

OVERVIEW OF SPECIAL EDUCATION PROCESSES

IDEA SPECIAL EDUCATION MEDIATOR TRAINING
NEW YORK STATE EDUCATION DEPARTMENT

VIRTUAL PROGRAM

TUESDAY, SEPTEMBER 8, 2020 – WEDNESDAY, SEPTEMBER 9, 2020
WEDNESDAY, SEPTEMBER 23, 2020 – THURSDAY, SEPTEMBER 24, 2020 (REPEAT)

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The IDEA’s framework is complex. Section 504’s scheme is less so. This document is intended to provide an overview of the IDEA and Section 504’s various component parts in a flowchart manner to enable participants to see the forest for the trees.

IDEA

CHILD FIND – BY STATE AND DISTRICTS

or

REFERRAL – BY PARENT OR DESIGNEE OF DISTRICT

? = reasonable cause to suspect disability – if so and parental consent ...



***EVALUATION ARRANGED BY COMMITTEE ON
SPECIAL EDUCATION (CSE) OR COMMITTEE ON
PRESCHOOL SPECIAL EDUCATION (CPSE)***

(re-evaluation conducted when conditions warrant or is requested by the child’s parent or teacher; may occur not more than once a year unless parent and district agree, otherwise but must occur at least every 3 years unless the parent and district agree that it is unnecessary)

1. Evaluation report assessing child’s educational needs and documentation of determination of eligibility is given to the parent at no cost
2. **CSE/CPSE** determines eligibility (i.e., preschool student with a disability; 13 categories and in need of special education **or** related services¹)

Note: Parent can request independent educational evaluation (IEE) at public expense.



IF FOUND ELIGIBLE, INDIVIDUALIZED EDUCATION PROGRAM (“IEP”) DEVELOPED BY **CSE/CPSE**

IEP document includes many components, inclusive of ...

1. Disability classification
2. Present levels of academic achievement and functional performance
3. Annual goals and objectives
4. Special education programs and services
5. Progress reports, re: IEP goals and objectives
6. Testing accommodations
7. Participation in State and district wide assessments
8. Transition services
9. 12-month (or extended school year (ESY)) services
10. Projected date of annual review
11. Placement



¹ Pursuant to IDEA, special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with disability, including related services, if the service is considered special education rather than a related service under State standards. **New York State defines special education as specially designed instruction which includes special services or programs. Special services or programs is defined to include related services. N.Y. EDUC. LAW Art. 89 §§ 4401(1) and (2)(k).**

DUE PROCESS NOTICE

(Other dispute resolution options are available, e.g., mediation or state complaint.)

1. State problems with facts
2. State proposed resolutions (to the extent known and available)
3. School district response to the parent and other party response



RESOLUTION MEETING (RM)/MEDIATION

(RM must be held within 15 calendar days of hearing notice and generally completed by 30 calendar days for regular hearing; for expedited hearing, within 7 calendar days and completed in 15 calendar days)

Note: Parties can waive RM or parties can agree to pursue mediation



HEARING

Note: Two-year statute of limitations from discovery of alleged problem to seek hearing but usually done quickly by parent. (States may adopt a different timeline, but New York has not.) When parent files the complaint, the hearing officer's decision must be rendered within 45 calendar days (unless extended at the request of a party and for good cause) from when the resolution meeting period ends in a regular hearing (or within 10 school days after an expedited hearing). When the school district files, the hearing officer's decision must be rendered within 45 calendar days (unless extended) from the date the parent received the due process complaint.



STATE REVIEW OFFICER, THEN STATE OR FEDERAL COURT

1. Initial appeal to the Office of State Review (30 calendar days to render decision from receipt of petitioner's request for review)
2. Additional evidence may be taken at the discretion of the State review officer
3. Adverse decision must be appealed within four months from the date on the decision of the state review officer (timeline scheduled to sunset on June 30, 2021)
4. Additional evidence may be taken at the discretion of the court

Section 504

REFERRAL – BY PARENT OR STAFF MEMBER

? = reasonable cause to suspect disability – if so:



EVALUATION BY STAFF WITH PARENT INPUT



ELIGIBILITY DETERMINATION, AND IF ELIGIBLE, 504 PLAN DETERMINED BY 504 TEAM

(the 504 Team consists of a group of persons knowledgeable about the child, evaluation data, and placement options)

Note: Eligibility determination is not by categories but whether “substantial limitation of major life activity,” (e.g., learning).

If eligible, must provide appropriate education (regular or special education and related aids and services) designed to meet individual educational needs as adequately as the needs of nondisabled children are met



PARENT HAS OPTION TO RESOLVE ANY DISPUTE BY FILING A:

- complaint with the Office for Civil Rights (OCR)
- grievance with the school district per the district’s 504 policy
- due process hearing per school district’s 504 policy
- court action

NOTE: REDISTRIBUTION OF THIS DOCUMENT WITHOUT EXPRESSED, PRIOR WRITTEN PERMISSION FROM ITS AUTHOR IS PROHIBITED.

THIS DOCUMENT IS INTENDED TO PROVIDE WORKSHOP PARTICIPANTS WITH AN OVERVIEW OF THE SPECIAL EDUCATION PROCESSES. IN USING THIS DOCUMENT, THE PRESENTER IS NOT RENDERING LEGAL ADVICE TO THE PARTICIPANTS.