Basic Rights of Special Education

Disability Law Center
1-800-872-9992
www.dlc-ma.org

Pamela J. Coveney  Hillary J. Dunn
Your Handouts

A. Sample Request for Evaluation for SPED Services
B. Evaluation Consent Form
C. Denial of Eligibility Form
D. Sample Request for an Independent Evaluation
E. IEP Service Grid
F. IEP Placement Consent Form
G. IEP Signature Page
H. Sample Letter for Non-Delivery of IEP Services
I. Transition Planning Form
J. Adolescent Autonomy Checklist
K. Delegation of Educational Authority
Who is eligible for special education services?

- Child has a disability*
- Cannot make effective progress* through the curriculum
- Needs Services

- Academic
- Social and Emotional
Disabilities to Look For

Autism
Developmental Delay
Intellectual Impairment

Sensory Impairment
• Hearing Impairment or Deaf
• Vision Impairment or Blind
• Deafblind

Neurological Impairment
Emotional Impairment
Communication Impairment
Physical Impairment
Health Impairment
Specific Learning Disability
“Effective Progress”

ACADEMIC PROGRESS

SOCIAL AND EMOTIONAL
The First Step: Ask for an Evaluation

• *Always* ask in writing
• Use the Form
• Sign and date it
• Count!
• Follow up!
The Evaluation Consent Form

**School District Name**

**EVALUATION CONSENT FORM**

**Attachment to N 1**

<table>
<thead>
<tr>
<th>TYPE OF ASSESSMENTS</th>
<th>RECOMMENDED</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment in All Areas Related to the Suspected Disability(ies) — describes the student’s performance in any area related to the child’s suspected disability(ies). List recommended assessment(s):</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Educational Assessment — includes the history of the student’s educational progress in the general curriculum and includes current information on the student’s performance.</td>
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<tr>
<td>Observation of the Student — includes the student’s interaction in the student’s classroom environment or in a child’s natural environment or an early intervention program.</td>
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<tr>
<td>Health Assessment — details any medical problems or constraints that may affect the student’s education.</td>
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<tr>
<td>Psychological Assessment — describes the student’s learning capacity and learning style in relationship to social/emotional development and skills.</td>
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</tr>
<tr>
<td>Home Assessment — details any pertinent family history and home situations that may affect the student’s education and, with written consent, may include a home visit.</td>
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</tr>
</tbody>
</table>

**PARENT RESPONSE SECTION**

Please indicate your response by checking at least one (1) box and returning a signed copy to the school district. Please keep one copy for your records. Thank you.

- [ ] I accept the proposed evaluation in full.
- [ ] I reject the proposed evaluation in full.
- [ ] I accept the proposed evaluation in part and request that only the listed assessments be completed.

<table>
<thead>
<tr>
<th>I additionally request the following assessment(s):</th>
<th>□ assessment(s) listed above:</th>
<th>□ other assessment(s) (specify)</th>
</tr>
</thead>
</table>

Signature of Parent, Guardian, Educational Surrogate Parent, Student 18 and Over

\^Required signature once a student reaches 18 unless there is a court appointed guardian.

Date

**PARENT INPUT**

We strongly encourage you to share your knowledge of this student with us. If you choose, please provide a written statement (see back of form) or call the indicated contact person. Thank you.

Massachusetts Department of Elementary and Secondary Education / Evaluation Consent Form N 1A

Page 1 of 1

Send and Keep a Copy!
The Team Meeting

- Parent
- School district
- Special ed teacher
- Regular ed teacher
- Someone parent wants to bring who knows the student
You Have a Right to Translation!

- **Write** to Team Leader to ask for a translator.

- **Reschedule** if no translator is available.

- **Write** to ask for documents in your language.
If the Team Says 'No'

School District Letterhead

To: [Name of Parent, Guardian, Educational Surrogate Parent, Student 18 and over]

Re: [Name of Student and other identifying information (i.e. DOB, ID#)]

Subject: The school district does not intend to act [Check all that apply.]

☐ Finding of No Eligibility
☐ Refusal of Requested Services
☐ Other: [Please specify.]

Notice Date: [Date notice is to be mailed.]

The school district has recently discussed this student with you. We now write to tell you of our intention not to act on a request. We have described our reasons for refusing on page two of this memo.

As you know, special education regulations provide protection to you and your child. You will find specific information about your legal rights in the Interim Notice of Procedural Safeguards, including sources that you may contact for help in understanding your rights. You should have received this brochure prior to the initial evaluation. If you would like another copy, please contact the school district staff. You should carefully review this brochure and the enclosed material.

The school district staff is available to speak to you or meet with you about your rights and the school district's refusal to act. We strongly encourage you to call us if you have any questions. Please contact us through the district contact person listed below. Thank you.

District Contact Person: [Name and Role]

Contact Information: [Address, Telephone Number, Fax Number and Email Address (if not on letterhead)]

Enclosures: 

☐ Other: [Specify]
What is an Independent Education Evaluation?

**IEE Basics**

- Team has evaluated your child.
- You disagree with the result.
- You want the school to test again.
- You have a right to ask for another test.

**Example**

- Your think your child needs speech therapy.
- The IEP Team tests her.
- The Team’s test concludes that your child does not need speech therapy.
- You disagree.
Two Types of IEES

Type 1
- Free or reduced cost lunch
- Ward of the state
- Automatic right to an IEE
- Only in an area that Team has already tested
- Ask in writing
- Team must meet afterward to consider IEE

Type 2
- Not “income-eligible”
- Can be in area that Team has not tested
- Team may object
- Must file a hearing request at the Bureau of Special Education Appeals
Team Says “Yes”: Student is Eligible

Special Education Services

Special Education Placement
What You Need to Know about FAPE

- Free
- Appropriate
- Public
- Education
Least Restrictive Environment “LRE”

• Teams should recommend the “least restrictive environment” appropriate for the child.

• Whenever possible, students with disabilities should be educated with students who do not have disabilities.

• Separate classrooms or schools are only appropriate when the student’s disability is too severe for him/her to learn in a general education setting.
What is on an IEP?

• How to Contact the Team
• Student Information
• Goals
• Benchmarks
• Services
• Placement
Possible Services and Supports

- a one-to-one aide
- occupational therapy
- parent counseling
- assistive technology
- speech therapy
- transportation
- physical therapy
- support for students who are deaf or blind
Where to Find the Suggested Services: the Service Grid

<table>
<thead>
<tr>
<th>Focus or Goal #</th>
<th>Type of Service</th>
<th>Type of Personnel</th>
<th>Frequency and Duration/Per Cycle</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
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A. Consultation (Indirect Services to School Personnel and Parents)

B. Special Education and Related Services in General Education Classroom (Direct Service)

C. Special Education and Related Services in Other Settings (Direct Service)

Use multiple copies of this form as needed.
Types of Special Education Placements
The “Continuum”

- Regular Education Classroom (FULL INCLUSION)
- Regular Education with Pullouts
- Substantially Separate Classroom
  - Occupational Therapy
  - Speech Therapy
  - Resource Room Speech Therapy
  - Out of District Day Placement
  - Residential
Where to Find the Suggested Placement (Handout F)
3 Ways to Sign an IEP:
Accept, Reject or In-Between

- Accept
- Completely Reject
- Accept in Part/Reject in Part
The Parent Response Section

Individualized Education Program

Student Name: ___________________________ DOB: ______________________ Date: ______

IEP Dates from: ____________ to: ____________

Additional Information

☒ Include the following transition information: the anticipated graduation date, a statement of interagency responsibilities or needed links, the discussion of transfer of rights at least one year before age of majority, and a recommendation for Chapter 66 Parents.

☒ Document efforts to obtain participation if a parent and student did not attend meeting or provide input.

☒ Record other relevant IEP information not previously stated.

Response Section

School Assurance

I certify that the goals in this IEP are those recommended by the Team and that the indicated services will be provided.

Signature and Role of LEA Representative: __________________ Date: ______

Parent Options / Responses

It is important that the district knows your decision as soon as possible. Please indicate your response by checking at least one (1) box and returning a signed copy to the district. Thank you.

☒ I accept the IEP as developed.

☒ I reject the IEP as developed.

☒ I reject the following portions of the IEP with the understanding that any portion(s) that I do not reject will be considered accepted and implemented immediately. Rejected portions are as follows:

☒ I request a meeting to discuss the rejected IEP or rejected portion(s).

Signature of Parent, Guardian, Educational Surrogate Parent, Student 16 and Over* Date: ______

*Required signature once a student reaches 16 unless there is a court appointed guardian.

Parent Comments: [Optional: I would like to make the following comment(s) but realize any comment(s) made that suggest changes to the proposed IEP will not be implemented unless the IEP is amended.]

IEP 8

Massachusetts DESE Individualized Education Program
Challenging Placement

• **Sign reject** box on Placement Consent Form
When the Team does not follow the IEP

- Keep Records
- First Write to the Team Write Again
- Then Call Program Quality Assurance (PQA)
Program Quality Assurance

- Boston Liaison: Sandra Hanig 781-338-3704

- “For people who do not write or speak English, or are not comfortable communicating in English, the Department will make appropriate arrangements."

- Web: http://www.doe.mass.edu/pqa
When You Disagree with the Team

“Level One”
Informal Conversations, Telephone Calls, E-mails

“Level Two”
Settlement Conferences
Resolution Sessions
Mediation
Team Meetings

“Level Three”
The Bureau of Special Education Appeals
Key Questions When the School Suspends Your Child

Is there a signed IEP or 504 Plan?

If not, did you ask the school *in writing* to evaluate your child for special education services?

How many total days of school has your child missed?

Why was your child suspended?

Did it involve drugs or weapons, or was anyone badly hurt?
The New Massachusetts Discipline Law

- No exclusion can last for more than 90 days

- Students now have the right to some education while suspended.

- The school must provide notice of the charges and the reason for the suspension in your primary language.

- You can request more time to appeal an exclusion, or to have a hearing before the superintendent.
More About Discipline

Short Term Suspensions
• 10 days or fewer
• Opportunity to “make academic progress”
• Make up assignments, missed homework, quizzes, exams, and projects

Long Term Suspensions
• Longer than 10 days
• Same opportunity to make up work the student has missed, plus
• The right to choose from a school-wide education service plan:
  - tutoring, alternative placement, Saturday school, online or distance learning
Federal Law
The “10-Day Rule:”

Regular Ed student

State Law

Must get FAPE, an MDR, an FBA and a BIP

Special Ed Student

Student on 504 Plan

Must get an MDR and FAPE if conduct and disability are related
The Manifestation Determination Review

- It is a **Meeting**.
- *Required* if school plans to exclude for 10+ days
- You **must** get invited.
- You may bring support.
- You should try to reschedule if necessary to prepare.
The 3 Required MDR Questions

• Did student’s disability cause the behavior?

• Did disability have a direct and substantial relationship to the behavior?

• Did behavior happen because school did not provide student’s IEP services?
Functional Behavior Assessments and Behavior Intervention Plans

• **FBA**: an observation of the student to explore the cause of behaviors you want to change. These are called target behaviors.

• **BIP**: This should result from the FBA. It is a series of strategies designed to keep the behavior from happening again.

• Required under federal law.

• *Only* to students on IEPs and, in some instances, on 504 plans.

• After exclusions of more than 10 days.
Basic Transition Rights

• Begin at Age 14
• Use Transition Planning Form
• Use the Checklist
• Ask for Assessments
• Check the Suggested Graduation Date on the IEP
• Plan for student’s 18th birthday
• Use DLC’s online manual: http://www.dlc-ma.org/_manual/LASE_manual.htm
Chapter 688 - the process

• Massachusetts “Turning 22 law”

• 2-year planning process

• School refers Student to the adult agency

• Develop Individualized Transition Plan (ITP)
688 does *not*

Continue Special Education

Determine Eligibility for adult services

Entitle someone to adult services
What is a 688 Referral?
Bullying: What the School Must Do

- have a bullying prevention plan
- provide it to you
- investigate
- tell you what they have done to stop the bullying
- adjust your child’s IEP when necessary
What **You** Should Do

- **Report** right away
- **In writing**
- **Be specific:**
  - Who are the bullies?
  - When did it happen?
  - What did they do?
- **Ask for a meeting to create a safety plan**
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