

TLC
POLICIES
&
RESOURCES
GUIDE



therapy&learningcenter

Brooklyn's Early Childhood Program for All Learners

1723 Eight Avenue Brooklyn, NY 11215 • Phone (718) 290-2700 • Fax (718) 290-2800

www.tlckids.org



Therapy and Learning Center

Process Not Product

Timothy Behr, Executive Director

Margot Sigmone, Ed. Director Kathy Christian, Clinical Coordinator



Phone: (718) 290-2700

Fax: 718-290-2800

1723 8th Avenue Brooklyn New York 11215

website:www.tlckids.org

Welcome to Therapy and Learning Center

Pre- Kindergarten Special Education and Universal Pre-Kindergarten Program, 150 students

- Our student-centered approach using the philosophy of process not product nurtures the whole child- Social, Cognitive, Academic, Physical and Emotional
- We meet the needs of varying diverse learners in our two classroom models:
Monolingual Integrated setting, Monolingual Special class setting and Interim Alternate Bilingual Arabic Special class settings
- Therapy and Learning Center was selected by the Office of Special Education Programs (OSEP) the Technical Assistance Center on PBIS to participate in a series of trainings and workshops in an effort to build systems capacity for implementing a multi-tiered approach to social, emotional and behavior support.

Curricula

Related Services

Creative Curriculum

Second Step Social Emotional Curriculum

Speech

Occupational Therapy

Physical Therapy

Counseling

Parent Training

Enrichment (During School hours)

Music Therapy

Yoga, Dance and Sensory Movement

Partnerships

NYU Dental Van

Include NYC

New York State DOE- Positive Behavior Intervention Supports

After-School Child Care (on-site at Therapy and Learning Center)

Days: Monday -Friday

Times: 2:30 pm to 4:00 pm

Please visit our website:

www.tlckids.org

TLC

Therapy and Learning Center, Inc.

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Phone: (718) 290-2700 Fax: (718) 290-2800
www.tlckids.org

"PLEASE KEEP AT HOME FOR YOUR RECORDS"

CONFIDENTIALITY & PARENTAL ACCESS TO RECORDS

TLC keeps an individual file for each child containing evaluations, service plans (IEP), related service(s) records, progress reports, notices, attendance and health records.

This file is kept in a records room in the school, which is locked at all times. Each child's file is confidential and may only be viewed by authorized TLC Personnel who collect or use information for the express purposes of facilitating the child/family's participation in the child's program. These providers may include teachers, social worker, nurses, psychologists, speech, occupational and physical therapists as well as designated administrative personnel.

Parents/Legal guardians have a legal right to review and inspect their child's educational records at any time, unless the parent is otherwise prohibited such access under State or Federal Law. For children in the care and custody or custody and guardianship of the local social services district, the local Commissioner of Social Service or Designee shall be accorded access to the child's records. Where any part of the record contains information on more than one child, the parent shall only have the opportunity to review and inspect the portion of the record, which pertains to their child.

Parents/Legal guardians can inspect and review their child's educational file at any time at the school and may obtain a copy of the record within ten working days of the receipt of their request, and/or within five working days if their request is made as part of mediation or impartial hearing. Copies of their child's records will be provided at no charge for the first copy and at 25 cents per page for any additional copies of the record. Understandable explanations about and/or interpretations of the record upon the parent's request will be provided.

Parents/Legal guardians are requested to adhere to the following procedure, when accessing their child's records:

- 1. Parents/Legal guardians must contact their Education Director at TLC to set up an appointment to review records.**
- 2. The Education Director or his/her designee, signs out the student file and logs in the date, name of student, and reason for file review in the sign-out book, located in the locked records room.**
- 3. The Education Director or his/her designee, brings the student file to a private room for the parent and/or legal guardian to review, and remains in the room to answer any questions.**
- 4. The Education Director or his/her designee provides the parent and/or legal guardian with copies if requested.**
- 5. The Education Director or his/her designee returns the student file to the records room.**

Date: ____/____/____

Student's Name: _____

Parent/Guardian's Print Name: _____

Parent/Guardian Signature: _____

SICK / INJURED POLICY

Dear Parent/Guardian,

This is a reminder about Therapy and Learning Center's Policy and Procedure for when a child may become sick or injured during the school day.

If a child should become ill or injured during school hours, you will be contacted immediately by the school nurse. The nurse will then inform you (the parent) that your child may or may not remain in school due to the severity of the illness or injury.

If it is determined by the school nurse, that your child may not remain in school, a parent or guardian will be required to pick up the child. The child will not be allowed to return home on the bus if he or she is ill. It is the responsibility of each and every parent to come and get their child or to make arrangements to have their child picked up by a previously noted "Emergency Contact".

Prior to each and every child's admission to Therapy and Learning Center, all parents/guardians are required to complete an Emergency Contact list which included at least seven names and (working) telephone numbers. It is your responsibility to inform those persons listed as emergency contacts that they may be asked to pick up your child if you (the Parent) are unable to do so.

Until the parent or emergency contact person arrives, the child (as determined by the school nurse) will wither remain lying on a mat in his/her classroom or in another private area in the school building.

In case of a severe illness or injury, the nurse will remain with the child and inform you that a determination was made to call 911. If it is medically determined that the child must go to the hospital, you will be informed of the name and address of such hospital, as well as the designated staff member who will be accompanying your child. That staff member will remain with the child until the parent arrives.

If you have any questions, please feel free to call the School Nurse at 718-290-2715. Thank you for your ongoing cooperation and assistance.

****IN THE EVENT THE SCHOOL NURSE IS ABSENT, THE EXECUTIVE DIRECTOR or ED. DIRECTOR WILL MAKE ALL DECISIONS RELEVANT TO MEDICAL NEEDS OF YOUR CHILD.**

Sincerely,
TLC School Administration

Attendance Policy

Please find below important from the New York State Education Department and the New York City Department of Education regarding attendance.

- The new York City Department of Health requires that the school contacts parent each day a child is absent.
- New York State Department of Education require that all absences of **5 or more consecutive days**, *due to illness, family emergency, travel* require a doctor's note indicating that your child may return to school.
- New York State Education Department requires that all absences of **5 or more consecutive days, due to family emergency or travel require a note and proof of travel.**
- If your child has been absent for any other reason besides illness, or your child did not require medical attention, you must submit a letter upon your child's return to TLC, stating why your child was absent.
- If you know in advance that your child will be absent, **please call (School Nurse), 718-290-2715.**
- The New York City Department of Education's regulations require TLC to report all absences of **5 or more consecutive days** to the Committee on Preschool Special Education (CPSE). Absence from school without a legal excuse can lead to your child being discharged from the TLC program.
- **Any vacations you wish to take you should plan to coincide with TLC holidays and school breaks to ensure that your child does not miss his/her IEP mandated school days. Your child's IEP is a contract with NYC DOE and TLC to provide services.**

Thank you in advance for your cooperation.

New Bussing Policy

NYC DOE's Office of Pupil Transportation (**OPT**) has instituted a new bussing program. Your CPSE child is eligible for bussing if this information is indicated on his/her IEP. Bussing is provided in a mini bus and it is door to door service, ie. The bus stops in front of your home and drops your child off at school. Please be out on time for your bus!

Please see below important changes to bussing for TLC:

- TLC's bussing company is **Total Transportation Corp (718-257-2082)**.
- OPT requires that all programming for CPSE children who require bussing takes place through a child's school program. This means:
 - 1) That **TLC** must apprise OPT of any changes to **address, pick up, or drop off changes, and/or who is eligible for bussing services**.
 - 2) That **TLC requires 10 business days or more to make any new changes** with OPT.
 - ❖ If you know you will be moving you must let us know immediately. You may be required to pick up or drop off your child at TLC until bussing is reestablished.
 - ❖ If you know you will be moving, request a change of address form. You may request this with **Miriam King, TLC's CPSE Transportation Coordinator, 718-290-2744 or Email: miriam.king@tlckids.org**
 - 3) **No longer will BUS COMPANIES be able to accommodate same day changes for pick up or drop off for your child.** You will be required to pick up your child from school or the address that is on file at OPT.
- You will be made aware of any new information as TLC receives it from OPT. Please ensure that you abide by the above policies as we move for the 2016-2017 school year. In the meantime, if you would like more information about OPT please go to:

<http://schools.nyc.gov/Offices/Transportation/ParentResources/>
- If you ever wish to issue a complaint about the bus company you can contact **OPT** at **718-392-8855**
- **pupiltransportationteam@schools.nyc.gov**
- Please ensure you receive a complaint number and provided to the school

Thank you in advance for your cooperation.



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DEAR PARENTS,

PLEASE ENSURE THAT EVERY MONDAY
YOUR CHILD IS SENT TO SCHOOL WITH THE
FOLLOWING:

- **A FITTED SHEET OR NON
FITTED SHEET- TO LAY ON THE
REST MAT**
- **A BLANKET- TO COVER WITH**
- **A SMALL PILLOW- TO REST
HEAD ON OR USE AS A
COMFORT ITEM**

TLC MUST ABIDE BY ARTICLE 47 DAYCARE
REGULATIONS PERTAINING TO HEALTH OF
CHILDREN

THANK YOU.

Margot Sigmone

Ed. Director



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Queridos padres,

**POR FAVOR ASEGUIRESE DE QUE LOS
LUNES SU HIJO SEA ENVIADO A LAS
ESCUELA CON LO SIGUENTE:**

**UNA HOJA APROPIADA PARA PONERSE EN LA
MATRÍCULA DE REST**

UNA MANTA- PARA CUBRIR CON

**UNA ALMOHADA PEQUEÑA: DESCANSAR LA
CABEZA O USARLA COMO UN ARTÍCULO DE
CONFORT**

**TLC DEBE RESPETAR EL ARTÍCULO 47
REGLAMENTO DEL CUIDADO DEL DÍA
PERTINENTE A LA SALUD DE LOS NIÑOS**

GRACIAS,
Margot Sigmone
Ed. Directora



Executive function skills are the foundation for self-regulation and social-emotional competence. Brain Builder games taught throughout the program focus on developing these skills by teaching children to pay attention, use memory, and control behavior.

Skills Taught in Unit

Weekly Themes

UNIT 1 Skills for Learning	Listening Focusing attention Using self-talk Being assertive	Week 1: Welcoming Week 2: Listening Week 3: Focusing Attention Week 4: Self-Talk Week 5: Following Directions Week 6: Asking for What you Need or Want
UNIT 2 Empathy	Identifying one's own and others' feelings Taking others' perspectives Showing care and concern for others	Week 7: Identifying Feelings (Happy, Sad) Week 8: More Feelings (Surprised, Scared) Week 9: Identifying Anger Week 10: Same or Different Feelings Week 11: Accidents Week 12: Caring and Helping
UNIT 3 Emotion Management	Understanding strong feelings Identifying one's own strong feelings Calming down strong feelings	Week 13: We Feel Feelings in Our Bodies (Worried) Week 14: Strong Feelings (Frustrated) Week 15: Naming Feelings Week 16: Managing Disappointment Week 17: Managing Anger Week 18: Managing Waiting
UNIT 4 Friendship Skills and Problem Solving	Making and keeping friends Calming down and using problem-solving steps	Week 19: Fair Ways to Play Week 20: Having Fun with Friends Week 21: Inviting to Play Week 22: Joining In with Play Week 23: Saying the Problem Week 24: Thinking of Solutions Week 25: Speaking Assertively
UNIT 5 Transitioning to Kindergarten	Reviewing program skills and concepts Thinking about how program skills will help in kindergarten	Week 26: Learning in Kindergarten Week 27: Riding the Kindergarten Bus Week 28: Making New Friends in Kindergarten

Scope and Sequence: Early Learning

	Weekly Concepts	Objectives—Children Will Be Able To
UNIT 1: SKILLS FOR LEARNING		
WEEK 1 Welcoming	There are many ways to welcome someone new to class. Welcoming someone is a way to show you care. Welcoming helps other children feel they belong to the class.	Make a friendly greeting Say their names Demonstrate showing someone new around the classroom
WEEK 2 Listening	Following Listening Rules helps everyone learn.	Demonstrate new Listening Rules in a group
WEEK 3 Focusing Attention	Focusing attention uses your eyes, ears, and brain. Practice helps you get better at focusing your attention.	Demonstrate focusing attention during a game
WEEK 4 Self-Talk	Self-talk is talking to yourself in a quiet voice or inside your head. Self-talk helps you focus and pay attention.	Demonstrate self-talk strategies while playing a game
WEEK 5 Following Directions	Listening and following directions help you learn. Repeating directions helps you remember them.	Demonstrate listening and following directions while doing activities
WEEK 6 Asking for What you Need or Want	To ask for what you need or want, face the person you are asking and use a respectful voice.	Demonstrate asking for what they need or want during skill-practice activities
UNIT 2: EMPATHY		
WEEK 7 Identifying Feelings	You can look at people's faces and bodies for clues to help you tell how they feel.	Identify the feelings <i>happy</i> and <i>sad</i> when presented with physical (face or body) clues Tell about a time when they felt happy or sad
WEEK 8 More Feelings	Focusing attention on what is happening, or the situation, can help you tell how someone is feeling.	Name the feelings <i>surprised</i> and <i>scared</i> when presented with physical and situational clues Identify how others feel in response to scenarios
WEEK 9 Identifying Anger	Everyone feels angry sometimes. It is not okay to be mean or hurt others when you feel angry.	Identify the feeling <i>mad/angry</i> when presented with physical clues Tell others about a time when they felt angry
WEEK 10 Same or Different Feelings	People can have different feelings about the same thing. It is okay for people to have different feelings about the same thing.	Compare what is the same and what is different about two objects Identify whether they feel the same as or different from others in response to scenarios

Scope and Sequence: Early Learning

Weekly Concepts

Objectives—Children Will Be Able To

<p>WEEK 11 Accidents</p>	<p>An accident is when you do something you didn't mean to do.</p> <p>When you do something by accident, it's important to say it was an accident so others don't think you did it on purpose.</p>	<p>Identify when something happens by accident</p> <p>Demonstrate saying, "I didn't mean to. It was an accident. Are you okay?" in response to scenarios</p>
<p>WEEK 12 Caring and Helping</p>	<p>When you feel empathy for someone, you can show them you care.</p> <p>You can show you care by saying something kind or doing something helpful.</p>	<p>Demonstrate saying something kind in response to scenarios</p> <p>Demonstrate helping behaviors during an activity</p>
<p>UNIT 3: EMOTION MANAGEMENT</p>		
<p>WEEK 13 We Feel Feelings in Our Bodies</p>	<p>Clues in your body help you identify your feelings.</p> <p>Some feelings are comfortable; others are uncomfortable.</p> <p>It is important to talk to a grown-up when you feel worried.</p>	<p>Identify worry as an uncomfortable feeling</p> <p>Identify a grown-up to talk to when they feel worried</p>
<p>WEEK 14 Strong Feelings</p>	<p>Sometimes your feelings can be strong. Strong feelings need to be managed.</p> <p>Putting your hands on your tummy and saying "Stop" are ways to begin to calm down.</p>	<p>Recognize and name when they or others are feeling frustrated</p> <p>Demonstrate putting their hands on their tummies and saying "Stop"</p>
<p>WEEK 15 Naming Feelings</p>	<p>Naming your feeling can help you calm down.</p> <p>It helps to talk to a grown-up when you feel scared or sad.</p>	<p>Name their feelings in response to scenarios</p> <p>Demonstrate how to calm down in response to scenarios</p>
<p>WEEK 16 Managing Disappointment</p>	<p>When you don't get what you want, you can feel disappointed.</p> <p>Belly breathing calms down strong feelings.</p> <p>Belly breathing pushes the belly out when you breathe in.</p>	<p>Demonstrate belly breathing</p> <p>Demonstrate the Calming-Down Steps in response to scenarios</p>
<p>WEEK 17 Managing Anger</p>	<p>Feeling angry is natural, but hurtful, mean behaviors are not okay.</p> <p>Your body lets you know when you're angry.</p> <p>Learning to relax calms you down.</p>	<p>Demonstrate relaxing their bodies</p> <p>Tell the difference between ways to behave when angry that are okay and those that are not okay</p>
<p>WEEK 18 Managing Waiting</p>	<p>Calming down can help you manage feeling excited while you're waiting.</p> <p>Counting also helps you wait.</p>	<p>Demonstrate waiting in a game</p> <p>Demonstrate counting to help with waiting</p>

Scope and Sequence: Early Learning

	Weekly Concepts	Objectives—Children Will Be Able To
UNIT 4: FRIENDSHIP SKILLS AND PROBLEM SOLVING		
WEEK 19 Fair Ways to Play	Playing together, trading, and taking turns are fair and fun ways to play.	Demonstrate asking to play together, trade, or take turns when playing with another child Demonstrate using Fair Ways to Play in everyday situations
WEEK 20 Having Fun with Friends	When you play in fair ways, everyone has fun. Other children sometimes have different wants or likes than you do. Choosing to have fun with others rather than to get your own way helps you be friends.	Identify how they feel when other children do or do not play in fair ways Name ways they have fun with their friends
WEEK 21 Inviting to Play	Inviting others to play is a way to make friends. Inviting others to play helps everyone feel part of the classroom.	Demonstrate how to use inviting language Demonstrate inviting others to play during a game
WEEK 22 Joining In with Play	Noticing what other children are playing and offering ideas for play helps you join in.	Come up with lots of ideas for play Identify positive ways to join in
WEEK 23 Saying the Problem	You need to calm down before you solve a problem. The first Problem-Solving Step is to use words to say the problem.	Demonstrate calming down and saying the problem Use words to describe problems presented in scenarios
WEEK 24 Thinking of Solutions	The second Problem-Solving Step is to think of lots of solutions.	Think of lots of solutions to a problem
WEEK 25 Speaking Assertively	If someone treats you in unsafe or mean ways, speaking up assertively is a respectful way to deal with it.	Demonstrate speaking up assertively in response to scenarios

Scope and Sequence: Early Learning

Weekly Concepts

Objectives—Children Will Be Able To

UNIT 5: TRANSITIONING TO KINDERGARTEN

WEEK 26
Learning in
Kindergarten

The Listening Rules and Skills for Learning will help you be a better learner in kindergarten.

- Demonstrate the Listening Rules
- Demonstrate focusing attention, listening, and using self-talk during an activity

WEEK 27
Riding the
Kindergarten
Bus

Looking at people's faces and bodies and noticing what is happening help you tell how people are feeling. People can have different feelings about the same thing.

Identify the feelings learned in the *Second Step* program when presented with facial clues

Using the Calming-Down Steps helps you calm down strong feelings.

Demonstrate the Calming-Down Steps in response to scenarios

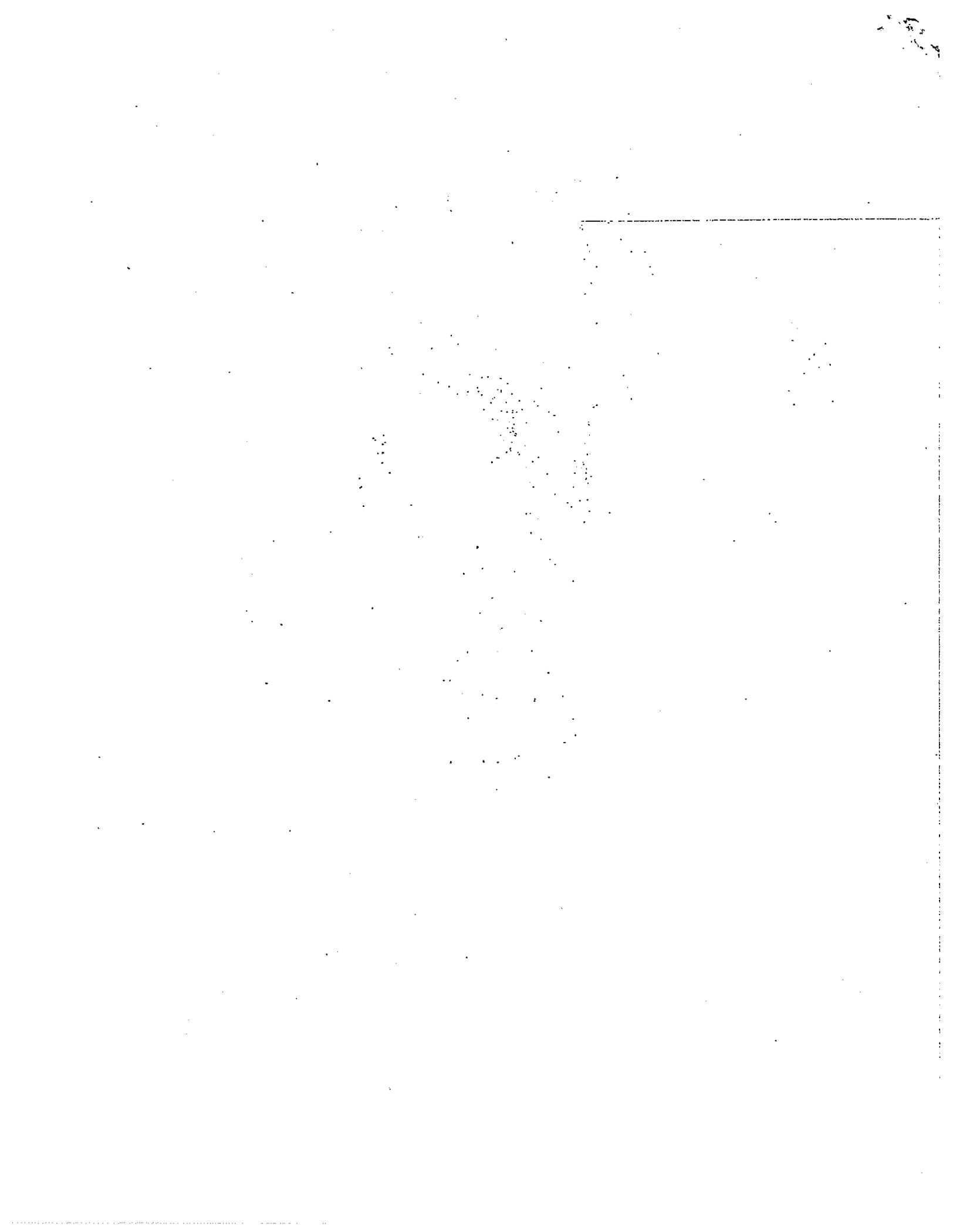
WEEK 28
Making New
Friends in
Kindergarten

Playing together, trading, and taking turns are fair and fun ways to play.

Demonstrate the Fair Ways to Play

Inviting others to play and asking to join in are ways to make friends in kindergarten.

Demonstrate inviting others to play and asking to join in play



NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES
BEHAVIOR MANAGEMENT POLICY STATEMENT FOR CHILD DAYCARE

Provider/Program: THERAPY AND LEARNING CENTER Inc.
Date: 12/1/2016 Revised: 7/26/2018
Address: 1723 8th Avenue Brooklyn NY 11215

- ❖ Child Care providers/program, must establish behavior management guidelines.
- ❖ All substitutes, employees, volunteers and parents of children in care must be informed of the content of these guidelines.
- ❖ Behavior Management will be directed, administered and supervised only by child program staff.
- ❖ The Second Step Curriculum for Social Emotional Learning will be used as a support for Behavior Management
- ❖ CPI Trained Staff
- ❖ Emergency Response Team Personnel – Trained in Emergency Interventions
- ❖ Therapists and Clinicians/Social Worker will be instrumental in supporting behavior management plans

1.	How is your program helping children develop self-control and learn acceptable forms of social behavior? Behavior Management is helping a child develop self-control and sense of limits, how to experience the consequences of behaviors, and learning from mistakes. Our program does not adhere to punishment or conflict between parent and child, teacher and child or child to child. All children are provided with security of knowing the rules and boundaries of their behavior through the guidance of teachers. Self-control and social behavior is taught to all children through role play and modeling. TLC is implementing a school-wide Positive Behavior Intervention Support Program.
2.	What are your program’s expectations for the behavior of children? Children are expected to adhere to classroom and program rules. If a child is having difficulty doing so, a parent meeting is held to discuss and determine best course of action. If need be, a behavior intervention plan is implemented under the supervision of the Educational Director, teacher, parent and any other clinical disciplines.
3.	How do you and your staff share these expectations with the children? In the beginning of the school year, classroom and outdoor rules are introduced to the children as a cooperative effort (the children are involved in the rule making). On a daily basis as well as during difficult transition periods they are verbally reminded of the rules. Educational supportive materials (books) are often implemented to build a connection to real life experiences.
4.	How do you and your staff help children resolve conflicts? In each classroom, there is a designated peace table where the teacher is the moderator. Children experiencing conflicts are encouraged to sit at the table and discuss their conflicts. This is recorded using a tape recorder or written down (in an effort to develop recognition of words in print) and replayed and or discussed during large group times as a model for other children. In the event that a child needs time to manage him/herself due to inability to transition and needs time away to re-group, he/she is given the ability to sit in a cozy corner with a staff person in an effort to calm down.
5.	How do you and your staff find acceptable ways to problem solve? Children are asked open ended questions such as “What do you think you should do if she takes that toy from you?” Children are also given simple conflict related scenarios to work through.
6.	How do you and your staff ensure that solutions are carried out? As a moderator of conflict resolution within the classroom, we want to ensure that the children reiterate the solutions to the moderator to establish that the transmittal of information was effective. In the event that the child may have processing difficulties- Picture Exchange System is implemented for those children in the form of an “If> Then” sequencing of events.
7.	How do you and your staff set up the environment to foster positive interactions and reduce conflict? Classrooms are set up as small centers- quiet centers are placed together and noisy centers together. The daily schedule in each classroom reflects “Q” and “A”- Quiet and Active requirements. After each noisy/active activity, there is a quiet activity so that the children get an opportunity to calm down in order to reduce conflicts.

The following practices violate regulatory standards for appropriate Behavior Management and are therefore prohibited:

- ❖ The use of corporal punishment is prohibited. Corporal punishment means punishment inflicted directly on the body including, but not limited to:
 - Shaking, slapping, twisting, or squeezing;
 - Demanding excessive physical exercise, excessive rest or strenuous or bizarre postures; and
 - Compelling a child to eat or have in his/her mouth soap, food, spices, or foreign substances.
- ❖ The use of **room isolation is prohibited**. No child can be isolated in an adjacent room, hallway, closet, darkened area, play area or any other area where a child cannot be seen or supervised.
- ❖ Food cannot be used or withheld as a punishment or reward.
- ❖ Toilet training methods that **punish, demean or humiliate a child are prohibited.**
- ❖ **Any abuse or maltreatment of a child, either as an incident of discipline or otherwise, is absolutely prohibited. Any child care program must not tolerate, or in any manner condone an act of abuse or neglect of a child by an employee, volunteer, any person under the provider’s control or an individual residing in the home.**

Therapy and Learning Center

Positive Behavioral Intervention and Supports

Tier 1 (school-wide):

- Build positive relationships
- Create familiar routines
- Teach skills, rules, and expectations
- Use positive reinforcement (i.e. tokens, praise)
- Provide visual aids
- Model positive behavior with puppets, peers, or adults
- Use redirection and transition strategies
- Give choices (2 choices is a good starting point)
- Use contingencies (1st this, then that)

Tier 2 (specialized groups or students with at-risk behavior):

- Provide individualized support: cozy corner, problem solving
- Request team meeting with support staff
- Identify and teach replacement behaviors that are more functional and adaptive than problem behaviors
- Communicate with parents (*Does the child behave like this at home? What strategies do you implement at home? Here is what we are doing in school. We would like for you to try this at home*)

Tier 3 (students with reoccurring high-risk behaviors):

- Seek support from child's team
- Take data on child's targeted behaviors for FBA
- Implement child's Behavior Intervention Plan (BIP)
- If child is a danger to themselves or others, call the Emergency Response Team(ERT)- Ed. Director, School Psychologist, Social Worker
- If child is a danger to self or others, remove other children from room, leave adult in room with child, and call ERT.

Emergency Intervention: Low Level Restraint

- Child may need to be physically removed or guided to a safer place
- Pick child up under arm and move child to a safer space
- Designate someone to call the ERT
- Provide written documentation of incident



Backpack Connection Series

About this Series

The Backpack Connection Series was created by TACSEI to provide a way for teachers and parents/caregivers to work together to help young children develop social emotional skills and reduce challenging behavior. Teachers may choose to send a handout home in each child's backpack when a new strategy or skill is introduced to the class. Each Backpack Connection handout provides information that helps parents stay informed about what their child is learning at school and specific ideas on how to use the strategy or skill at home.

The Pyramid Model

The Pyramid Model is a framework that provides programs with guidance on how to promote social emotional competence in all children and design effective interventions that support young children who might have persistent challenging behavior. It also provides practices to ensure that children with social emotional delays receive intentional teaching. Programs that implement the Pyramid Model are eager to work together with families to meet every child's individualized learning and support needs. To learn more about the Pyramid Model, please visit ChallengingBehavior.org.

More Information

More information and resources on this and other topics are available on our website, ChallengingBehavior.org.



ChallengingBehavior.org

How to Teach Your Child to Appropriately Get Your Attention

Brooke Brogle, Alyson Jiron, & Jill Glazomini

It is difficult to have a conversation with someone if you do not have their attention-this is true for both children and adults. The ability to successfully capture someone's attention is a fundamental social skill and provides the foundation for future success in social settings and relationships.

Children use a variety of ways to get attention and will often resort to techniques they find most effective, such as yelling or whining. For example, think about a child who wants to get Mom's attention when she is on the phone. He knows that if he continues to yell loudly, Mom will eventually pause her phone conversation and ask what is needed. If yelling and whining gets a child what he needs, he will continue to yell and whine until he learns a new way to get attention.

How can you change this pattern? You can teach your child the way that you want him to get your attention (such as tapping you on the shoulder) and then reward him when that behavior occurs. When you take the time at home to build on the skills your child is learning at school, you reinforce these positive skills and create a solid social foundation for your child which will help to reduce challenging behaviors.



Try This at Home

- Model the behavior you are teaching and do it often! If you need your child's attention, tap her on the shoulder, move to her eye level and begin your communication from there!
- Practice, practice, practice! Play with this new skill. Practice with both parents, siblings and friends. Your child can teach her grandparent or teddy bear how to tap on someone's shoulder to get their attention.
- Remind your child of your expectation. If you are on the computer and she whines or begins to cry for attention, remind her, "It looks like you need something. I will respond if you tap on my shoulder and ask me."
- Celebrate when your child displays this new skill. "Wow, you tapped me on the shoulder because you wanted some milk. I am super happy to get you some. What a great way to get my attention!"

Practice at School

Most peer interactions are initiated when a child wants to give or get something from a friend. Rather than grab or yell across the room, your child is learning to gain a friend's attention before beginning a conversation by:

1. Moving to stand next to the person
2. Tapping the person on the shoulder
3. Looking at the person's eyes to see if they have their attention

The Bottom Line

Behavior is meaningful and communicates a message. If a child does not have an appropriate way to communicate, he will often use challenging behavior (e.g., hitting, screaming, whining) to communicate his needs. If his needs are then met, the behavior is reinforced and he will continue to use the challenging behavior to communicate. When parents teach their child how to appropriately get attention, the child will be less likely use the challenging behavior to communicate.



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Backpack Connection Series

About this Series

The Backpack Connection Series was created by TACSEI to provide a way for teachers and parents/caregivers to work together to help young children develop social emotional skills and reduce challenging behavior. Teachers may choose to send a handout home in each child's backpack when a new strategy or skill is introduced to the class. Each Backpack Connection handout provides information that helps parents stay informed about what their child is learning at school and specific ideas on how to use the strategy or skill at home.

The Pyramid Model

The Pyramid Model is a framework that provides programs with guidance on how to promote social emotional competence in all children and design effective interventions that support young children who might have persistent challenging behavior. It also provides practices to ensure that children with social emotional delays receive intentional teaching. Programs that implement the Pyramid Model are eager to work together with families to meet every child's individualized learning and support needs. To learn more about the Pyramid Model, please visit ChallengingBehavior.org.

More Information

More information and resources on this and other topics are available on our website, ChallengingBehavior.org.



ChallengingBehavior.org

How to Help Your Child Manage Time and Understand Expectations

Brooke Brogle, Alyson Jiron & Jill Giacomini

Time is an unclear measure for children. It is very common for a parent to feel frustrated with a child when he has not done what he was asked to do (e.g., pick up toys, put on shoes, finish snack) even after he has been given a five-minute warning. However, it is important for parents to know that there is little difference between five minutes and an hour to young children because of the way they experience time. Children live in the moment and the future is difficult for them to measure. When parents use time (rather than events such as "when I get to the top of the stairs") to communicate what they expect the child to do, it can lead to the child feeling confused and frustrated, and ultimately, the child expressing his emotions through a tantrum.



Timers, particularly sand timers, are excellent tools parents can use to help young children measure time and understand expectations. Children can see the sand timer, turn it over and watch the sand fall to the bottom. There is a clear beginning, middle and end which gives children a way to predict and understand what will happen when the sand runs out. Sand timers empower children and help them to feel that they are a part of the process rather than simply being told what to do. Sand timers also give parents an opportunity to encourage and compliment their child when he is moved to action to "beat the clock"—a much more enjoyable and effective activity than nagging.

Try This at Home

- The skills needed to share, trade and take turns can be taught using sand timers. For more information on how to teach the skills of sharing, trading and taking turns, check out those topics in the Backpack Connection Series at www.challengingbehavior.org.
 - ▶ **Taking Turns:** "I see that Tony is playing with the puppets right now. When this three-minute timer is done, it will be your turn."
 - ▶ **Trading:** "You are having so much fun playing with your train. When the timer is done, you and Austin can trade. He will give you his car and you can give him your train."
 - ▶ **Sharing:** "You and Ben are both playing in the sand. There is only one shovel and two boys. You have the bucket and Ben has the shovel. First Ben can shovel the sand into the bucket and when this timer is done, you can shovel the sand into the bucket. That is a great way to share the sand toys!"
- Sand timers can help with *transitions*, or children moving from one activity to another. "I see you are happy playing with your Legos. It is time to go to school. Would you like to put your shoes on now or in one minute?" After you say this, simply flip over the sand timer and you may be surprised how your child is able to make the transition on his own.
- Sand timers can help move an activity along (e.g. clean up time). "I wonder if you can put all your trains into the box in three minutes."
- Sand timers can help YOU stay on track too. "I would be happy to get down your puzzles. I am on the phone and will do it in five minutes." This clear

boundary teaches children exactly what to expect and can reduce whining and repeated asking.

- Sand timers can also help at dinner time. "We all sit together as a family at dinner time. You can get up when the timer is done."

Practice at School

Sand timers are used at school to help children learn how to take turns and solve problems. Sand timers are also used to let children know how long an activity will take or to let them know that they will be transitioning to a new activity soon. Sand timers allow children to manage time tasks without help from an adult and give them the ability to retain control over a situation because they can watch the sand falling and see that time is almost up. Sand timers are also used in classrooms to offer choice. For example, a teacher might ask, "Would you like to do that in one minute, or two?"

The Bottom Line

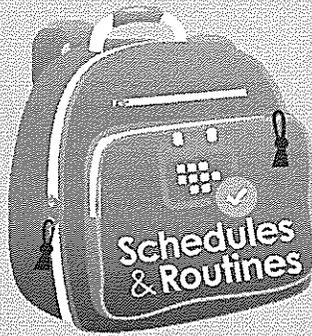
Time is a difficult concept for young children to grasp. Sand timers give children something they can see and touch to help them measure time. When sand timers are used to help children understand expectations, take turns and transition to new activities, they can reduce the frequency of challenging behavior, encourage children to participate in tasks and even do things by themselves. Parents benefit from sand timers as well because the timer reduces or eliminates the need for the child to be constantly reminded and monitored. Additionally, sand timers can offer more opportunities for parents to compliment and congratulate their child.



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ChallengingBehavior.org

How to Help Your Child Have a Successful Bedtime

Alyson Jiron, Brooke Brogle & Jill Giacomini

Infants and young children need 10 to 12 hours of sleep daily in order to support healthy development. Parents also need to feel rested in order to be nurturing and responsive to their growing and active young children. When your child does not get enough sleep, challenging behaviors are likely to occur. Your child might be moody, short-tempered and unable to engage well in interactions with others. Lack of sleep can also have a negative impact on your child's ability to learn. When a young child sleeps, her body is busy developing new brain cells that she needs for her physical, mental and emotional development. Babies and young children thrive on predictability and learn from repetition. It is important to establish a bedtime routine that you and your child both understand and helps everyone to feel calm and relaxed.



Try This at Home

- Watch for and acknowledge your child's signs of sleepiness. She might pull on her ears, rub her eyes or put her head on your shoulder. For example, you can say, "I see you rubbing your eyes. You look sleepy. Let's get ready for bed." Teaching your child to label and understand her body cues will help her to use language instead of challenging behavior (e.g., whining, crying or temper tantrums) to communicate her needs.
- Use a visual schedule made with photos, clipart or other objects to help your child see the steps in her bedtime routine. A visual schedule can help her to understand the steps and expectations of the routine. To learn more about how to create a visual schedule, visit challengingbehavior.org and type "visual schedule" in in the search box in the upper-right corner.
- Provide your child with activities, sounds or objects that help her feel calm and restful during the hour before bedtime. Make these activities part of your nightly routine. For example, reading books, listening to soft, calming music, and/or giving your child her pacifier, favorite blanket or stuffed animal will all help her to understand that it is time to calm down and prepare for sleep.
- Tell your child what will happen when she wakes up. She may be resistant to going to sleep because she does not want to miss out on an activity or have her day to come to an end. Reassure her that tomorrow will be filled with more fun and special time. You can also include tomorrow's activity on the visual schedule (e.g., provide a picture of her teacher or preschool).

- Give your child your undivided and unrushed attention as you prepare her for bed. Bedtime can be a positive experience filled with quality time for you and your child.

Practice at School

For children who spend the day at school, nap time is an important time to rest and prepare for afternoon learning and activities. Teachers use a consistent routine so that children know what to expect and can participate in the process. Children can select and set up a napping area, get pillows or blankets from cubbies and choose a book to read. Routines might include brushing teeth, using the toilet, stories read aloud by teachers, or audio books or soft music for a period of time. Children understand the steps they need to follow to get ready for the nap, how long they are expected to rest and what they can do when they wake up. When everyone understands the expectations and routine, naptime can be a relaxing and happy part of the day.

The Bottom Line

Bedtime is a daily opportunity for you to build and nurture a positive relationship with your child. Predictable routines make children feel safe and secure. When you provide a predictable bedtime routine, you are teaching your child the skills she needs to relax and transition from the busy activity of the day to preparation for sleep. When your child is able to get a restful sleep, you will also feel more calm and rested. A successful bedtime routine that you follow regularly will prepare you both for shared days of family fun and learning.



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September 2017

Dear Parent/Guardian,

We are excited that you and your child are joining one of our pre-K programs this school year. Your child's teacher and administrator will support your child with joyful and interactive lessons to give them the foundation needed for kindergarten and a lifetime of learning. These efforts include keeping track of your child's progress on a wide range of social and academic skills as well as language development throughout the school year.

In the beginning of the year, programs screen children for possible developmental and instructional needs, per New York State Universal Prekindergarten regulations. Your child will be screened by his/her classroom teacher using the Early Inventory Screening-Revised (ESI-R®), or a comparable developmental screening tool, within 45 days of enrollment.

This screening will help your child's teacher in learning more about various aspects of your child's development and instructional needs. This screening does not determine readiness for kindergarten. It is not a test of IQ or related to admission into a Gifted & Talented program. Your child's teacher will share the outcome of this screening with you.

We are also asking you to complete and return the Parent Questionnaire that will be provided to you by your child's teacher.

If you have any questions, please contact your child's teacher or our office at earlychildhood@schools.nyc.gov.

For more information on Early Childhood resources please visit our website at <http://schools.nyc.gov/Academics/EarlyChildhood/parentfamilies/resources.htm>

Sincerely,



Josh Wallack

INFORMATION FOR UPK FAMILIES

September 2017

Dear Parent/Guardian,

We are excited that you and your child are joining one of our pre-K programs this school year. Your child's teacher and administrator will support your child with joyful and interactive lessons to give them the foundation needed for kindergarten and a lifetime of learning. These efforts include keeping track of your child's progress on a wide range of social and academic skills as well as language development throughout the school year.

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Sincerely,



Josh Wallack

PRE-K
FOR ALL

NYC
Department of
Education



Septiembre de 2017

Estimado padre o tutor:

Nos entusiasma saber que usted y su hijo participarán en uno de nuestros programas de prekínder este año escolar. El maestro y la dirección apoyarán al alumno con lecciones alegres e interactivas cuyo propósito es sentar las bases necesarias para toda una vida de aprendizaje. Estas iniciativas incluyen el seguimiento del progreso de su hijo en una amplia gama de habilidades sociales y académicas, así como también el desarrollo del lenguaje durante todo el año escolar.

En el comienzo del año, los programas evalúan a los niños para detectar posibles necesidades de desarrollo y educación, de conformidad con las disposiciones para prekínder universales del estado de Nueva York. Su hijo será evaluado por su maestro por medio del Inventario de Sondeo Temprano–Serie Actualizada (ESI-R®) o de una herramienta similar de evaluación del desarrollo dentro de los 45 días de la inscripción.

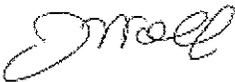
Esta evaluación ayudará al maestro de su hijo a aprender más sobre su desarrollo y sus necesidades de educación. Esta evaluación no determina la preparación para kínder. No es un examen de coeficiente intelectual (IQ) ni tampoco está relacionado con la admisión a un programa para Estudiantes con Aptitudes y Talentos Avanzados (*Gifted & Talented*, G&T). El maestro compartirá con usted el resultado de esta evaluación.

Además, le pedimos que complete y devuelva el Cuestionario para padres que le entregará el maestro de su hijo.

Ante cualquier pregunta, no dude en comunicarse con el maestro de su hijo o con nuestra oficina principal en earlychildhood@schools.nyc.gov.

Para más información sobre los recursos para la primera infancia, visite nuestro sitio web en <http://schools.nyc.gov/Academics/EarlyChildhood/parentfamilies/resources.htm>

Atentamente,



Josh Wallack

T&I-26625 (Spanish)

**PRE-K
FOR ALL**

NYC
Department of
Education



Part B PROCEDURAL SAFEGUARDS NOTICE

**New York State Education Department
PROCEDURAL SAFEGUARDS NOTICE
July 2017**

Rights for Parents of Children with Disabilities, Ages 3-21

As a parent, you are a vital member of the Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE) in New York State. The CSE/CPSE is responsible for developing recommendations for special education programs and services for your child. You must be given opportunities to participate in the CSE/CPSE discussion and decision-making process about your child's needs for special education. The following information concerns procedural safeguards that are your legal rights under federal and State laws to be informed about and involved in the special education process and to make sure that your child receives a free appropriate public education (FAPE).

A copy of this procedural safeguards notice must be provided to you one time a year and:

- upon initial referral or your request for an evaluation of your child.
- whenever you request a copy.
- upon receipt of the first due process complaint in a school year requesting mediation or an impartial hearing.
- the first time in a school year when the school district receives a copy of a State complaint that you submitted to the New York State Education Department (NYSED).
- when a decision is made to suspend or remove your child for discipline reasons that would result in a disciplinary change in placement.

The Procedural Safeguards Notice has been adapted from the model form developed by the United States Department of Education (USDOE). Information was added regarding New York State's requirements.



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GENERAL INFORMATION

PRIOR WRITTEN NOTICE (NOTICE OF RECOMMENDATION)

34 CFR section 300.503; 8 NYCRR section 200.5(a) and (c)

Notice

Your school district must give you written notice (provide you certain information in writing), whenever it:

1. proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; or
2. refuses to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of FAPE to your child.

If the prior written notice relates to an action by the school district that requires parental consent, the district will give notice at the same time they request such consent.

Content of notice

The written notice must:

1. describe the action that your school district proposes or refuses to take;
2. explain why your school district is proposing or refusing to take the action;
3. describe each evaluation procedure, assessment, record, or report your school district used in deciding to propose or refuse the action;
4. include a statement that you have protections under the procedural safeguards provisions in Part B of the Individuals with Disabilities Education Act (IDEA);
5. tell you how you can obtain a description of the procedural safeguards notice if the action that your school district is proposing or refusing is not an initial referral for evaluation;
6. include resources for you to contact for help in understanding Part B of the Individuals with Disabilities Education Act (IDEA);
7. describe any other choices that your child's Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE), considered and the reasons why those choices were rejected; and
8. provide a description of other reasons why your school district proposed or refused the action.

Notice in understandable language

The notice must be written in language understandable to the general public and be provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so.

If your native language or other mode of communication is not a written language, your school district must ensure that:

1. the notice is translated for you orally by other means in your native language or other mode of communication;
2. you understand the content of the notice; **and**
3. there is written evidence that 1 and 2 have been met.

NATIVE LANGUAGE

34 CFR section 300.29; 8 NYCRR section 200.1(ff)

Native language, when used with an individual who has limited English proficiency, means the following:

1. The language normally used by that person, or, in the case of a child, the language normally used by the child's parents;
2. In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.

For a person with deafness or blindness, or for a person with no written language, the mode of communication is what the person normally uses (such as sign language, Braille, or oral communication).

ELECTRONIC MAIL

34 CFR section 300.505; 8 NYCRR section 200.5(a), (f), and (i)

If your school district offers parents the choice of receiving documents by e-mail, you may choose to receive the following by e-mail:

1. prior written notice (notice of recommendation);
2. procedural safeguards notice; **and**
3. notices related to a due process complaint.

PARENTAL CONSENT - DEFINITION

34 CFR section 300.9; 8 NYCRR section 200.1(l)

Consent

Consent means:

1. You have been fully informed in your native language or other mode of communication (such as sign language, Braille, or oral communication) of all information about the action for which you are giving consent;
2. You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; **and**

3. You understand that the consent is voluntary on your part and you may withdraw your consent at anytime.

Your withdrawal of consent does not negate (undo) an action that has occurred after you gave your consent and before you withdrew it.

PARENTAL CONSENT

34 CFR section 300.300; 8 NYCRR sections 200.5(a) and (b)

Consent for initial evaluation

Your school district cannot conduct an initial evaluation of your child to determine whether your child is eligible under Part B of IDEA to receive special education and related services without first providing you with prior written notice of the proposed action and without obtaining your consent as described under the heading ***Parental Consent***.

Your school district must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability.

Your consent for initial evaluation does not mean that you have also given your consent for the school district to start providing special education and related services to your child.

If your child is enrolled in public school or you are seeking to enroll your child in a public school and you have refused to provide consent or failed to respond to a request to provide consent for an initial evaluation and your child is school-age, your school district may, but is not required to, seek to conduct an initial evaluation of your child by utilizing mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. Your school district will not violate its obligations to locate, identify and evaluate your child if it does not pursue an evaluation of your child in these circumstances and your child can not receive special education services even if he/she would have been eligible.

Special rules for initial evaluation of wards of the State

If a child is a ward of the State and is not living with his/her parent, the school district does not need consent from the parent for an initial evaluation to determine if the child is a child with a disability if:

1. despite reasonable efforts to do so, the school district cannot find the child's parent;
2. the rights of the parents have been terminated in accordance with State law; **or**
3. a judge has assigned the right to make educational decisions and to consent for an initial evaluation to an individual other than the parent.

In New York State, ward of the state means a child or youth under the age of twenty-one:

1. who has been placed or remanded pursuant to section 358-a, 384 or 384-a of the Social Services Law, or article 3, 7, or 10 of the Family Court Act, or freed for adoption pursuant to section 383-c, 384, or 384-b of the Social Services Law; or
2. who is in the custody of the Commissioner of Social Services or the Office of Children and Family Services; or

3. who is a destitute child under section 398(1) of the Social Services Law.

Parental consent for services

Your school district must obtain your informed consent before providing special education and related services to your child for the first time. The school district must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time.

If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such consent, your school district may not use due process procedures (i.e., mediation, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services (recommended by your child's CSE or CPSE) may be provided to your child without your consent.

If you refuse to give your consent for your child to receive special education and related services for the first time, or if you do not respond to a request to provide such consent and the school district does not provide your child with the special education and related services for which it sought your consent, your school district:

1. is not in violation of the requirement to make FAPE available to your child for its failure to provide those services to your child; **and**
2. is not required to have an IEP meeting or develop an IEP for your child for the special education and related services for which your consent was requested.

Revocation of parental consent

If you inform the school district in writing that you revoke (take back) your consent for your school district to provide special education and related services to your child, your school district:

1. may not continue to provide special education and related services to your child;
2. may not use due process procedures (i.e., mediation, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the services may be provided to your child;
3. is not in violation of the requirement to make FAPE available to your child for its failure to provide further special education and related services to your child;
4. is not required to have an IEP meeting or develop an IEP for your child for the further provision of special education and related services; **and**
5. is not required to amend your child's education records to remove any reference to your child's receipt of special education and related services because of the revocation of consent.

Parental consent for reevaluations

Your school district must obtain your informed consent before it reevaluates your child, unless your school district can demonstrate that:

1. it took reasonable steps to obtain your consent for your child's reevaluation; **and**
2. you did not respond.

If you refuse to consent to your child's reevaluation, the school district may, but is not required to, pursue your child's reevaluation by using mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your school district does not violate its obligations under Part B of IDEA if it declines to pursue the reevaluation in this manner.

Documentation of reasonable efforts to obtain parental consent

Your school must maintain documentation of reasonable efforts to obtain parental consent for initial evaluations and reevaluations, to provide special education and related services for the first time, and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the school district's attempts in these areas, such as:

1. detailed records of telephone calls made or attempted and the results of those calls;
2. copies of correspondence sent to the parents and any responses received; **and**
3. detailed records of visits made to the parent's home or place of employment and the results of those visits.

Parental consent for insurance access

Parent consent is required prior to the school district accessing a parent's private or public insurance proceeds as described under the heading of ***Use of Public and Private Benefits/Insurance***.

Consent for Parentally-Placed and Home-Instructed Students

If you have enrolled your child in a private school at your own expense or if you are home schooling your child, and you do not provide your consent for your child's initial evaluation or your child's reevaluation, or you fail to respond to a request to provide your consent, the school district may not use its consent override procedures (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) and is not required to consider your child as eligible to receive equitable services (services made available to parentally-placed private school children with disabilities).

Other consent requirements

Your consent is not required before your school district may:

1. review existing data as part of your child's evaluation or a reevaluation; **or**
2. give your child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from all parents of all children.

Your school district may not use your refusal to consent to one service or activity to deny you or your child any other service, benefit, or activity.

The school district must develop and implement procedures to ensure that your refusal to consent to any of these other services and activities does not result in a failure to provide your child with FAPE.

INDEPENDENT EDUCATIONAL EVALUATIONS

34 CFR section 300.502; 8 NYCRR section 200.5(g)

General

As described below, you have the right to obtain an independent educational evaluation (IEE) of your child if you disagree with the evaluation of your child that was obtained by your school district.

If you request an IEE, the school district must provide you with information about where you may obtain one and about the school district's criteria that apply to IEEs.

Definitions

Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your child.

Public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you, consistent with the provisions of Part B of IDEA, which allow each state to use whatever State, local, federal and private sources of support are available in the State to meet the requirements of Part B of IDEA.

Parent right to evaluation at public expense

You have the right to an IEE of your child at public expense if you disagree with an evaluation of your child obtained by your school district, subject to the following conditions:

1. If you request an IEE of your child at public expense, your school district must, without unnecessary delay, either: (a) file a due process complaint to request a hearing to show that its evaluation of your child is appropriate; or (b) provide an IEE at public expense, unless the school district demonstrates in a hearing that the evaluation of your child that you obtained did not meet the school district's criteria.
2. If your school district requests a hearing and the final decision is that your school district's evaluation of your child is appropriate, you still have the right to an IEE, but not at public expense.
3. If you request an IEE of your child, the school district may ask why you object to the evaluation of your child obtained by your school district. However, your school district may not require an explanation and may not unreasonably delay either providing the IEE of your child at public expense or filing a due process complaint to request a due process hearing to defend the school district's evaluation of your child.

You are entitled to only one IEE of your child at public expense each time your school district conducts an evaluation of your child with which you disagree.

Parent-initiated evaluations

If you obtain an IEE of your child at public expense or you choose to share with the school district an evaluation of your child that you obtained at private expense:

1. Your school district must consider the results of the evaluation of your child, if it meets the school district's criteria for IEE, in any decision made with respect to the provision of FAPE to your child; **and**
2. You or your school district may present the evaluation as evidence at a due process hearing regarding your child.

Requests for evaluations by impartial hearing officers

If an impartial hearing officer requests an IEE of your child as part of a due process hearing, the cost of the evaluation must be at public expense.

School district criteria

If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school district uses when it initiates an evaluation (to the extent those criteria are consistent with your right to an IEE).

Except for the criteria described above, a school district may not impose conditions or timelines related to obtaining an IEE at public expense.

CONFIDENTIALITY OF INFORMATION

DEFINITIONS

34 CFR section 300.611

As used under the heading **Confidentiality of Information**:

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Education records means the type of records covered under the definition of "education records" in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).

Participating agency means any school district, agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of IDEA.

PERSONALLY IDENTIFIABLE

34 CFR section 300.32; 8 NYCRR section 200.5(e)

Personally identifiable means information that has:

- (a) your child's name, your name as the parent, or the name of another family member;
- (b) your child's address;
- (c) a personal identifier, such as your child's social security number or student number;
or
- (d) a list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.

NOTICE TO PARENTS

34 CFR section 300.612

When the New York State Education Department (NYSED) and school districts maintain personally identifiable information, notice must be given that is adequate to fully inform parents about confidentiality of personally identifiable information, including:

1. a description of the extent to which the notice is given in the native languages of the various population groups in the State;
2. a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods used in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

3. a summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; **and**
4. a description of all of the rights of parents and children regarding this information, including the rights under FERPA and its implementing regulations in 34 CFR Part 99.

Before any major identification, location, or evaluation activity (also known as “child find”), the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents of the activity to locate, identify, and evaluate children in need of special education and related services.

ACCESS RIGHTS

34 CFR section 300.613; 8 NYCRR sections 200.2(b)(6) and 200.5(d)(6)

The participating agency must permit you to inspect and review any education records relating to your child that are collected, maintained, or used by your school district under Part B of IDEA. The participating agency must comply with your request to inspect and review any education records on your child without unnecessary delay and before any meeting regarding an IEP, or any impartial due process hearing (including a resolution meeting or a hearing regarding discipline), and in no case more than 45 calendar days after you have made a request.

Your right to inspect and review education records includes:

1. a response from the participating agency to your reasonable requests for explanations and interpretations of the records;
2. a request that the participating agency provide copies of the records if you cannot effectively inspect and review the records unless you receive those copies; **and**
3. to have your representative inspect and review the records.

The participating agency may presume that you have authority to inspect and review records relating to your child unless advised that you do not have the authority under applicable State law governing such matters as guardianship, or separation and divorce.

RECORD OF ACCESS

34 CFR section 300.614

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of IDEA (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

RECORDS ON MORE THAN ONE CHILD

34 CFR section 300.615

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

LIST OF TYPES AND LOCATIONS OF INFORMATION

34 CFR section 300.616

On request, each participating agency must provide you with a list of the types and locations of education records collected, maintained, or used by the agency.

FEES

34 CFR section 300.617

Each participating agency may charge a fee for copies of records that are made for you under Part B of IDEA, if the fee does not effectively prevent you from exercising your right to inspect and review those records.

A participating agency may not charge a fee to search for or to retrieve information under Part B of IDEA.

AMENDMENT OF RECORDS AT PARENT'S REQUEST

34 CFR section 300.618

If you believe that information in the education records regarding your child collected, maintained, or used under Part B of IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the participating agency that maintains the information to change the information.

The participating agency must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.

If the participating agency refuses to change the information in accordance with your request, it must inform you of the refusal and advise you of the right to a hearing for this purpose as described under the heading ***Opportunity For a Hearing***.

OPPORTUNITY FOR A HEARING

34 CFR section 300.619

The participating agency must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.

HEARING PROCEDURES

34 CFR section 300.621

A hearing to challenge information in education records must be conducted according to the procedures for such hearings under FERPA.

RESULT OF HEARING

34 CFR section 300.620

If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must change the information accordingly and inform you in writing.

If, as a result of the hearing, the participating agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must inform you of your right to place in the records that it maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the participating agency.

Such an explanation placed in the records of your child must:

1. be maintained by the participating agency as part of the records of your child as long as the record or contested portion is maintained by the participating agency; **and**
2. if the participating agency discloses the records of your child or the challenged portion to any party, the explanation must also be disclosed to that party.

CONSENT FOR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION

34 CFR section 300.622; 8 NYCRR section 200.5(b)

Unless the information is contained in education records, and the disclosure is authorized without parental consent under FERPA, your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Except under the circumstances specified below, your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of Part B of IDEA.

Your consent, or consent of an eligible child who has reached the age of majority under State law (age 18), must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

If your child is in, or is going to go to, a private school that is not located in the same school district you reside in, your consent must be obtained before any personally identifiable information about your child is released between officials in the school district where the private school is located and officials in the school district where you reside.

SAFEGUARDS

34 CFR section 300.623

Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding New York State's policies and procedures regarding confidentiality under Part B of IDEA and FERPA.

Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

DESTRUCTION OF INFORMATION

34 CFR section 300.624

Your school district must inform you when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to your child.

The information must be destroyed at your request. However, a permanent record of your child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

STATE COMPLAINT PROCEDURES

DIFFERENCE BETWEEN DUE PROCESS HEARING COMPLAINT AND STATE COMPLAINT PROCEDURES

The regulations for Part B of IDEA set forth separate procedures for State complaints and for due process complaints and hearings. As explained below, any individual or organization may file a State complaint alleging a violation of any Part B requirement by a school district, NYSED, or any other public agency. Only you or a school district may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child. NYSED staff generally must resolve a State complaint within a 60-calendar-day timeline, unless the timeline is properly extended. An impartial due process hearing officer must hear a due process complaint (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45 calendar days for school-age students and 30 calendar days for preschool students after the end of the resolution period, (as described in this document under the heading Resolution Process) unless the hearing officer grants a specific extension of the timeline. Such an extension would be at your request or the school district's request. The State complaint and due process complaint, resolution and hearing procedures are described more fully below.

ADOPTION OF STATE COMPLAINT PROCEDURES

34 CFR section 300.151; 8 NYCRR section 200.5(l)

General

NYSED must have written procedures for:

1. resolving any complaint, including a complaint filed by an organization or individual from another State;
2. the filing of a complaint with NYSED. State complaints may be sent to:
Statewide Coordinator for Special Education
New York State Education Department
Office of Special Education
89 Washington Avenue, Room 309 EB
Albany, NY 12234
3. widely disseminating the State complaint procedures to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

Remedies for denial of appropriate services

In resolving a State complaint in which NYSED has found a failure to provide appropriate services, NYSED must address:

1. the failure to provide appropriate services, including corrective action appropriate to address the needs of the child; **and**
2. appropriate future provision of services for all children with disabilities.

MINIMUM STATE COMPLAINT PROCEDURES

34 CFR section 300.152; 8 NYCRR section 200.5(l)

Time limit; minimum procedures

NYSED must include in its State complaint procedures a time limit of 60 calendar days after a complaint is filed to:

1. carry out an independent on-site investigation, if NYSED determines that an investigation is necessary;
2. give the complainant (the person submitting the complaint) the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. provide the school district or other public agency with the opportunity to respond to the complaint, including, at a minimum: (a) at the option of the agency, a proposal to resolve the complaint; **and** (b) an opportunity for a parent who has filed a complaint and the agency to agree voluntarily to engage in mediation;
4. review all relevant information and make an independent determination as to whether the school district or other public agency is violating a requirement of Part B of IDEA; **and**
5. issue a written decision to the complainant that addresses each allegation in the complaint and contains: (a) findings of fact and conclusions; **and** (b) the reasons for NYSED's final decision.

Time extension; final decision; implementation

NYSED's procedures described above also must:

1. permit an extension of the 60 calendar-day time limit only if: (a) exceptional circumstances exist with respect to a particular State complaint; **or** (b) the parent and the school district or other public agency involved voluntarily agree to extend the time to resolve the matter through mediation.
2. include procedures for effective implementation of NYSED's final decision, if needed, including: (a) technical assistance activities; (b) negotiations; **and** (c) corrective actions to achieve compliance.

NYSED's decision rendered for the complaint is final and is not subject to appeal. While a school district and a parent have the right to initiate an impartial hearing to address the same issues raised in the complaint, the impartial hearing cannot be used as an appeal to a State complaint decision.

State complaints and due process hearings

If a written State complaint is received that is also the subject of a due process hearing as described below under the heading **Filing a Due Process Complaint**, or the State

complaint contains multiple issues of which one or more are part of such a hearing, NYSED must set aside the State complaint, or any part of the State complaint that is being addressed in the due process hearing until the hearing is over. Any issue in the State complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described above.

If an issue raised in a State complaint has previously been decided in a due process hearing involving the same parties (you and the school district), then the due process hearing decision is binding on that issue and NYSED must inform the complainant that the decision is binding.

A complaint alleging a school district's or other public agency's failure to implement a due process hearing decision must be resolved by NYSED.

FILING A COMPLAINT

34 CFR section 300.153; 8 NYCRR section 200.5(l)

An organization or individual may file a signed written State complaint under the procedures described above.

The State complaint must include:

1. a statement that a school district or other public agency has violated a requirement of Part B of IDEA or its regulations;
2. the facts on which the statement is based;
3. the signature and contact information for the complainant; and
4. if alleging violations regarding a specific child:
 - (a) the name of the child and address of the residence of the child;
 - (b) the name of the school the child is attending;
 - (c) in the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending;
 - (d) a description of the nature of the problem of the child, including facts relating to the problem; **and**
 - (e) a proposed resolution of the problem to the extent known and available to the party filing the complaint at the time the complaint is filed.

The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received as described under the heading ***Adoption of State Complaint Procedures***.

The party filing the State complaint must forward a copy of the complaint to the school district or other public agency serving the child at the same time the party files the complaint with NYSED.

DUE PROCESS COMPLAINT PROCEDURES

FILING A DUE PROCESS COMPLAINT

34 CFR section 300.507; 8 NYCRR section 200.5(i) and section 200.5(j)

General

You or the school district may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of your child, or the provision of FAPE to your child.

The due process complaint must allege a violation that happened not more than two years before you or the school district knew or should have known about the alleged action that forms the basis of the due process complaint.

The above timeline does not apply to you if you could not file a due process complaint within the timeline because:

1. the school district specifically misrepresented that it had resolved the issues identified in the complaint; or
2. the school district withheld information from you that it was required to provide you under Part B of IDEA.

Information for parents

The school district must inform you of any free or low-cost legal and other relevant services available in the area if you request the information, or if you or the school district file a due process complaint.

DUE PROCESS COMPLAINT

34 CFR section 300.508; 8 NYCRR section 200.5(i) and (j)

General

In order to request a hearing, you or the school district (or your attorney or the school district's attorney) must submit a due process complaint to the other party. That complaint must contain all of the content listed below and must be kept confidential.

You or the school district, whichever one filed the complaint, must also provide NYSED with a copy of the complaint.

Content of the complaint

The due process complaint must include:

1. the name of the child;
2. the address of the child's residence;
3. the name of the child's school;

4. if the child is a homeless child or youth, the child's contact information and the name of the child's school;
5. a description of the nature of the problem of the child relating to the proposed or refused action, including facts relating to the problem; **and**
6. a proposed resolution of the problem to the extent known and available to you or the school district at the time.

Notice required before a hearing on a due process complaint

You or the school district may not have a due process hearing until you or the school district (or your attorney or the school district's attorney), files a due process complaint that includes the information listed above.

Sufficiency of complaint

In order for a due process complaint to go forward, it must be considered sufficient. The due process complaint will be considered sufficient (to have met the content requirements above) unless the party receiving the due process complaint (you or the school district) notifies the hearing officer and the other party in writing, within 15 calendar days of receiving the complaint, that the receiving party believes that the due process complaint does not meet the requirements listed above.

Within five calendar days of receiving the notification the receiving party (you or the school district) considers a due process complaint insufficient, the impartial hearing officer must decide if the due process complaint meets the requirements listed above, and notify you and the school district in writing immediately.

Complaint amendment

You or the school district may make changes to the complaint only if:

1. the other party approves of the changes in writing and is given the chance to resolve the due process complaint through a resolution meeting, described below; **or**
2. by no later than five days before the due process hearing begins, the hearing officer grants permission for the changes.

If the complaining party (you or the school district) makes changes to the due process complaint, the timelines for the resolution meeting (within 15 calendar days of receiving the complaint) and the time period for resolution (within 30 calendar days of receiving the complaint) start again on the date the amended complaint is filed.

Local educational agency (LEA) or school district response to a due process complaint

If the school district has not sent a prior written notice to you, as described under the heading **Prior Written Notice**, regarding the subject matter contained in your due process complaint, the school district must, within 10 calendar days of receiving the due process complaint, send a response to you that includes:

1. an explanation of why the school district proposed or refused to take the action raised in the due process complaint;

2. a description of other options that your child's CSE or CPSE considered and the reasons why those options were rejected;
3. a description of each evaluation procedure, assessment, record, or report the school district used as the basis for the proposed or refused action; **and**
4. a description of the other factors that are relevant to the school district's proposed or refused action.

Providing the information in items 1-4 above does not prevent the school district from asserting that your due process complaint was insufficient.

Other party response to a due process complaint

Except as stated under the sub-heading immediately above, ***LEA or school district response to a due process complaint***, the party receiving a due process complaint must, within 10 calendar days of receiving the complaint, send the other party a response that specifically addresses the issues in the complaint.

MODEL FORMS

34 CFR section 300.509

NYSED must develop model forms to help you file a State complaint and a due process complaint. However, NYSED or the school district may not require you to use these model forms. You can use the State's model form or another appropriate form, so long as it contains the required information for filing a due process complaint or a State complaint. The State's model forms may be found at <http://www.p12.nysed.gov/specialed/>. Copies of the forms will be provided to you by the school district or by contacting NYSED, Office of Special Education at 518-473-2878.

MEDIATION

34 CFR section 300.506; 8 NYCRR section 200.5(h)

General

The school district must make mediation available to allow you and the school district to resolve disagreements involving any matter under Part B of IDEA, including matters arising prior to the filing of a due process complaint. Thus, mediation is available to resolve disputes under Part B of IDEA, whether or not you have filed a due process complaint to request a due process hearing as described under the heading ***Filing a Due Process Complaint***.

Requirements

The procedures must ensure that the mediation process:

1. is voluntary on your part and the school district's part;
2. is not used to deny or delay your right to a due process hearing, or to deny any other rights you have under Part B of IDEA; **and**

3. is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

The school district may develop procedures that offer parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to you, with a disinterested party:

1. who is under contract with the Community Dispute Resolution Center (CDRC); **and**
2. who would explain the benefits and encourage the use of the mediation process to you.

New York State uses qualified mediators trained by CDRC who know the laws and regulations relating to the provision of special education and related services. Mediators are selected by CDRCs on a random, rotational, or other impartial basis.

Arranging mediation

Mediation is arranged through the school district with CDRCs. The State is responsible for the cost of the mediation process, including the costs of meetings.

Each meeting in the mediation process must be scheduled in a timely manner and held at a place that is convenient for you and the school district.

Mediation agreements

If you and the school district resolve a dispute through the mediation process, both parties must enter into a legally binding agreement that sets forth the resolution and:

1. states that all discussions that happened during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; **and**
2. is signed by both you and a representative of the school district who has the authority to bind the school district.

A written, signed mediation agreement is enforceable in any State court of competent jurisdiction (a court that has the authority under State law to hear this type of case) or in a district court of the United States.

Discussions that happened during the mediation process must be confidential. They cannot be used as evidence in any future due process hearing or civil proceeding of any federal court or State court of a State receiving assistance under Part B of IDEA.

Impartiality of mediator

The mediator:

1. may not be an employee of a State educational agency or school that is involved in the education or care of your child; **and**
2. must not have a personal or professional interest which conflicts with the mediator's objectivity.

A person who otherwise qualifies as a mediator is not an employee of a school district or State agency solely because he or she is paid by the agency or school district to serve as a mediator.

THE CHILD'S PLACEMENT WHILE THE DUE PROCESS COMPLAINT AND HEARING ARE PENDING (PENDENCY)

34 CFR section 300.518; 8 NYCRR section 200.5(m)

Except as provided below under the heading *PROCEDURES WHEN DISCIPLINING CHILDREN WITH DISABILITIES*, once a due process complaint is sent to the other party, during the resolution process time period, and while waiting for the decision of any impartial due process hearing or court proceeding, unless you and your school district or you and the State Review Officer agree otherwise, your child must remain in his or her current educational placement.

If the due process proceeding concerns consent for an initial evaluation, your child will not be evaluated while the proceeding is pending.

If the due process complaint involves an application for initial admission to public school, your child, with your consent, must be placed in the regular public school program until the completion of all such proceedings.

A child who received preschool special education services and is now school-age may, during hearings and appeals, remain in the same programs as the preschool program if that program also has an approved school-age special education program.

If your preschool child is currently not receiving special education services and programs, he or she may, during any hearings or appeals, receive special education services and programs if you and the school district agree.

If the due process complaint involves an application for initial services under Part B of IDEA for a child who is transitioning from being served under Part C of IDEA (Early Intervention Services) to Part B of IDEA (Preschool Special Education Services) and who is no longer eligible for Part C services because the child has turned three, the school district is not required to provide the Part C services that the child has been receiving. If the child is found eligible under Part B of IDEA and you consent for the child to receive special education and related services for the first time, then, pending the outcome of the proceedings, the school district must provide those special education and related services that are not in dispute (those which you and the school district both agree upon).

A child who has received early intervention services and is not of preschool age may, during hearings and appeals, receive special education in the same program as the early intervention program if that program is also an approved preschool program.

RESOLUTION PROCESS

34 CFR section 300.510; 8 NYCRR section 200.5(j)

Resolution meeting

Within 15 calendar days of receiving notice of your due process complaint, and before the due process hearing begins, the school district must convene a meeting with you and the relevant member or members of the CSE or CPSE who have specific knowledge of the facts identified in your due process complaint. The meeting:

1. must include a representative of the school district who has decision-making authority on behalf of the school district; and
2. may not include an attorney of the school district unless you are accompanied by an attorney.

You and the school district determine the relevant members of the CSE or CPSE to attend the meeting.

The purpose of the meeting is for you to discuss your due process complaint, and the facts that form the basis of the complaint, so that the school district has the opportunity to resolve the dispute.

The resolution meeting is not necessary if:

1. you and the school district agree in writing to waive the meeting; **or**
2. you and the school district agree to use the mediation process, as described under the heading **Mediation**.

A school district must make reasonable efforts to obtain your participation in the resolution meeting.

Resolution period

If the school district has not resolved the due process complaint to your satisfaction within 30 calendar days of the receipt of the due process complaint (during the time period for the resolution process), the due process hearing may occur.

The 45-calendar-day timeline for school-age students or 30-calendar-day timeline for preschool students for issuing a final decision begins at the expiration of the 30-calendar-day resolution period, with certain exceptions for adjustments made to the 30-calendar-day resolution period, as described below.

Except where you and the school district have both agreed to waive the resolution process or to use mediation, **your failure to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until you agree to participate in a meeting**. If you decide not to attend the resolution meeting, your impartial hearing may be dismissed by an impartial hearing officer.

If after making reasonable efforts and documenting such efforts, the school district is not able to obtain your participation in the resolution meeting, the school district may, at the end of the 30-calendar-day resolution period, request that an impartial hearing officer dismiss your due process complaint. Documentation of such efforts must include a record of the school district's attempts to arrange a mutually agreed upon time and place, such as:

1. detailed records of telephone calls made or attempted and the results of those calls;
2. copies of correspondence sent to you and any responses received; and
3. detailed records of visits made to your home or place of employment and the results of those visits.

If the school district fails to hold the resolution meeting within 15 calendar days of receiving notice of your due process complaint **or** fails to participate in the resolution meeting, you may ask a hearing officer to order that the 45-calendar-day due process

hearing timeline for school-age students (or the 30-calendar-day due process hearing timeline for preschool) begin.

Adjustments to the 30-calendar-day resolution period

If you and the school district agree in writing to waive the resolution meeting, then the 45 calendar day for school-age (or 30 calendar day for preschool) timeline for the due process hearing starts the next calendar day.

After the start of mediation or the resolution meeting and before the end of the 30-calendar-day resolution period, if you and the school district agree in writing that no agreement is possible, then the 45 calendar day for school-age students or 30 calendar day for preschool timeline for the due process hearing starts the next calendar day.

If you and the school district agree to use the mediation process, at the end of the 30-calendar-day resolution period, both parties can agree in writing to continue the mediation until an agreement is reached. However, if either you or the school district withdraws from the mediation process, then the 45-calendar-day or 30-calendar-day timeline for the due process hearing starts the next calendar day.

Written agreement

If a resolution to the dispute is reached at the resolution meeting, you and the school district must enter into a legally binding agreement that is:

1. signed by you and a representative of the school district who has the authority to bind the school district; **and**
2. enforceable in any State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States.

Agreement review period

If you and the school district enter into an agreement as a result of a resolution meeting, either party (you or the school district) may void the agreement within three business days of the time that both you and the school district signed the agreement.

HEARINGS ON DUE PROCESS COMPLAINTS

IMPARTIAL DUE PROCESS HEARING

34 CFR section 300.511; 8 NYCRR sections 200.1(x), 200.5(i) and (j)

General

Whenever a due process complaint is filed, you or the school district involved in the dispute must have an opportunity for an impartial due process hearing, as described in the *Due Process Complaint* and *Resolution Process* sections. The school district appoints the impartial hearing officer from the rotational list. The impartial hearing officer convenes the impartial hearing.

Impartial hearing officer (IHO)

At a minimum, an IHO must:

1. not be an employee of a State educational agency or school that is involved in the education or care of the child. However, a person is not an employee of the agency solely because he/she is paid by the agency to serve as a hearing officer;
2. not have a personal or professional interest that conflicts with the hearing officer's objectivity in the hearing;
3. be knowledgeable and understand the provisions of IDEA, and federal and New York State regulations pertaining to IDEA, and legal interpretations of IDEA by federal and State courts; **and**
4. have the knowledge and ability to conduct hearings, and to make and write decisions, consistent with appropriate, standard legal practice.

Each school district must keep a list of those persons who serve as IHOs.

Subject matter of due process hearing

The party (you or the school district) that requests the due process hearing may not raise issues at the due process hearing that were not addressed in the due process complaint notice, unless the other party agrees.

Timeline for requesting a hearing

You or the school district must request an impartial hearing on a due process complaint within two years of the date you or the school district knew or should have known about the issue addressed in the complaint.

Exceptions to the timeline

The above timeline does not apply to you if you could not file a due process complaint because:

1. the school district specifically misrepresented that it had resolved the problem or issue that you are raising in your complaint; **or**

2. the school district withheld information from you that it was required to provide to you under Part B of IDEA.

HEARING RIGHTS

34 CFR section 300.512; 8 NYCRR section 200.5(j)

General

Any party to a due process hearing (including a hearing relating to disciplinary procedures) or an appeal, as described under the sub-heading *Appeal of decisions; impartial review* has the right to:

1. be accompanied and advised by a lawyer and/or persons with special knowledge or training regarding the problems of children with disabilities;
2. present evidence and confront, cross-examine, and require the attendance of witnesses;
3. prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five business days before the hearing;
4. obtain a written, or, at your option, electronic, word-for-word record of the hearing; **and**
5. obtain written, or, at your option, electronic findings of fact and decisions.

Additional disclosure of information

At least five business days prior to a due process hearing, you and the school district must disclose to each other all evaluations completed by that date and recommendations based on those evaluations that you or the school district intend to use at the hearing.

An IHO may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

Parental rights at hearings

You must be given the right to:

1. have your child present;
2. open the hearing to the public;
3. have the record of the hearing, the findings of fact and decisions provided to you at no cost; **and**
4. have an interpreter for the deaf or an interpreter fluent in your native language, if necessary, at no cost to you.

HEARING DECISIONS

34 CFR section 300.513; 8 NYCRR section 200.5(j)

Decision of hearing officer

An IHO's decision on whether your child received FAPE must be based on substantive grounds.

In matters alleging a procedural violation, an IHO may find that your child did not receive FAPE only if the procedural inadequacies:

1. interfered with your child's right to FAPE;
2. significantly interfered with your opportunity to participate in the decision-making process regarding the provision of FAPE to your child; **or**
3. caused a deprivation of an educational benefit.

Construction clause

None of the provisions described above can be interpreted to prevent an IHO from ordering a school district to comply with the requirements in the procedural safeguards section of the federal regulations under Part B of IDEA (34 CFR sections 300.500 through 300.536).

None of the provisions under the headings: ***Filing a Due Process Complaint; Due Process Complaint; Model Forms; Resolution Process; Impartial Due Process Hearing; Hearing Rights; and Hearing Decisions*** (34 CFR sections 300.507 through 300.513), can affect your right to file an appeal of the due process hearing decision with the State Review Officer (SRO) (see heading **Appeals - Finality of Decision**).

Separate request for a due process hearing

Nothing in the procedural safeguards section of the federal regulations under Part B of IDEA (34 CFR sections 300.500 through 300.536) can be interpreted to prevent you from filing a separate due process complaint on an issue separate from a due process complaint already filed.

APPEALS

FINALITY OF DECISION; APPEAL; IMPARTIAL REVIEW

34 CFR section 300.514; 8NYCRR section 200.5(k)

Finality of hearing decision

A decision made in a due process hearing (including a hearing relating to disciplinary procedures) is final, except that any party involved in the hearing (you or the school district) may appeal the decision to NYSED, Office of State Review.

State-level appeals of IHO decisions

The decision made by the IHO is final unless you or the school district ask for a review of the decision of the IHO (called a request for review) by a State Review Officer (SRO). If you want to appeal the IHO decision to an SRO, a Notice of Intention to Seek Review (Form A) must be served on the school district **within 25 days from the date of the IHO's decision**. The notice of request for review (Form B) and request for review must be served by hand-delivery on the school district **within 40 days from the date of the IHO's decision**. The SRO will:

1. make a final decision within 30 calendar days. The SRO may extend the time beyond the 30 days upon good cause shown at the timely written request of you or the school district. The extension must be for a specific time.
2. mail copies of the written or, at your option, electronic findings of fact and the decision to you or your attorney and the board of education (BOE) within the 30-day period or time period as extended by the SRO as set forth above.

The rules for filing an appeal to the SRO can be found at: <http://www.sro.nysed.gov>.

If there is an appeal, the SRO must conduct an impartial review of the findings and decision appealed. The official conducting the review must:

1. examine the entire hearing record;
2. ensure that the procedures at the hearing were consistent with the requirements of due process;
3. seek additional evidence if necessary. If a hearing is held to receive additional evidence, the hearing rights described above under the heading **Hearing Rights** apply;
4. give the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;
5. make an independent decision on completion of the review; **and**
6. give you and the school district a copy of the written, or, at your option, electronic findings of fact and decisions.

Finality of review decision

The decision made by the SRO is final unless you or the school district brings a civil action, as described below.

TIMELINES AND CONVENIENCE OF HEARINGS AND REVIEWS

34 CFR section 300.515; 8 NYCRR sections 200.5(j) and 200.16(h)

The school district must ensure that, not later than 45 calendar days for school-age students or 30 calendar days for preschool students, after the expiration of the 30 calendar day period for resolution meetings or, as described under the sub-heading ***Adjustments to the 30-calendar-day resolution period***, not later than 45 calendar days for school-age students or 30 calendar days for preschool students after the expiration of the adjusted time period:

1. a final decision is reached in the hearing; **and**
2. a copy of the decision is mailed to you and the school district.

The SRO must ensure that not later than 30 calendar days after the receipt of a request for review or such time as extended by the SRO:

1. a final decision is reached in the review; **and**
2. a copy of the decision is mailed to you and the school district.

An IHO or a SRO may grant specific extensions of time beyond the periods described above (45-calendar-day for school-age or 30-calendar-day for preschool hearing decision timeline and 30-calendar-day SRO decision timeline) if you or the school district make a request for a specific extension of the timeline.

Each hearing and review involving oral arguments must be conducted at a time and place that is reasonably convenient to you and your child.

CIVIL ACTIONS, INCLUDING THE TIME PERIOD IN WHICH TO FILE THOSE ACTIONS

34 CFR section 300.516; 8 NYCRR section 200.5(k)

General

Any party (you or the school district) who does not agree with the findings and decision in the State-level review has the right to bring a civil action with respect to the matter that was the subject of the due process hearing (including a hearing relating to disciplinary procedures). The action may be brought in a State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States without regard to the amount in dispute.

Time limitation

The party (you or the school district) bringing the action have four months from the date of the decision of the SRO to file a civil action.

Additional procedures

In any civil action, the court:

1. receives the records of the administrative proceedings;
2. hears additional evidence at your request or at the school district's request; **and**
3. bases its decision on the preponderance of the evidence and grants the relief that the court determines to be appropriate.

Jurisdiction of district courts

The district courts of the United States have authority to rule on actions brought under Part B of IDEA without regard to the amount in dispute.

Rule of construction

Nothing in Part B of IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other federal laws protecting the rights of children with disabilities. However, before filing a civil action under these laws seeking relief that is also available under Part B of IDEA, the due process procedures described above must be exhausted to the same extent as would be required if the party filed the action under Part B of IDEA. This means that you may have remedies available under other laws that overlap with those available under IDEA, but in general, to obtain relief under those other laws, you must first use the available administrative remedies under IDEA (i.e., the due process complaint, resolution meeting, and impartial due process hearing procedures) before going directly into court.

ATTORNEYS' FEES

34 CFR section 300.517

General

In any action or proceeding brought under Part B of IDEA, if you prevail, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to you.

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing school district, or NYSED to be paid by your attorney, if the attorney: (a) filed a complaint or court case that the court finds is frivolous, unreasonable, or without foundation; **or** (b) continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation.

or

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing state educational agency (SEA) or school district, to be paid by you or your attorney, if your request for a due process hearing or later court case was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to unnecessarily increase the cost of the action or proceeding.

Award of fees

A court awards reasonable attorneys' fees as follows:

1. Fees must be based on rates prevailing in the community in which the action or hearing began for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded.
2. Fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Part B of IDEA for services performed after a written offer of settlement to you if:
 - a. the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing or State-level review, at any time more than 10 calendar days before the proceeding begins;
 - b. the offer is not accepted within 10 calendar days; **and**
 - c. the court or administrative hearing officer finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.

Despite these restrictions, an award of attorneys' fees and related costs may be made to you if you prevail and you were substantially justified in rejecting the settlement offer.

3. Fees may not be awarded relating to any meeting of the CSE or CPSE unless the meeting is held as a result of an administrative proceeding or court action. *Fees also may not be awarded for a mediation as described under the heading Mediation.*

A resolution meeting, as described under the heading **Resolution meeting**, is not considered a meeting convened as a result of an administrative hearing or court action, and also is not considered an administrative hearing or court action for purposes of these attorneys' fees provisions.

The court reduces, as appropriate, the amount of the attorneys' fees awarded under Part B of IDEA, if the court finds that:

1. you, or your attorney, during the course of the action or proceeding, unreasonably delayed the final resolution of the dispute;
2. the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably similar skill, reputation, and experience;
3. the time spent and legal services furnished were excessive considering the nature of the action or proceeding; **or**
4. the attorney representing you did not provide to the school district the appropriate information in the due process request notice as described under the heading **Due Process Complaint**.

However, the court may not reduce fees if the court finds that the State or school district unreasonably delayed the final resolution of the action or proceeding or there was a violation under the procedural safeguards provisions of Part B of IDEA.

PROCEDURES WHEN DISCIPLINING CHILDREN WITH DISABILITIES

AUTHORITY OF SCHOOL PERSONNEL

34 CFR section 300.530; 8 NYCRR sections 201.2 - 201.7

Case-by-case determination

School personnel may consider any unique circumstances on a case-by-case basis, when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

General

The procedures for the discipline of students with disabilities must be in accordance with section 3214 of the Education Law and Part 201 of the Regulations of the Commissioner of Education. While the school has the authority to suspend or remove your child for violating the school's code of conduct, you and your child have certain rights throughout the process.

Rights that apply to all students

1. To be notified immediately by telephone, if possible, and to receive written notice within 24 hours of a proposed suspension of five 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, which will be held before the suspension unless your child's presence in school poses a danger (in which case the informal conference can occur after your child is suspended).
2. To receive written notice of your opportunity for a superintendent's hearing, if the suspension is for more than five consecutive school days, which describes your child's rights to counsel and to question and present witnesses.
3. For your child to receive alternative instruction during the first ten days of any suspension or removal to the same extent as nondisabled students, if your child is of compulsory school age.

Rights that apply to students with disabilities

To the extent that they also take such action for children without disabilities, school personnel may, for not more than **10 school days** in a row, remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting (IAES) which must be determined by the child's CSE or CPSE, another setting, or suspension. School personnel may also impose additional removals of the child of not more than **10 school days** in a row in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement (see *Change of Placement Because of Disciplinary Removals* for the definition, below).

Once a child with a disability has been removed from his or her current placement for a total of **10 school days** in the same school year, the school district must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub-heading **Services**.

Additional authority

If the behavior that violated the student code of conduct was not a manifestation of the child's disability (see **Manifestation determination**, below) and the disciplinary change of placement would exceed **10 school days** in a row, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under **Services**. The child's CSE or CPSE determines the IAES for such services.

Services

The services that must be provided to a child with a disability who has been removed from the child's current placement may be provided in an IAES.

A school district is only required to provide services to a child with a disability who has been removed from his or her current placement for **10 school days or less** in that school year, if it provides services to a child without disabilities who has been similarly removed.

In New York State, the school district must provide alternative instruction to a student with a disability who has been suspended for less than 10 days in a school year if the student is of compulsory school age. If the student is not of compulsory school age, alternative instruction must be provided if these services are provided to nondisabled students.

The education service requirements for students with disabilities during the first 10 days of suspension in a school year are the same as they are for nondisabled students. In New York State, alternative instruction must be provided for a minimum of one hour daily for an elementary student and two hours daily for a secondary student. If a student who is not of compulsory school age is suspended, the school district is not required to provide the student with the alternative instruction unless they provide this instruction to nondisabled students.

A child with a disability who is removed from the child's current placement for **more than 10 school days** must:

1. continue to receive educational services, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; **and**
2. receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not happen again.

After a child with a disability has been removed from his or her current placement for **10 school days** in that same school year, and **if** the current removal is for **10 school days** in a row or less **and** if the removal is not a change of placement (see definition below), **then** school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed to enable the child to continue to participate in

the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

If the removal is a change of placement (see definition below), the child's CSE or CPSE determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

Manifestation determination

Within **10 school days** of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that is for **10 school days** in a row or less and not a change of placement), the school district, the parent, and relevant members of the CSE or CPSE (as determined by the parent and the school district) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

1. if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; **or**
2. if the conduct in question was the direct result of the school district's failure to implement the child's IEP.

If the school district, the parent, and relevant members of the child's CSE or CPSE determine that either of those conditions was met, the conduct must be determined to be a manifestation of the child's disability.

If the school district, the parent, and relevant members of the child's CSE or CPSE determine that the conduct in question was the direct result of the school district's failure to implement the IEP, the school district must take immediate action to remedy those deficiencies.

Determination that behavior was a manifestation of the child's disability

If the school district, the parent, and relevant members of the CSE or CPSE determine that the conduct was a manifestation of the child's disability, the CSE or CPSE must either:

1. conduct a functional behavioral assessment, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; **or**
2. if a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Except as described below under the sub-heading ***Special circumstances***, the school district must return the child to the placement from which the child was removed, unless the parent and the district agree to a change of placement as part of the modification of the behavioral intervention plan.

Special circumstances

Whether or not the behavior was a manifestation of the child's disability, school personnel may remove a student to an IAES (determined by the child's CSE or CPSE) for up to 45 school days, if the child:

1. carries a weapon (see the definition below) to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of NYSED or a school district;
2. knowingly has or uses illegal drugs (see the definition below), or sells or solicits the sale of a controlled substance, (see the definition below), while at school, on school premises, or at a school function under the jurisdiction of NYSED or a school district;
or
3. has inflicted serious bodily injury (see the definition below) upon another person while at school, on school premises, or at a school function under the jurisdiction of NYSED or a school district.

Definitions

Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of federal law.

Serious bodily injury has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

Notification

On the date it makes the decision to make a removal that is a change of placement of the child because of a violation of a code of student conduct, the school district must notify the parents of that decision, and provide the parents with a procedural safeguards notice.

CHANGE OF PLACEMENT BECAUSE OF DISCIPLINARY REMOVALS

34 CFR section 300.536; 8 NYCRR section 201.2

A removal of a child with a disability from the child's current educational placement is a **change of placement** if:

1. the removal is for more than 10 school days in a row; **or**
2. the child has been subjected to a series of removals that constitute a pattern because:
 - a. the series of removals total more than 10 school days in a school year;

- b. the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
- c. of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by the school district and, if challenged, is subject to review through due process and judicial proceedings.

DETERMINATION OF SETTING

34 CFR section 300.531; 8 NYCRR section 201.10

The CSE or CPSE must determine the IAES for removals that are **changes of placement**, and removals under the headings ***Additional authority*** and ***Special circumstances***, above.

APPEAL

34 CFR section 300.532; 8 NYCRR section 201.11

General

The parent of a child with a disability may file a due process complaint (see above) to request a due process hearing if he or she disagrees with:

1. any decision regarding placement made under these discipline provisions; **or**
2. the manifestation determination described above.

The school district may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

Authority of impartial hearing officer

A hearing officer that meets the requirements described under the sub-heading ***Impartial Hearing Officer*** must conduct the due process hearing and make a decision. The hearing officer may:

1. return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading ***Authority of School Personnel***, or that the child's behavior was a manifestation of the child's disability; **or**
2. order a change of placement of the child with a disability to an appropriate IAES for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

These hearing procedures may be repeated, if the school district believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

Whenever a parent or a school district files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the headings *Due Process Complaint Procedures, Hearings on Due Process Complaints*, and *Appeal of decisions; impartial review* except as follows:

1. The school district must arrange for an expedited due process hearing, which must occur within **20** school days of the date the hearing is requested and must result in a determination within **10** school days after the hearing.
2. Unless the parents and the school district agree in writing to waive the meeting, or agree to use mediation, a resolution meeting must occur within **seven** calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within **15** calendar days of receipt of the due process complaint.

A party may appeal the decision in an expedited due process hearing in the same way as they may for decisions in other due process hearings (see *Appeals*, above).

PLACEMENT DURING APPEALS

34 CFR section 300.533; 8 NYCRR section 201.10

When, as described above, the parent or school district has filed a due process complaint related to disciplinary matters, the child must (unless the parent and NYSED or school district agree otherwise) remain in IAES pending the decision of the IHO, or until the expiration of the time period of removal as provided for and described under the heading *Authority of School Personnel*, whichever occurs first.

PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES

34 CFR section 300.534; 8 NYCRR section 201.5

General

If a child has not been determined eligible for special education and related services and violates a code of student conduct, but the school district had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred, that the child was a child with a disability, then the child may assert any of the protections described in this notice.

Basis of knowledge for disciplinary matters

A school district must be deemed to have knowledge that a child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

1. the parent of the child expressed concern in writing that the child is in need of special education and related services to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child;

2. the parent requested an evaluation related to eligibility for special education and related services under Part B of IDEA; or
3. the child's teacher, or other school district personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to the school district's director of special education or to other supervisory personnel of the school district.

Exception

A school district would not be deemed to have such knowledge if:

1. the child's parent has not allowed an evaluation of the child or refused special education services; or
2. the child has been evaluated and determined to not be a child with a disability under Part B of IDEA.

Conditions that apply if there is no basis of knowledge

If prior to taking disciplinary measures against the child, a school district does not have knowledge that a child is a child with a disability, as described above under the sub-headings ***Basis of knowledge for disciplinary matters*** and ***Exception***, the child may be subjected to the disciplinary measures that are applied to children without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.

Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district, and information provided by the parents, the school district must provide special education and related services in accordance with Part B of IDEA, including the disciplinary requirements described above.

REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES

34 CFR section 300.535

Part B of IDEA does not:

1. prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or
2. prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and State law to crimes committed by a child with a disability.

Transmittal of records

If a school district reports a crime committed by a child with a disability, the school district:

1. must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the agency reports the crime; and
2. may transmit copies of the child's special education and disciplinary records only to the extent permitted by FERPA.

USE OF PUBLIC AND PRIVATE BENEFITS/INSURANCE

CHILDREN WITH DISABILITIES COVERED BY PUBLIC INSURANCE

34 CFR section 300.154(d); 8 NYCRR sections 200.5(b)(8)

A school district may use the parent's or child's public benefits or insurance programs (such as Medicaid) to provide or pay for special education and related services. In order to bill public benefits or insurance programs, the school district must:

1. obtain your written consent (consistent with the section under the heading **Parental Consent – Definition**) before accessing your or your child's public benefits or insurance for the first time; and
2. provide you with a written notification before accessing your or your child's public benefits or insurance for the first time and annually thereafter. This written notification must inform you that:
 - a) you are not required to sign up for or enroll in public benefits in order for your child to receive FAPE;
 - b) you are not required to incur an out-of-pocket expense, such as the payment of a deductible or co-pay amount incurred in filing a claim for services;
 - c) the district may not use your child's benefits under a public benefits or insurance program if that use would:
 - decrease available lifetime coverage or other insured benefit;
 - result in your family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for your child outside of the time your child is in school;
 - increase premiums or lead to the discontinuation of benefits or insurance; or
 - risk loss of eligibility for home and community-based waivers, based aggregate health-related expenditures.
 - d) your refusal or withdrawal of consent to allow access to your public benefits or insurance does not relieve the school district of its responsibility to ensure that all IEP services are provided at no cost to you; and
 - e) you may withdraw your consent at any time.

CHILDREN WITH DISABILITIES COVERED BY PRIVATE INSURANCE**34 CFR section 300.154(e); 8 NYCRR sections 200.5(b)(9)**

With regard to services required to provide FAPE to your child, the school district may access your private insurance proceeds only if you provide consent consistent with the section under the heading ***Parental Consent - Definition***

Each time the school district proposes to access your private insurance proceeds, it must:

- obtain your consent; and
- inform you that your refusal to permit the school district to access your private insurance does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to you.

The school district may use its Part B IDEA funds to pay the costs that you might otherwise have to pay to use your benefits or insurance (e.g., the deductible or co-pay).

REQUIREMENTS FOR UNILATERAL PLACEMENT BY PARENTS OF CHILDREN IN PRIVATE SCHOOLS AT PUBLIC EXPENSE

GENERAL

34 CFR section 300.148

Part B of IDEA does not require a school district to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the school district made FAPE available to your child and you choose to place the child in a private school or facility. However, the school district where the private school is located must include your child in the population whose needs are addressed under the Part B provisions regarding children who have been placed by their parents in a private school under 34 CFR sections 300.131 through 300.144.

Reimbursement for private school placement

If your child previously received special education and related services under the authority of a school district, and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the school district, a court or a hearing officer may require the agency to reimburse you for the cost of that enrollment if the court or an IHO finds that the agency had not made FAPE available to your child in a timely manner prior to that enrollment and that the private placement is appropriate. An IHO or court may find your placement to be appropriate, even if the placement does not meet the State standards that apply to education provided by NYSED and school districts.

Limitation on reimbursement

The cost of reimbursement described in the paragraph above may be reduced or denied:

1. if: (a) At the most recent CSE or CPSE meeting that you attended prior to your removal of your child from the public school, you did not inform the CSE or CPSE that you were rejecting the placement proposed by the school district to provide FAPE to your child, including stating your concerns and your intent to enroll your child in a private school at public expense; or (b) At least 10 business days (including any holidays that occur on a business day) prior to your removal of your child from the public school, you did not give written notice to the school district of that information;
2. if, prior to your removal of your child from the public school, the school district provided prior written notice to you, of its intent to evaluate your child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but you did not make the child available for the evaluation; or
3. upon a court's finding that your actions were unreasonable.

However, the cost of reimbursement:

1. must not be reduced or denied for failure to provide the notice if: (a) the school prevented you from providing the notice; (b) you had not received notice of your responsibility to provide the notice described above; or (c) compliance with the requirements above would likely result in physical harm to your child; **and**
2. may, in the discretion of the court or an IHO, not be reduced or denied for the parents' failure to provide the required notice if: (a) the parent is not literate or cannot write in English; or (b) compliance with the above requirement would likely result in serious emotional harm to the child.

RESOURCES

USDOE - IDEA Site - (includes Part 300 of the Code of Federal Regulations)
<http://idea.ed.gov/>

New York State Education Department - <http://www.nysed.gov/home.html>

Office of Special Education - <http://www.p12.nysed.gov/specialed/>

Parts 200 and 201 of the Regulations of the Commissioner of Education -
<http://www.p12.nysed.gov/specialed/lawsregs/part200.htm>

Office of Special Education updates - <http://www.p12.nysed.gov/specialed/timely.htm>

Special Education Quality Assurance Regional Offices –

General Information - <http://www.p12.nysed.gov/specialed/quality/home.html>

Location of Offices - <http://www.p12.nysed.gov/specialed/quality/qaoffices.htm>

(also listed on next page)

Special Education Quality Assurance Regional Offices:**Central**

NYS Education Department
Special Education Quality Assurance
Hughes State Office Building
333 E. Washington Street, Suite 210
Syracuse, NY 13202
(315) 428-4556
(315) 428-4555 (fax)

Eastern

NYS Education Department
Special Education Quality Assurance
89 Washington Avenue, Room 309 EB
Albany, NY 12234
(518) 486-6366
(518) 486-7693 (fax)

Hudson Valley

Albany Site
NYS Education Department
Special Education Quality Assurance
89 Washington Avenue, Room 309 EB
Albany, NY 12234
(518) 473-1185
(518) 402-3582 (fax)

Peekskill Site

NYS Education Department
Special Education Quality Assurance
1 Park Place, 3rd Floor
Peekskill, NY 10566
(914) 940-2900
(914) 402-2180 (fax)

New York City

NYS Education Department
Special Education Quality Assurance
55 Hanson Place, Room 545
Brooklyn, NY 11217-1580
(718) 722-4544
(718) 722-2032 (fax)

Long Island

NYS Education Department
Special Education Quality Assurance
Perry B. Duryea, Jr. State Office Building
Room # 2A-5
Hauppauge, NY 11788
(631) 952-3352
(631) 952-3834 (fax)

Western

(NYS School for the Blind)
NYS Education Department
Special Education Quality Assurance
2A Richmond Avenue
Batavia, NY 14020
(585) 344-2002
(585) 344-2422 (fax)

Nondistrict Unit**Albany Site**

NYS Education Department
Special Education Quality Assurance
89 Washington Avenue, Room 309 EB
Albany, NY 12234
(518) 473-1185
(518) 486-7693 (fax)

Peekskill Site

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1 Park Place, 3rd Floor
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(914) 940-2900
(914) 402-2180 (fax)