

## Special Education Fact Sheet

### CHILD FIND

#### **The Local Educational Authority's Obligation to Test Children for Learning-Related Disabilities**

##### **What is *Child Find*?**

Under federal and state law, educational agencies are required to identify, locate and evaluate all students who may have a disability that affects their ability to learn. The law requires Local Educational Authorities (LEAs) to provide special education services to students with learning-related disabilities even if they are advancing from grade to grade. In New York City, school districts are required to refer students for initial evaluations if they are not making adequate progress under regular classroom instruction. This requirement must be met for all students – even if the child is without stable housing, a ward of the state, or attending private school.

##### **What is *adequate progress* and how is it measured?**

Adequate progress is based on a child's ability to meet expected outcomes (educational, behavioral and/or social) in the general classroom environment. Measuring adequate progress should include careful consideration of several factors including, report card grades, performance levels, grade repetition, and previous intervention methods.

##### **Who can refer my child for an initial evaluation?**

There have been some recent changes to the initial referral process, which can be confusion. An initial referral for evaluation (“**referral**”) may only be made by a parent, or a designee of the school district, public agency, or child care institution with Committee on Special Education (CSE) responsibilities. A written request that the school district refer the student for an initial evaluation (“**request for referral**”) may be made by a school staff member, licensed physician, judicial officer, or a staff member of a public health, welfare or education agency. Generally, students are not permitted to self-refer for an initial special education evaluation, however, students 18 years of age or older may request a referral on his/her own behalf.

If a school wants to evaluate your child for a disability, it must obtain your written consent before the evaluation is done. There are two exceptions to this requirement. The school does not need consent:

- ❖ if it is administering a test that is usually administered to all students without obtaining prior parental consent, or
- ❖ if it is reevaluating a child and it made reasonable attempts to obtain consent prior to administering the evaluation.

It is important to note that if you refuse or fail to consent at the time that the school seeks consent, you are relieving the school of its legal obligation to pursue an initial evaluation of your child. The parent may not sue the school later for educational services on a child find theory if he or she refused the testing.

### **What if the school fails to refer my child for an evaluation and he/she is later classified with a disability?**

Under federal law, your child may be able to receive additional educational services as compensation for the school's failure to identify, evaluate and provide special education services as soon as it should have. Showing that the school has failed in this regard is often difficult because you must prove that someone at your child's school had reason to believe that he/she was struggling and in need of an evaluation but ignored it.

When a child is young, he or she might display certain academic and/or behavioral difficulties that might be more typical of the child's age group, and not obviously related to a learning-related disability. As a result, the school might offer general education support services without referring the child for evaluation. At all stages of your child's education, it is important that you remain involved, ask a lot of questions, and document recommendations and your reasons for accepting or refusing them. The mere fact that a student receives some support is not necessarily proof that the school overlooked a child's signs of disability. Also, even when support services are being provided or considered, you or a teacher may still request that your child be referred for an evaluation.

### **Parent Checklist**

Obtaining special education services for your child can be challenging. Here are some things you can do to make the process easier for you and your child.

#### **Always:**

- ❖ Bring a notebook to all meetings
- ❖ Include the date and time of all meetings you attend
- ❖ Know the names and contact information of school administrators and staff involved in your child's education
- ❖ Keep copies of all documents. Keep copies together and in a safe place