

Special Education: Frequently Asked Questions

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

Parents are entitled to records “as soon as practicable” and within ten days of request (603 CMR 23.07). If you are about to go into shelter or move to another town, take the records with you if possible. (see form letter to request records)

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

Schools must evaluate in all areas of suspected need upon a parent’s request. Initial evaluation must be completed within 30 school days from parent consent and a 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). The evaluation is free for children receiving reduced cost lunch and may be free or partially paid for by the school depending on the family’s income. (Call Massachusetts Advocates for Children, Disability Law Center, or Children’s Law Center for suggestions on evaluators specializing in your child’s particular needs)

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

The IEP is a written statement signed by the parent that lists 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. You 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. You can reject or withdraw consent for the entire IEP or a portion of the IEP if you believe services do not meet your child’s unique needs. You have the right to a hearing. Parents are strongly encouraged to get an independent evaluation before a hearing and to obtain legal advice.

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 an appeal of an 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 and 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 a student is expelled. Is the school using the courts to avoid providing services? Legal advice may be needed.

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

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