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Special Education Fact Sheet

SPECIAL EDUCATIONAL SUPPORT SERVICES FOR CHILDREN WITH EMOTIONAL OR BEHAVIORAL NEEDS

Students who are suspected of, or have been classified as, having an Emotional Disturbance have certain rights that the New York City Department of Education (“DOE”) must honor. Students and their parents or guardians have the right to:

- ❖ Free educational, social and psychological evaluations administered by DOE;
- ❖ Under certain circumstance, have the DOE pay for independent educational evaluations;
- ❖ Have an opportunity to review the results of all evaluations performed by the DOE and independent evaluators.

If the evaluations show that the child has a disability, you have the right to an Individualized Education Program (“IEP”) that you and the DOE create together.

Behavior & School Discipline

Many children who have been classified with Emotional Disturbance get into trouble at school for acting in a way that disrupts the classroom. The school should not automatically punish or exclude a child because of misbehavior that is related to his or her disability.

However, if a school does attempt to suspend your child for misbehavior, you and your child have certain rights. A parent has the right to be notified immediately by telephone, if possible, and to receive written notice within 24 hours of a proposed suspension of 5 school days or less. The notice should describe the incident, proposed suspension and your child’s rights. You also have the right to request an informal conference with the school principal prior to the suspension unless your child’s presence in school poses a danger.

If the suspension is to last more than 5 consecutive days, you have the right to receive notice of a superintendent’s hearing and the right to counsel and to present and question witnesses.

If the school personnel recommend a suspension for more than ten consecutive days or that will result in ten cumulative days for the school year, there is a right to a Manifestation

Determination Hearing (MDR). At the MDR a determination will be made as to whether the inappropriate behavior is substantially related to the student's disability. The IEP team, parents and the student may attend the hearing. The chair of the committee makes the manifestation determination. The parent or student can challenge the determination through mediation or an impartial hearing. The MDR should occur immediately, if possible, but in no case later than ten school days after the date the disciplinary decision is made.

Even if your child is suspended, the DOE must continue to provide instruction and special educational services.

Behavioral Intervention

The DOE must perform a Functional Behavioral Assessment (FBA) for children whose behavior interferes with their learning or with the learning of other children. An FBA is an evaluation to determine why the child acts the way that he or she does and what the school can do to help him or her get back into control so that he or she can continue to learn and grow. Sometimes an FBA will result in real changes being made to how your child should be educated or the needed services. The FBA must be considered when the IEP is being prepared.

Once an FBA is completed, the DOE then creates a Behavioral Intervention Plan (BIP). This is a plan that tells the teachers and other staff how the student's behavior can be managed based upon all the information that the school now has about him or her. The BIP must be part of the IEP.

There are many other services and accommodations that the DOE may be required to provide depending upon your child's needs. To make sure that your child is receiving the right kinds of services and accommodations, request an evaluation from the DOE if you don't already have one that is current and accurate. Even though generally the school system must identify a child with a disability, your knowledge of your child is invaluable. If you have any concerns, you should let the school know about them as soon you notice them. The sooner your child is evaluated, the sooner the interventions can begin.

Least Restrictive Environment

If your child does need a special education program, the law requires that it be provided in the Least Restrictive Environment (LRE) possible. This means that, even though a student has disabilities, he or she must be educated with non-disabled student to the maximum extent possible. Just because a child has a disability does not mean he or she should be removed to a separate classroom or school. Sometimes, the DOE can provide the necessary supports and services right in the same general education classroom.

If your child is classified as having an Emotional Disturbance, you should discuss whether his or her needs – not just academic needs, but also social and developmental needs – can be met in a general education program in your child's home school. There are a range of schools, classes and programs that the DOE provides that go from least restrictive to most restrictive. You should go through the different kinds of programs with the school to determine which is the most appropriate environment for your child.

Once the DOE recommends a classroom or school for your child, you should go visit so you can decide whether you think the placement is appropriate for your child. You should interview principals and teachers and speak to other parents. You have the right to reject a placement, but only if it does not offer an appropriate learning environment. That the school is far from home or not in a safe neighborhood are insufficient reasons to reject a placement.

Individual Education Program (IEP)

An IEP is one of the most important documents relating to your child's education. It contains specific educational goals, the services he or she will receive, a classroom placement and a classification of the nature of his or her disability.

The IEP must be developed by a team that includes the parent or guardian teachers who know your child, another parent of a student with a disability and a representative of the DOE who knows what kinds of services can be provided and can make arrangements so that your child gets those services. This team is called the IEP team.

The IEP is a contract and the DOE must provide your child the programs and services listed, unless you have agreed to change the IEP. You can ask for a meeting to have the IEP changed whenever things change or you feel that it is necessary.

The IEP contains:

- ✓ Classification (e.g., Emotional Disturbance, Learning Disabled)
- ✓ Goals for your child for the school year
- ✓ Educational placement, i.e., the type of classroom or school
- ✓ List of any special services or accommodations your child requires to help him or her progress academically
- ✓ Other important details regarding your child's academic program for the year.

Every student is unique and a service that one child with an Emotional Disturbance classification needs can be completely different from what another child with the same classification needs. Some children do not need a special educational program at all.

Some of the types of special educational placements are:

- ✓ Special teacher added to the classroom
- ✓ Smaller class
- ✓ Smaller school

There are many other kinds of placements and services for which your child may be eligible.

Some of the related services available for eligible students are:

- ✓ Counseling
- ✓ Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP)
- ✓ Paraprofessional in the classroom
- ✓ Bus paraprofessional
- ✓ Limited time travel or smaller bus
- ✓ Speech therapy
- ✓ Occupational therapy
- ✓ Additional time for tests
- ✓ Seating in the front of the classroom
- ✓ Twelve-month school year

At the IEP Meeting:

You will be asked to sign an attendance sheet. This shows only that you attended the meeting. It does not mean that you agree with what the IEP says.

Take time to discuss every aspect of the IEP, and read it carefully. Ask as many questions as you have.

Make sure you understand the goals that are set and the services that your child will receive, when they will start, the classification, the classroom placement, and in what type of school your child will be placed. Many times, the actual school is not assigned at the meeting but a notice will be sent to you in a letter called a Final Notice of Determination (FNR).

If you do not speak or read English well, ask the DOE representative to provide an interpreter. Do not proceed with the meeting without an interpreter. Also, tell the DOE that you are requesting a translated copy of the IEP, evaluations and other important documents. Do not proceed with the meeting until you have been given translated copies of these documents. Request forms may be obtained by calling this office or at www.nyfpi.org/factsheets.

When a school calls an ambulance or the police

The school does have a right to call the ambulance or the police when your child poses a danger to himself or to another person. The parent should be called immediately, but the school does not have to wait for the parent to arrive before calling the police or ambulance. If an ambulance is taking your child and you have not arrived yet, a staff person from the school must accompany the child to the hospital. Your child cannot be left alone at the hospital.

When your child is ready to return to school, the principal cannot prevent her from returning to school by insisting that she be on medication or receive a “psychiatric clearance.”

Tips for Working with DOE

Keep All of Your Documents!

Keep your child's school documents, the IEPs and evaluations, and all letters and reports from the schools. Remember to keep copies of everything you send to the school related to your child's educational needs.

Put it in All Writing!

Send important information by certified mail, return receipt requested or by fax with confirmation so that you have proof that it was sent. If you cannot afford that, deliver important requests to the school, and have someone sign your copy that the document was received.

Take notes at meetings and when you have conversations with doctors or teachers; keep and date your notes. Put it all in writing.

Communicate!

Speak to your child's teacher(s) often so that they know that you are a concerned parent and that you are open to hearing from them. By keeping communication open, it's less likely that there will be misunderstandings or that minor incidents will be turned into major problems.

Be persistent. Always be ready to get a second opinion; it's okay not to take "no" as the only answer.

311!

If you need fast information related to special education, dial 311 and ask for the special education hotline. Or, look on line at the Department of Education's website at schools.nyc.gov. Pay special attention to the Standard Operating Procedures Manuals, which can help you understand how the system operates.

If you do not speak or read English:

You still have a right to be involved in your child's education. Request, in writing, that DOE provide you with your child's IEP and other school-related documents in your native language. Request that DOE provide a translator for the IEP meetings. For forms, call us or go to: nylpi.org/factsheets.

BECOME INVOLVED:

You are not alone.

There are many parents who have children with special educational needs and who share information and work together to make the schools work for their kids. Some places you can reach out to include:

Mental Health Association's Parent Resource Centers:

Bronx Parent Resource Center
2488 Grand Concourse, Suite 403
Bronx, New York 10458
(718) 220-0456

Manhattan Parent Resource Center
4 West 125th St., lower level
New York, New York 10027
(212) 410-1820

Parent Resource Center of Queens
87-08 Justice Avenue, Suite C-14
Elmhurst, New York 11373
(718) 651-1960

NAIMI (National Association for Individuals with Mental Illness):

(212) 684-3365 Helpline: (212) 684-3264

Parents for Inclusive Education:

Jackie Okin Barney
NYLPI
151 West 30th Street, 11th Fl.
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***DUE TO THE GENERAL NATURE OF THE INFORMATION PRESENTED, THIS FACT SHEET SHOULD NOT BE REGARDED AS LEGAL ADVICE. * August 2009**