

# *A Basic Guide to Special Education*



May 2007 Edition

***Children's Legal Resource Center***  
Association for Children of New Jersey  
35 Halsey Street  
Newark, NJ 07102  
973-643-3876  
973-643-9153 fax  
[www.acnj.org](http://www.acnj.org)  
[www.kidlaw.org](http://www.kidlaw.org)  
[www.makekidscountnj.org](http://www.makekidscountnj.org)

## **Please Note-**

This short pamphlet is intended as a reference guide for people who are about to address a child's educational development in the realm of special education. It is not intended to offer advice or legal guidance. For an expanded, legally grounded, explanation of any aspect of the special education process, parents/caregivers are encouraged to contact the Children's Legal Resource Center ACNJ. Staff attorneys can provide printed information and limited personal assistance to individual parents/caregivers. Spanish consultations are available.

## **Contact:**

**Kit Ellenbogen, Esq:** [Kit@acnj.org](mailto:Kit@acnj.org)

**Nina Peckman, Esq** (speaks Spanish): [npeckman@acnj.org](mailto:npeckman@acnj.org)

Phone: 973-643-3876 Fax: 973-643-9153

Visit [www.kidlaw.org](http://www.kidlaw.org) for additional materials on children's legal rights in education and other areas.

Published by the Association for Children of New Jersey,  
Newark, New Jersey 07102.

Copyright © 2007 by Association for Children of New Jersey  
All rights reserved.

This *Basic Guide to Special Education* was printed with funds from a federal court improvement grant.

## Table of Contents

<b>Introduction.....</b>	<b>1</b>
<b>Early Intervention Services.....</b>	<b>2</b>
<b>Special Education for Preschool Students Ages 3-5.....</b>	<b>3</b>
<b>Speech and Language Services .....</b>	<b>5</b>
<b>A Sequential Guide to Navigating the Special Education System .....</b>	<b>6</b>
<b>The Special Education Process</b>	
Evaluation and Eligibility .....	7
The Individualized Education Program (IEP).....	10
<b>High School Transition Services .....</b>	<b>13</b>
<b>Services for the Developmentally Disabled and Individuals Requiring Employment Services .....</b>	<b>15</b>
<b>The Right to Notice .....</b>	<b>16</b>
<b>Challenging School District Actions – Your Right to Mediation and/or Due Process.....</b>	<b>17</b>
<b>What Every Advocate MUST Know About Special Education Law .....</b>	<b>20</b>
<b>Glossary of Terms .....</b>	<b>23</b>
<b>Sample letters .....</b>	<b>25</b>

## Introduction

The topic of “Special Education” can be confusing and frightening for the parent who suspects his/her child has a disability or has difficulty in school. The first questions which parents\* have are where and how to get evaluations and services for their children.

Between birth and age 3, The New Jersey State Department of Health and Senior Services is responsible for providing children with evaluations and services. These services are called Early Intervention Services. Early Intervention Services are briefly addressed in this booklet.

Once a child reaches his/her third birthday, the New Jersey State Department of Education is responsible for identifying and meeting the special education needs of the child. These services are delivered under the direction of the local school district. Services may continue until high school graduation or age 21, whichever occurs first. This booklet summarizes the basic procedures, services and rights of children who have special needs. It represents current NJ laws and regulations.

*\*If you are not the biological or adoptive parent and are unsure whether you have the right to make educational decisions concerning your child, contact your school district’s Board of Education or ACNJ.*

## *Early Intervention Services*

(Administered by the N. J. Department of Health and Senior Services)

**Federal law mandates that states provide Early Intervention Services (EIS) to families with children, from birth to their third birthday, who have developmental delays and/or physical or mental disabilities that are likely to result in developmental delays.**

Common developmental areas include, but are not limited to:

- Communication
- Feeding
- Behavior
- Walking/movement
- Vision, and/or
- Hearing

The goal of early intervention is to provide services and support to families during the child's formative years. The New Jersey State Department of Health and Senior Services is responsible for this program, which it administers through agencies **located in each county**. Anyone (doctors, parents, day care workers, friends, etc.) can make the initial referral for services. To find out the phone number of your local county agency, call the Department of Education, Office of Special Education Programs at 1-800-322-8174, or the Department of Health and Senior Services at 1-609-777-7734.

Once a developmental delay or potential delay is identified, an evaluation of the child will occur within 45 days of the parent's written consent to the evaluation. There is no cost for this service. Qualified professionals **will come to the home** to review the child's medical records and assess the child's current functioning. The professionals will determine if a child is eligible for intervention services, and if so, what services are necessary.

Early Intervention services can include:

- Family training and counseling
- Health/medical/nursing service
- Hearing, vision, and/or language services
- Nutrition, and
- Other services to help the child and family

Once it is determined that a family is eligible for intervention services, a written Individualized Family Service Plan or "IFSP" is developed collaboratively by the Service Coordinator, the family, and other qualified professionals, to meet the unique needs of the individual child. The IFSP will include:

- A statement of the child's current functioning
- Identification of service providers and services to be provided, and
- Goals/outcomes to be achieved

Parents must provide written consent to the services to be provided. They may decide to receive some services and decline others. Further, parents may withdraw consent at any time. The cost of services may be paid by the parents based on a sliding fee scale, the child's insurance carrier (with parental consent), Medicaid, or the State. **The inability to pay cannot be used to delay or deny a child the required service.**

## *Special Education for Preschool Students Ages 3-5*

**Federal and New Jersey state law requires that a *free appropriate public education (FAPE) in the least restrictive environment (LRE) be available to all children with disabilities from age 3 through 21 or high school graduation, whichever comes first.* Special rules are set forth for eligible children aged 3-5, who are classified as Preschool Disabled.**

Parents of children ages 3 through 5 who have **not** received Early Intervention Services, but demonstrate developmental delays and/or disabilities, should contact (**in writing**) the local public

school district where they live. (See *Evaluation and Eligibility* on page 7) The evaluation procedure and the requirements for an Individual Education Program (IEP) are generally the same as for older children. (See *The Individualized Education Program* on page 10) However, the law requires that a speech-language specialist be part of the child study team when evaluating a child for preschool services. (See *Speech and Language Services* on page 5)

**Every School District must provide preschool programs for disabled children five days a week, one day of which may be used for parent training and at least four days of which shall provide a minimum total of 10 hours of student instruction.**

The nature and severity of the child's disability will determine the extent of the services needed to assure a **free appropriate public education (FAPE)** in the **least restrictive environment (LRE)**.

If the IEP cannot be implemented in the local school district, the IEP team can use outside agencies or other school districts to provide preschool instruction and services, as long as certain conditions are met. The IEP can be implemented through an outside program; which must be nonsectarian. In addition, the facility and its teachers/service providers must have the required licenses, certifications and state approvals for the instruction and services that are being provided.

The preschool child will be reevaluated by June 30 of the last year of eligibility for the pre-school program. Upon re-evaluation, if the student continues to be a student with a disability, the student shall be classified as eligible for special education and related services. (See *Evaluation and Eligibility* on page 7) Students who reach age 5 after October 1<sup>st</sup> (referred to as the kindergarten cut-off date) will continue in the preschool program for an additional year.

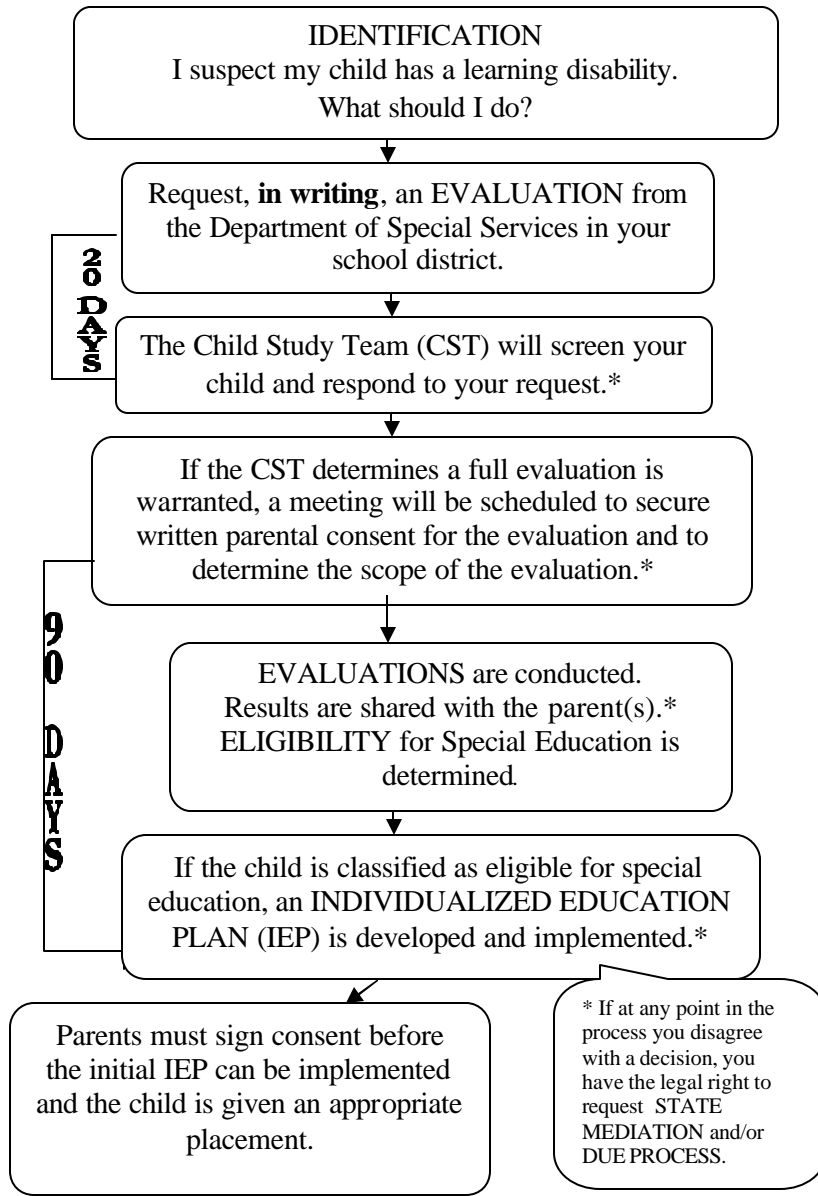
## *Speech and Language Services*

If a child is referred for an initial evaluation based upon a suspected disability in speech performance or use of language, then the child will be evaluated, at least initially, by a speech-language specialist, who will be responsible for obtaining parental consent, meeting with the parent and the regular education teacher, obtaining a written statement from the regular education teacher regarding the impact of the disability on the child's educational performance, performing an evaluation and preparing a written report of the evaluation.

After the speech-language evaluation is performed, a meeting will be held to determine whether the child is eligible for speech-language services. This eligibility meeting will include the parent, a teacher, the student where appropriate, the speech-language specialist and others at the discretion of the parent and/or school district. At the eligibility meeting, the results of the evaluation will be compared to the specific criteria for speech disorders and/or communication impairment to determine whether the child is eligible for speech-language services. If it is suspected that the child is communication disabled, a full evaluation must follow, after which an appropriate IEP will be developed. (See *The Individualized Education Program* on page 10)

It is important to know that prior to kindergarten, a child can only receive speech/language services if he/she is also determined to need special education. However, starting in kindergarten, a child can just receive speech/language services, if he/she needs them, without a determination of eligibility for special education.

## *A Sequential Guide to Navigating the Special Education System*



## *The Special Education Process Evaluation and Eligibility*

### Identification

Federal and New Jersey state law requires that all students ages 3-21 with *disabilities* have available to them a *free appropriate public education (FAPE) in the least restrictive environment (LRE)*. The *disabilities* covered under the law are:

- Deafness/hearing impairment;
- Autism;
- Cognitively impaired/mental retardation;
- Communication impaired/language disorder;
- Emotionally disturbed/behavior disorder;
- Multiply disabled (two or more equally disabling conditions);
- Orthopedically impaired, including malformation or malfunction of bones, muscle or tissue;
- Other health impaired/chronically ill;
- Preschool disabled (ages 3-5);
- Social maladjustment;
- Specific learning disability; traumatic brain injury;
- Visually impaired.

If a parent believes his/her child has one of these disabilities and needs special education services, he/she must request an evaluation, **in writing**, addressed to the Director of Special Education in the school district in which the family is residing.

## Screening

### The law requires that the school district take several steps in response to the parent's written request for evaluation:

- Vision and audiometric (sight and hearing) screening of the student will be conducted by the school nurse;
- The school nurse will summarize available health information regarding the student; and
- An initial meeting will be held within 20 days of receiving the request to determine whether a formal evaluation is warranted. This meeting will include the parent(s), the child's classroom teacher; and a complete Child Study Team (CST), which consists of a school psychologist, a learning disabilities teacher-consultant (LDTC), a school social worker, and in certain cases, a speech-language specialist.

## Evaluation

The parent will receive written notice of the conclusion reached in the initial meeting. ***If it is determined that a formal evaluation will be conducted, written parental consent*** to perform the evaluations must be obtained. The school district will assign one of the CST members to act as Case Manager for the student. Then, **a multi-disciplinary assessment of the child in all areas of suspected disability** will be undertaken. This assessment will include, but is not limited to, the following components:

- At least two assessments by members of the CST
- Other specialists (i.e. neurologist, audiologist, etc.) in the area of suspected disability may also test the child
- The use of appropriate standardized tests, and,
- A functional assessment of academic performance and behavior.

The school district has 90 calendar days from the date of the parent's **written** consent to evaluate the student, to determine whether the student is eligible for special education services, and if eligible, develop and implement an appropriate program. The parent must receive copies of all the evaluations, in his/her native language, **at least 10 days** before the classification meeting. If the parent disagrees with the evaluation, an independent evaluation can be requested, and with the school district's consent, at the school district's expense. **Reevaluations must occur every 3 years following the initial evaluation, unless the parent signs a written consent stating that a reevaluation is not necessary.**

## Eligibility

**Eligibility for special education services is a collaborative determination.** The parent(s), classroom teacher, case manager, and other members of the CST will meet, review reports, and determine if the student will be classified as "eligible for special education and related services." If all parties agree that the student is eligible, the group [parent(s), classroom teacher, CST] will develop an IEP which must be implemented by the 90<sup>th</sup> day following parental written request for the evaluation.

## *The Individualized Education Program*

Once a student has been evaluated and determined eligible for special education and related services, the next step is the development of an *Individualized Education Program*, or *IEP*.

The IEP is a collaborative team effort. The IEP team must include:

- The parent(s),
- Student (if appropriate),
- Case manager,
- One of the student's regular education teachers, if applicable, otherwise a regular education teacher knowledgeable about the school's program
- One of the student's special education teachers
- Specified school staff, and
- Others, as necessary.

The law requires that **the IEP identify all programs and services that meet the student's individualized needs** as determined through the evaluation process.

An IEP is defined as a *written plan* which sets forth:

- Present levels of performance
- Measurable annual goals and short-term objectives or benchmarks
- Describes an integrated, sequential program of individually designed instructional activities and related services necessary to achieve the stated goals and objectives

The law sets forth certain other requirements governing the development and implementation of the IEP. These include:

- A meeting must be held to develop the IEP after the meeting determining that the student is eligible for special education. These meetings can be combined.
- The IEP must be implemented no later than 90 days following written parental consent for the initial evaluation.

- A copy of the written IEP must be provided to the parent(s).
- **The IEP team must meet to review the IEP at least once a year and at that time a new IEP, with any appropriate changes, must be implemented.**
- Written parental consent is required before the school can implement the initial IEP. After the initial IEP, the school district can implement a change to the IEP, without the parent's consent, unless the parent requests mediation or due process within 15 calendar days of the proposed IEP.

In addition to the instructional program, the IEP will describe *related services* that will be provided to enable the student to benefit from his/her education. These services may include, **but are not limited to:**

- Counseling,
- Occupational therapy,
- Physical therapy,
- Speech-language services,
- School nurse services,
- Transportation
- Assistive technology
- Recreation
- Social work services
- Medical Services (for diagnosis only)

Once the program and service needs of the student are determined, an **appropriate placement for the student in the least restrictive environment** must be identified. The availability of existing school district programs **cannot** determine the services available to the student. The educational and related services needs of the child must be identified **first**, with placement decisions **secondary**.

## *High School Transition Services*

Special education students have the same educational rights as regular education students, including the right to:

- **Appropriate placement** – the right to be educated in the least restrictive environment that meets the student’s needs. This means to be educated with general education students to the greatest extent possible with whatever supports and services are needed;
- **Equal participation**– the right to a school year and day similar to regular education programs, classrooms and materials of similar condition; and access to all school facilities; and to participate in school activities and non-academic classes;
- **The State-based curriculum** – the right, to the extent appropriate, to be taught the statewide curriculum and to participate in statewide assessment programs;
- **Equal treatment in disciplinary action** – the right to have the nature of the student’s disability considered in determining disciplinary actions;
- **A high school diploma** – the right to earn a high school diploma by meeting State requirements for course study or by specially developed IEP requirements.

The IEP team will also determine the need for an extended school year program. An extended school year program must be provided, according to law, when an interruption in a student’s education causes a student’s performance to become worse and when return to the student’s level of functioning cannot be expected in a reasonable time.

**Beginning at age fourteen or in eighth grade, which ever comes first, the student must be invited to the transition part of the IEP meeting. Every classified student over the age of fourteen must be assessed to determine appropriate plans for high school and life after graduation.**

This assessment may occur as part of an initial evaluation or re-evaluation for special education services. The student’s IEP must include a statement of a transition service **plan**, with focus on the student’s course of study. If the IEP team determines that transition services are not needed, a statement related to the basis for and effect of that decision must be included in the IEP.

**At age sixteen**, every classified student’s IEP must contain a statement of transition **services**, and if appropriate, interagency (i.e. Our House, Jewish Vocational Services, etc.) responsibilities. The focus of the annual transition service plan may, and probably will, shift as the student approaches graduation. The student’s case manager, together with the student and parent(s) are responsible for transition planning. If the student chooses not to attend the annual meeting, the IEP team and case manager must take other steps to ensure that the student’s preferences and interests are considered. Representatives from agencies that are likely to be responsible for providing future services must be invited to attend the IEP meetings.

**At age sixteen**, the student’s “needed transition services” must be stated, described, and implemented. The term “transition services” is defined as:

- A coordinated set of activities for a disabled student
- Which promotes movement from school to post-school activities, including:
  - Post-secondary education,
  - Vocational training,
  - Integrated employment (including supported employment),

- Continuing and adult education,
- Adult services, independent living, and/or
- Community participation.

**Transition services shall be based on the student’s needs, taking into account his/her individual preferences and interests.** Services shall include:

- Instruction,
- Related services,
- Community experiences,
- Post-school living and employment goals, and,
- **When appropriate:**
  - Living skills, and vocational evaluation.
  - Information regarding the services provided by the New Jersey Department of Human Services Division of Developmental Disabilities (DDD).
  - Information regarding the services provided by the New Jersey Division of Vocational Rehabilitation Services (DVR). **Only parents or adult students may register for DDD or DVR services. It is not the school’s responsibility.**

The statement of transition services should relate directly to the student’s goals beyond high school, and show how planned studies are linked to these goals. For example, a student interested in exploring a career in computer science may have a statement of transition services connected to technology course work, while another student may need to learn how to take public transportation.

Finally, unless the student has been determined incompetent under State law, he or she must be informed at least one year prior to age 18, of what legal rights will be transferred to the student upon reaching the age of majority. After rights have been transferred to the student, all notices must be sent to both student and parent(s).

## *Services for the Developmentally Disabled and Individuals Requiring Employment Services*

### **Services for the Developmentally Disabled**

The New Jersey Department of Human Services, Division of Developmental Disabilities (DDD) provides (non-educational) services for developmental disabled persons whose disabilities are permanent. Parents may apply for services that will directly benefit their child such as personal care, training and residential care. Parents may also apply for family services which include after-school care, respite services, counseling, crisis intervention and home health care. Some services can be requested as soon as the child is registered and found eligible.

There is no guaranteed entitlement to DDD services. There are long waiting lists for services which will be provided only when a service provider becomes available. Therefore, as soon as parents know their child is eligible for DDD services, they should file an application with their regional office of the Division of Developmental Disabilities. The application forms and phone number can be obtained from the school’s Department of Special Services or by contacting the New Jersey Department of Human Services at 800-832-9172.

### **Employment Services for High School Graduates/Adults**

An individual will be eligible for services through the New Jersey Department of Labor, Division of Vocational Rehabilitation Services (DVR), if it concludes that he/she has a physical or mental impairment that results in a substantial impediment to gainful employment. Services may include vocational counseling, provide job-seeking skills, training, selective job placement and supported employment. It is the responsibility of the parent or the adult child to file an application for DVR services. The application should be filed long before a student’s 18<sup>th</sup> birthday to ensure that services will be available when needed, by the time of high school graduation. The application forms and contact phone number can be obtained from the school’s Department of Special Services or by contacting DVR at 609-292-5987 (voice), 609-292-2919(TDD).

## *The Right to Notice*

The school district must provide parents with written notice prior to any meeting regarding significant aspects of a child's education. Meetings must be scheduled at a mutually agreeable date and time. Whenever the school district proposes a change to the IEP, the child's placement, or to the evaluation plan, a school official must inform parents of proposed program changes fifteen (15) days before making the changes.

Parents have fifteen (15) days to oppose the school district's plans. If the parents disagree, they must file for Due Process or Mediation during the (15) days, otherwise, the school district can take the proposed action without parental consent. **All notices and copies of evaluations given by the school district to the parent must be in the parent's native language, unless clearly not possible.**

When school officials are suggesting changes, parents must be given written notice of the reasons, including a description of the options the school district considered, and the reasons why some options were rejected. Included in the written notification must be a description of parental rights and procedures for exercising those rights, as well as the names of organizations that are able to assist parents in understanding and exercising their due process rights.

When parents want an IEP meeting or want to make a change or addition to the IEP, or if they disagree with an evaluation or a proposed IEP, the parents must provide the school district with written notices and/or written requests, which should always be addressed to their Case Manager and to the Director of Special Services. **Telephone or face-to-face conversations are not considered to be an official notice or request.** School officials MUST respond to written parental requests, in writing, within twenty (20) days of receipt of the request.

## *Challenging School District Actions Your Right to Mediation and/or Due Process*

**Federal and New Jersey state law protects a parent's right to disagree with the CST's action/inaction and provides a procedure for the exercise of that right.** These rights are often called "due process" or "procedural rights." Parents may exercise their due process rights to resolve disagreements that arise at **any stage** of the special education process.

### **The Right to Disagree**

When a parent of a classified child disagrees with a child study team's action/inaction, federal and state law governs the ways in which parents and school districts can resolve the dispute. IDEA 2005, the federal law, now requires an informal meeting between the parent(s) and someone authorized to make decisions for the school (often the Director of Special Education) to attempt to resolve the conflict, informally, without lawyers. If resolution is not accomplished, the parent(s) may request mediation or an administrative due process hearing. The New Jersey Department of Education has developed forms for requesting each type of resolution. Copies of these forms are available from several sources including the local school district, the New Jersey Department of Education, or from ACNJ.

After state mediation is requested, no changes can be made to the student's classification, program or placement unless the dispute is resolved during the mediation meeting. Similarly, pending the outcome of a due process hearing, no changes shall be made to the student's classification, program or placement unless both parties agree, or emergency relief as part of a request for a due process hearing is granted by the Office of Administrative Law (OAL). This inability to change anything is commonly referred to as the "stay put" effect of seeking state intervention.

## Mediation

A parent may request mediation prior to filing for a due process hearing. Mediation is less formal than a due process hearing. Trained impartial professionals from the New Jersey Department of Special Education conduct mediation. The mediator can not resolve the problem nor issue a decision. Rather, the mediator helps the parties define the issues and create a mutually agreeable resolution.

If the parties reach an agreement through mediation, the agreement will be committed to writing, and signed by both parties. This signed agreement is binding on both parties. If parties fail to agree to mediation, or mediation fails, the mediator will transmit the request for a due process hearing to the OAL, unless the complaining party wishes to withdraw the dispute.

## Administrative Due Process Hearing

An administrative due process hearing is a formal, trial-like hearing before an Administrative Law Judge (ALJ) at the OAL. Both parties, parents and the school district, have an opportunity to present evidence and legal arguments in support of their positions. The decision of the ALJ is binding on all parties. While either party may appeal the decision in New Jersey Superior Court or the Federal District Court, the decision must be **implemented without delay**.

Either a parent or a school district can request a **due process hearing** when the party challenges the action/inaction of the other. A school district **MUST** request a due process hearing if a parent's written request for an independent outside evaluation is denied. A copy of the form letter developed by the New Jersey Department of Education's Office of Special Education Programs (OSEP) to assist parents in requesting a due process hearing is available from the Department, ACNJ, or other advocacy organizations. Once a request for a due process hearing is received by the OSEP, it must acknowledge receipt of the request, provide the parent with information concerning free and low-cost legal services, and offer the parties mediation (described above) prior to the hearing.

## Emergency Relief Hearing

If a parent has requested a due process hearing **and his/her child is suffering serious harm** while waiting for the outcome of the hearing, the parent may request **emergency relief**. Emergency relief is only appropriate for the following types of "serious harm":

- a) when there is a break in the services that a child is supposed to be getting under the IEP such as when a child is excluded from a school bus, even if it is for poor bus behavior, if this means that the child can't get to school, or
- b) when a child is suspended from school for an action that is related to his disability, or
- c) when a placement decision must be made pending the result of the due process hearing, or
- d) when there is a dispute with the school district regarding whether a child will graduate or participate in graduation ceremonies.

The particular emergency relief, which is requested, may be granted by an Administrative law judge, if the judge decides that the evidence presented by the parent proves that:

1. The child will suffer **irreparable harm** if the request is not granted;
2. The parent can establish a legal right to the claim that is the basis for the due process hearing.
3. The parent can establish that it is likely that the due process hearing will be decided in his/her favor based upon the merits of the claim being made.
4. The parent can establish that the child will suffer greater harm than the school board, if the requested relief is not granted.

A form letter to request emergency relief can be obtained from the New Jersey Department of Education, ACNJ, and other advocacy groups.

### ***What Every Parent and Advocate MUST Know About Special Education Law***

1. A parent has the right to request an evaluation for his/her child if there is reason to believe that the child has special needs. **THE REQUEST MUST BE MADE IN WRITING**, addressed to the Director of Special Education in the school district in which the family is residing.
2. There can be **NO** “waiting list” for a parent requesting an evaluation.
3. The school district Special Education office must respond to parents 12 months a year. This means that an evaluation can be started at anytime and it can **NEVER** be “too late in the school year” to begin the process. There is no summer vacation for evaluations.
4. The Director of Special Education has 20 days after receipt of a written request to respond to the parent. An initial meeting of the Child Study Team (CST), the parent(s), and the student’s teacher will be scheduled to determine whether an evaluation is warranted and to determine the nature and scope of the evaluation. The CST is comprised of: 1) a school psychologist, 2) a learning disabilities teacher-consultant (LDTC), and 3) a social worker. A speech-language specialist may also serve on the CST. Every school district has a CST.
5. If the parent’s request for an evaluation is denied, the parent has the right to request State mediation and/or a Due Process hearing.
6. The school can also request an evaluation, and must have the parent’s written consent to proceed. If the parent refuses, the school can seek State mediation and/or a Due Process hearing.
7. The **PARENT MUST** be included in all decision-making and must be provided with all written evaluations and notices in their native language, unless clearly not possible. This includes exactly what areas of suspected disability will be assessed.
8. A parent may request that additional assessments be made in areas such as speech, neurological development, etc.
9. **AFTER** the parent gives written consent to the proposed evaluation, New Jersey regulations allow the school district **90 calendar days** to complete all assessments, devise an individual educational program (IEP) and find an appropriate placement for the child.
10. The parent must receive copies of the evaluation reports at least 10 days before a scheduled meeting between the parents and the CST to determine the child’s eligibility for special education. If the child is eligible, the IEP is then developed to meet all of the child’s educational needs.
11. After participating in the development of the **initial IEP** following determination that the child is eligible for special education services, the **parent must give written consent** before the program is implemented
12. The parent has the right to disagree with the findings of the evaluation, the classification, the IEP and/or the placement.
13. When there is disagreement, the parent has the right to request, in writing, an independent outside evaluation, at no cost to the family.

## *Glossary of Terms*

14. If there continues to be disagreement, either party (parent or school) can ask for State mediation and/or a due process hearing. That request is sent directly to the New Jersey Department of Special Education in Trenton.

**CST (Child Study Team)** – The group of school professionals that assist in determining a student’s eligibility for and program in special education. The CST consists of a School Psychologist, Learning Disabilities Teacher Consultant (LDTC), and Social Worker. (For children under the age of 5, a speech specialist must also be on the CST.)

**FAPE (Free Appropriate Public Education)** – the entitlement guaranteed to a student with disabilities, between ages 3 and 21 by Federal and State Law.

**IDEA (Individuals with Disabilities Education Act)** – The Federal law that guarantees children with physical and mental disabilities a “free appropriate public education” in the “least restrictive environment.”

**IEP (Individualized Education Program)** – A detailed plan describing the child’s current educational status, educational goals and objectives, as well as the services that will be provided to help the child reach those goals and learn the general curriculum.

**IEP Team** – The group of people who develop the Individualized Education Program (IEP). By law, the IEP Team includes parents, the child’s Case Manager, at least one regular education and one special education teacher who provide instruction to the student, and other school personnel and interested individuals invited by the school or the parents.

**Inclusion** – The practice of placing classified students in regular education classrooms with all needed supports and services, ensuring appropriateness in the least restrictive environment (LRE).

**Initial Evaluation** – The first time a child is tested to see if he/she is eligible to receive special education and related services.

**LRE** (Least Restrictive Environment) – Children with disabilities should be educated within the regular education program to the greatest extent possible. Students may be placed in self-contained, special education classrooms only when supports and services are not enough to help the child learn in the regular classroom.

**School Psychologist** – A member of the CST who tests and evaluates the child’s aptitude and intellectual functioning. This individual may also provide counseling to individual students or small groups.

**Social Worker** – A member of the CST who, based upon information provided by the parent, reports the social history of the child’s background and can provide counseling.

**LDTC** (Learning Disabilities Teacher Consultant) – A member of the CST who tests and evaluates a child’s achieved knowledge and academic learning, as well as, determining the nature of the student’s academic disability.

**Transition Plan** – Once a student turns 14, or earlier if appropriate, the IEP must include a transition plan describing how the school will prepare the student for life after high school, such as college, employment, or independent living. The student should be included in this planning. The services which shall be needed must start being implemented when the student is 16 years old, or younger if it involves going to a vocational high school.

## Sample letter to request an evaluation

Parent Name \_\_\_\_\_  
Parent’s Address \_\_\_\_\_  
Parent’s Phone Number \_\_\_\_\_  
Date \_\_\_\_\_

Director of Special Services

\_\_\_\_\_  
Name of your School District

\_\_\_\_\_  
Address

Dear Director:

I am writing to request that my child, \_\_\_\_\_,  
(name)  
who is a student at \_\_\_\_\_ School in the  
(school name)  
\_\_\_\_\_ grade be given a complete child study team evaluation to determine whether my child is eligible for special education.

The reason I am making this request is that \_\_\_\_\_  
(name)  
is not doing well in school. There are many problems which are getting worse.

I understand that I will hear from you within 20 calendar days of your receipt of this letter. Please contact me to let me know the date and time of our meeting.

Thank you in advance for your cooperation.

Sincerely,

\_\_\_\_\_  
Parent’s Name (signed)

**(Send a copy of this letter to the principal of your school and your child’s teacher.)**

## Sample letter to request an IEP meeting

Parent Name \_\_\_\_\_  
Parent's Address \_\_\_\_\_  
Parent's Phone Number \_\_\_\_\_  
Date \_\_\_\_\_

CST Case Manager \_\_\_\_\_  
(name)

Child's School \_\_\_\_\_  
Address \_\_\_\_\_

Dear \_\_\_\_\_:

I am requesting an IEP meeting concerning my child, \_\_\_\_\_,  
(name)  
who is a student at \_\_\_\_\_ School in the  
(school name)  
\_\_\_\_\_ grade.

I am writing because I do not see sufficient progress and believe the IEP needs to be amended.

I understand that the school district will schedule an IEP meeting within 20 calendar days of your receipt of this letter. Please contact me to let me know the time and date of the meeting. Thank you in advance for your cooperation.

Sincerely,

\_\_\_\_\_  
Parent's Name (signed)

**(Send a copy of this letter to the principal of your child's school, the director of special services and your child's teacher.)**

## Sample letter to request an independent evaluation

Parent Name \_\_\_\_\_  
Parent's Address \_\_\_\_\_  
Parent's Phone Number \_\_\_\_\_  
Date \_\_\_\_\_

CST Case Manager \_\_\_\_\_  
(name)

Child's School \_\_\_\_\_  
Address \_\_\_\_\_

Dear \_\_\_\_\_:

I am requesting that the CST agree to an independent evaluation for my child, \_\_\_\_\_, who is  
(name)  
in \_\_\_\_\_ grade at \_\_\_\_\_ School. I  
(name)  
believe that my child needs the following independent evaluations:

**(list the applicable evaluations, such as: psychological, social, learning, psychiatric, neurological, speech/language, occupational)**

**(give reasons, such as: I disagree with the Child Study Team's reports, my child is not improving, getting worse or failing despite the IEP, or my child has been having increased behavior problems)**

Please provide me with a list of independent child study teams, as soon as possible. Shall I contact them for the independent evaluations or will you make the arrangements? I understand that the school district has 20 calendar days from your receipt of this letter to respond but I hope it will take less time since I am very concerned. Thank you in advance for your cooperation.

Sincerely,

\_\_\_\_\_  
Parent's Name (signed)

**(Send a copy of this to your child's teacher, the director of special services, and the principal of your child's school.)**

## Sample letter to request a re-evaluation

Parent Name \_\_\_\_\_  
Parent's Address \_\_\_\_\_  
Parent's Phone Number \_\_\_\_\_  
Date \_\_\_\_\_

CST Case Manager \_\_\_\_\_  
(name)

Child's School \_\_\_\_\_  
Address \_\_\_\_\_

Dear \_\_\_\_\_:

It has been nearly 3 years since my child, \_\_\_\_\_,  
(name)  
who is a student in the \_\_\_\_ grade at \_\_\_\_\_ School,  
(name)

has been evaluated. I am writing to request a complete learning re-evaluation by a Learning Disabilities Teacher Consultant to measure my child's progress and determine whether the current program is still the appropriate program. I understand that you have 20 days from your receipt of this letter to schedule a meeting with me to discuss the re-evaluation. Please contact me to schedule a mutually convenient date and time for the meeting. Thank you in advance for your cooperation.

Sincerely,

\_\_\_\_\_  
Parent's Name (signed)

**(Send a copy of this letter to the director of special services, the principal of your child's school and your child's teacher.)**

The **Children's Legal Resource Center** offers information, assistance, training, and legal publications regarding the rights of children. The Center provides general information regarding existing laws and assists individuals in understanding and accessing legal processes affecting children and their care. Fact sheets, manuals, and other publications are available to the general public. Staff is available to provide presentations and training on children's legal rights and the legal processes affecting children to community groups and professionals. Visit [www.kidlaw.org](http://www.kidlaw.org) for written materials.

The **Association for Children of New Jersey (ACNJ)** is the state's foremost non-profit child advocacy organization. ACNJ works directly to improve state policies and programs for children and families. Much of ACNJ's work focuses on creating public forums to promote awareness of the well-being of children and issues related to children. To that end, ACNJ staff promotes positive legislation, monitors administrative agencies, researches and documents issues facing children and families, and organizes community leaders to advocate for children. Find ACNJ reports at [www.acnj.org](http://www.acnj.org)

Join ACNJ's ***Make Kids Count NJ Campaign*** at [www.makekidscountnj.org](http://www.makekidscountnj.org), aimed at making children a top priority for our state leaders and urging them to work together to build a better future for all New Jersey children.