



## Rights to Area Agency Services

### Know your Rights:

## Area Agencies and the 3- 21 Year Old: What Developmental Services Are Available?

Children and young adults with a developmental disability or acquired brain disorder who are between the ages of three and twenty-one may be entitled to receive a variety of services from the NH Department of Health and Human Services (DHHS). Generally, school districts are responsible for providing educational and educationally-related services for children and young adults who have not yet earned a high school diploma. However, DHHS and its contracting agencies offer a number of supports and services that can benefit the child/young adult and his/her family. Agencies that provide assistance to children and young adults include the local [area agency for developmental services](#), the [Bureau of Special Medical Services](#), the [local community mental health center](#), the [Division for Children, Youth and Families](#), the [Division of Juvenile Justice Services](#), and [Vocational Rehabilitation](#).

Understanding and accessing services for an individual with disabilities can be daunting. Here we will explain the services available to individuals with developmental disabilities between 3 -21 through DHHS's area agency system.

### Area Agencies for Developmental Services

[Area agencies](#) are private non-profit corporations, funded in large part through, and supervised by, DHHS's [Bureau of Developmental Services](#). Area agencies provide programs and services for people with developmental disabilities and their families. The types of services and programs vary, but typically include: service coordination, community living arrangements, employment and day services, personal care services, assistive technology, and other programs designed to enhance personal and social competence. Also, services may be available only to the extent that the legislature has appropriated funds. When sufficient funds are not available, applicants may be put onto waiting lists for some or all services.

Children and young adults with developmental disabilities in primary or secondary school are required to secure all educational services, including related services necessary to receive an appropriate education, from the local school district. "Education" is broadly defined under the law, and in addition to traditional subjects, can include training in daily living activities, behavior, use of assistive technology, vocational skills, social skills, and more. Examples of Related services include a wide variety of services to enable the child to benefit from education: therapies, counseling, transportation, assistive technology, and nursing services. The school district is not responsible for non-educational services, such as care or custodial activities that serve no educational purpose and do not pertain to the student's curriculum or development of the student's ability to function in the school, workplace, home and/or community.

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**Disability Rights Center - NH**  
**64 North Main Street, Suite 2**  
**Concord, NH 03301**  
**(603) 228-0432 or**  
**(800)834-1721 (voice or 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.**

Children and young adults can receive a number of supportive services from area agencies, and more is available than is commonly believed. Under [DHHS's rules for Area Agencies](#), children are eligible for a service coordinator, family support services, and respite. They may be eligible for in-home support services if another set of eligibility criteria are met. In addition, children eligible for Area Agency services are eligible to receive "other services that have been requested and that are not the legal responsibility of" their local school district, the New Hampshire Division for Children, Youth and Families or another state agency. (He-M 503.03(b)(4)). More specifically, these area agency services are as follows:

**Service Coordination** (He-M 522.10). A service coordinator is someone who advocates for services on behalf of the person, coordinates services, and ensures continuity and quality of services.

**Family support services** (He-M 519) are services to families and include "a wide range of activities that assist families in developing and maximizing the families' abilities to care for individuals and meet their needs in a flexible manner". These services can include information and referral; help accessing resources including respite and environmental modifications; helping families network with each other; and some limited financial assistance.

**Respite** (He-M 513) is short-term care for a person for the temporary relief and support of the person's family.

**In-home support services** (He-M 524) may be provided to Medicaid-eligible children and youth living with their families who have significant medical or behavioral challenges. The criteria for these services are detailed, and eligible individuals are those who, due to a combination of factors, have complex care needs or a caregiver with diminished ability to provide care. Services include personal care services, support and counseling, environmental modifications, assistive technology, and therapeutic recreation. They do NOT include education and employment services; room and board; or custodial care.

**Services that are not the legal responsibility of the school district or other state agency** (He-M 503.03(b)(4)). It can be difficult to determine whether a given service falls under this category. A child/young adult in school may be eligible for services typically available only to adults from an area agency when the services are needed for non-educational reasons and are not the responsibility of another agency such as Vocational Rehabilitation or Juvenile Justice. Some possible examples include assistive technology to assist an individual with tasks not related to their educational programs, or non-educational supportive services in the home. Although not common, an area agency may have to provide residential services for young people with developmental disabilities who require such services for medical care, rather than educational, reasons.

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### Sorting it all out

For children and youth with complex needs, agencies frequently disagree about what services are needed, and/or which agency is responsible. The disagreement may concern whether a child needs a residential placement or other services that take place outside of the usual school day. The school may say that the needs are not “educational” and that the school is therefore not responsible. The area agency may maintain that the services ARE “educational” or that it does not provide residential services for children and youth enrolled in school. In such a situation, it can be difficult to try to get the agencies to come to an agreement that ensures the needs are met. On top of caring for their child, the work a parent must do to obtain services can be overwhelming.

Of note: Parents and their young adult may have different ideas regarding what services are needed or desired. A young adult over the age of 18 has the right to make decisions about his/her life, including decisions about services, unless a guardian has been appointed with the legal authority to make those decisions.

Here are some suggestions that may be helpful when you are trying to determine which agency is responsible for needed services when there is a dispute between agencies, or no agency is assuming responsibility:

1. Make sure that the right people are at team meetings. Invite at least one representative from each agency potentially responsible for providing services.
2. Advocate for potentially responsible entities (e.g. school, area agency, community mental health center, Vocational Rehabilitation) to acknowledge the need for particular services and supports and to take responsibility for providing each of the services needed. If one potentially responsible party will not pay the entire cost for a service, suggest the parties enter into a cost-sharing agreement (e.g. school pays 50% of an after-school placement; area agency pays 50%).
3. If none of the parties agree to provide the service(s) requested, ask each agency to issue a written decision outlining your child/youth’s needs, the service requested and explaining why it will not provide the requested service(s).
4. There are various procedures you can use if you dispute school district and other service provider’s decisions, including filing a complaint and requesting an administrative hearing. Contact [Disability Rights Center](#) - NH or other advocacy group or [attorney](#) knowledgeable about juvenile law for information on your rights and/or legal representation.

Note: There have been instances when area agencies, schools, or other agencies have advised families that if they want extensive residential services, particularly out of home services, they must go through DCYF and even admit to neglect. This is not appropriate and you may contact DRC or another attorney should this occur.

Some additional tips for advocating with school districts can be found here:  
<http://www.drcnh.org/Tips.pdf>

If you have questions or concerns about your child’s rights to area agency or other services, call the Disabilities Rights Center at 1-800-834-1721. More information can be found on the website at [www.drcnh.org](http://www.drcnh.org).