



Special education series

Know your Rights:

My Child is Struggling in School. What can I do?

Many children have trouble in school. This includes difficulty maintaining attention and behaving appropriately. The key is to find out why your child is struggling and then get help. Your child may be eligible for special education and related services if your child's struggles are related to a disability.



What is "special education?"

Special education is instruction that is specially designed to meet the unique needs of children with disabilities. Special education and related services are provided by public schools at no cost to the parents. Services may include specialized instruction, therapy, and other supports. Special education may be provided in a variety of settings including neighborhood public schools, at home, in hospitals, or in other settings. Each child's services are unique and designed to meet his or her educational needs.

Who is eligible for special education services?

Eligibility for special education is outlined in a federal law called the Individuals with Disabilities Education Act (IDEA), New Hampshire's special education law (R.S.A. 186-C) and related rules.

To be eligible for special education:

- The child must have one of 14 types of disabilities included in the law and rules;
- The disability must affect the child's educational performance; and
- The child must need special education and "related services" (such as occupational therapy, counseling, physical therapy, transportation or other supportive services) to benefit from special education.

How do I find out if my child is eligible for special education?

You, your child's doctor, teacher or anyone else can make a referral for special education for your child to your school district's Individualized Education Program (IEP) team. It is best to put the referral in writing. An email or letter are fine. If the school suspects your child has a disability, the school must refer your child to the IEP team. As the parent, you are a member



Disability Rights Center
64 North Main Street
Suite 2, 3rd Floor
Concord, NH 03301
(603) 228-0432 or
(800)834-1721 (V/TTY)
Fax: (603) 225-2077
advocacy@drcnh.org
www.drcnh.org

This brochure is not meant to be legal advice. For specific legal advice, you should talk to a lawyer.

of this team.

Within 15 business days of the referral, the IEP team must hold a meeting to decide whether the concerns raised by the referral can be addressed using existing educational services available to all children, whether additional information is required, and whether any individual evaluations or assessments are needed. You should receive a written invitation to the meeting at least 10 days before this meeting is held.

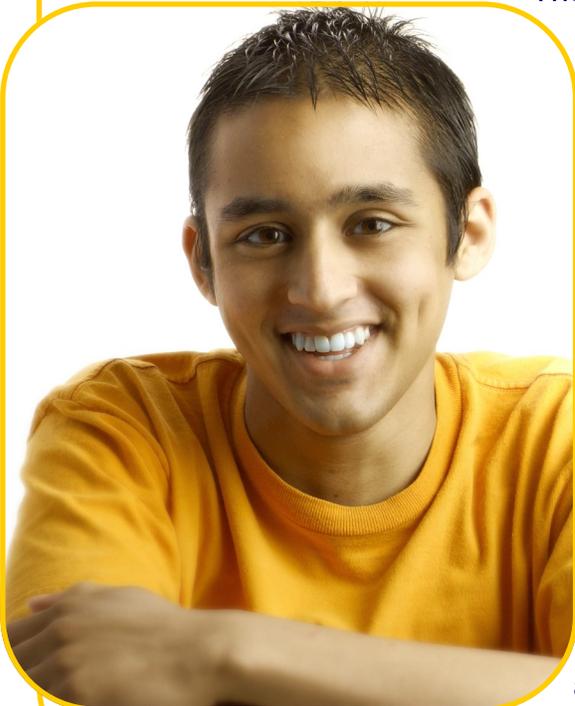
If the IEP team decides that more information is necessary to determine whether your child has a disability and/or what kind of special help your child needs, the IEP team may recommend that your child be tested or evaluated. Before the school conducts an evaluation, the school must tell you what types of tests, assessments or evaluations they are recommending and ask for your permission. The IEP team will give you a paper that describes the tests and other assessments proposed and a form for you to sign to give permission (“consent”) for the proposed evaluation(s).

The school district is responsible for the cost of the evaluation(s).

Evaluation Process

The evaluation process includes: completing the evaluations, producing a written summary report of the results, and a meeting of the IEP team to review the results of the evaluations and determine if the child is eligible for special education. When the purpose of the evaluation is to determine a child’s eligibility for special education for the first time, the school district must complete the evaluation process within 60 days from the date it receives your signed written consent to evaluate.

The school must conduct a full and individual evaluation, using a variety of assessment tools, to gather relevant functional, developmental and academic information about the child, including information provided by the parent. Evaluations must be conducted by qualified examiners. The child should be assessed in all areas related to the suspected disability including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communication and motor abilities.





The evaluation must be conducted in the child's native language, and not be racially or culturally biased. Finally, the evaluation must be thorough enough to identify all the child's educational needs, even if those needs are not directly linked to the child's suspected disability.

The school district must provide you with copies of each individual evaluation report at least 5 days before the IEP team meeting. The school will mail these reports to you via U.S. mail unless you and the school agree upon some other method, such as allowing you to pick up the reports at the school or via email.

What if I don't agree to an evaluation?

If you do not consent to an initial evaluation, or you don't respond to the school district's request to evaluate your child, the school district may file a request for a "due process" hearing with the New Hampshire Department of Education's Office of Legislation and Hearings and ask the hearing officer to require the evaluation.

What if I want to arrange for an evaluation by a qualified evaluator who does not work for the school district?

You have the right to obtain an independent educational evaluation of your child. An independent evaluation is done by a qualified examiner who does not work for the school district. You can do this in two ways:

1. Ask the school district to pay for an independent evaluation. If you disagree with an evaluation conducted by the school district, you may be able to get the school district to pay for an independent evaluation. The first step is to ask the school to conduct an independent evaluation at public expense. The school must promptly either pay for the evaluation or request a due process hearing and prove that the evaluation it conducted was appropriate. If the hearing officer decides that the school's evaluation was appropriate, you still have a right to an independent evaluation, but the school district does not have to pay for it.
2. Arrange, and pay for, an independent evaluation. If you want to arrange, and pay for, an independent evaluation, it is very important that the evaluation meet the school district's criteria for the type of evaluation(s) you are securing. Otherwise, the IEP team will not be required to consider the results of the evaluation. At your request, the school must provide you with information about where an independent evaluation may be obtained, and the school district's criteria for educational evaluations. The school district's criteria for independent evaluations must be the same as those it uses for its own evaluations, and not so restrictive that the parent does not have a choice of independent evaluators.

My child has been evaluated – Now What?



Within 60 days of the date you granted permission for your child's evaluation, the IEP team must hold a meeting to review the evaluation results and decide whether your child is eligible for special education and related services. This decision will be based on the results of your child's evaluation(s). The IEP team must include at least one individual who can interpret and explain the results of the evaluations and what they mean for your child's ability to learn and make progress in school.

Remember, you are an important member of the IEP team. You know your child best. If you do not understand the evaluation results, ask questions.

If your child is found eligible for special education and related services, and you agree with this decision, the IEP team will set up a meeting to discuss your child's needs and to develop your child's Individualized Education Program (IEP). This meeting must be held within 30 days after your child has been found eligible for special education.

The IEP is a written document that you and the school district develop together. It describes your child's educational program, including annual measurable goals for the school year and the specialized instruction and related services your child will receive to assist him or her to reach those goals.

If the IEP team decides your child is not eligible for special education and related services, it must provide you with a written notice of this decision, including the basis of the decision and what to do if you disagree with the decision. If you believe your child needs Special Education, it is recommended that you notify the school district in writing within 14 days of the school district's decision.

For more information about Special Education contact:

Disability Rights Center – NH (DRC): (603) 228-0432; (800) 834-1721 (voice or TTY)

Parent Information Center – NH (PIC): (603) 224-7005

