show that the evaluations already provided were "comprehensive and appropriate.") Clients up to 400% of poverty are entitled to free independent evaluations (there is a sliding scale for higher incomes.) Families who don't want to share financial information can request an evaluation and within 5 days the school must agree to pay or else initiate a hearing to show school's evaluation is appropriate. While the school can ask if parent disagrees with the school's evaluation, there is no requirement for the parent to detail or prove the reasons for the disagreements. The parent will need to make the appointments and get the addresses and license no. of the evaluators for the schools.

Date:

Director of Special Education

Dear Director _____

I am parent/guardian/surrogate parent/person acting as the parent of _____. I am formally requesting an independent evaluation for my child in the areas of (list below: eg speech, language, neuropsychology, occupational therapy, psychology, education, physical therapy, etc) :

I request that you provide authorization to the following evaluator(s). (list each evaluator and the kind of evaluation to be provided).

Name:

address

license no.

type of evaluation

Sincerely,

Name:

Address:

cc Principal and/or Team leader

EDUCATION REFERRAL POINTS FOR LOW INCOME CLIENTS

Statewide points:

Children's Law Center: 1-888-KIDLAW8 for client intake Tues. 9:30 – noon (special education, accommodations for students with disabilities, suspension and expulsion)

Disability Law Center: 1-800-872-9992 (special education, accommodations for students with disabilities, bi-lingual special education, access to after school and day care programs; ADA and 504 claims – including testing)

The Federation for Children with Special Needs: (617) 236-7210 (special education and accommodations for students with disabilities)

The Massachusetts Advocates for Children: (617) 357-8431 (special education, accommodations for students with disabilities (incl. testing), suspension and expulsion, educational needs of children affected by domestic violence, homelessness)

META 617-628-2226 (bi-lingual education and other language concerns, rights of immigrant children to school access, and MCAS testing issues.)

Specific Geographic areas:

Family Advocacy Program: 617-414-7430 (pediatric patients of Boston Medical Center, Codman Square Health Center, Upham's Corner Health Center, & Dorchester House)

Massachusetts Justice Project: (western MA) 413-533-2660

Merrimack Valley Legal Services (northeastern MA): 978-458-1465

New Center for Legal Advocacy: (southeast MA) 800-244-9023

Southeastern Massachusetts Legal Assistance Corporation: (southeast MA) 1-800-244-8393

South Middlesex Legal Services: (South Middlesex County) 508-620-1830

Youth Advocacy Project – Education Law Project (Roxbury, MA) (617-445-3914)

Volunteer Lawyers Project of the Boston Bar Assn.: (Greater Boston) 617-423-0678

Technical Assistance to Lawyers and Advocates:

Center for Law and Education: (Kathy Boundy) 617-451-0855

Children's Law Center: (Michelle Griffin) 781-581-1977

Disability Law Center: (Tim Sindelar) 617-723-8455 x 139

Massachusetts Advocates for Children: (Susan Cole) 617-357-8431 x 223

META (Roger Rice and Jenny Lopez) 617-628-2226