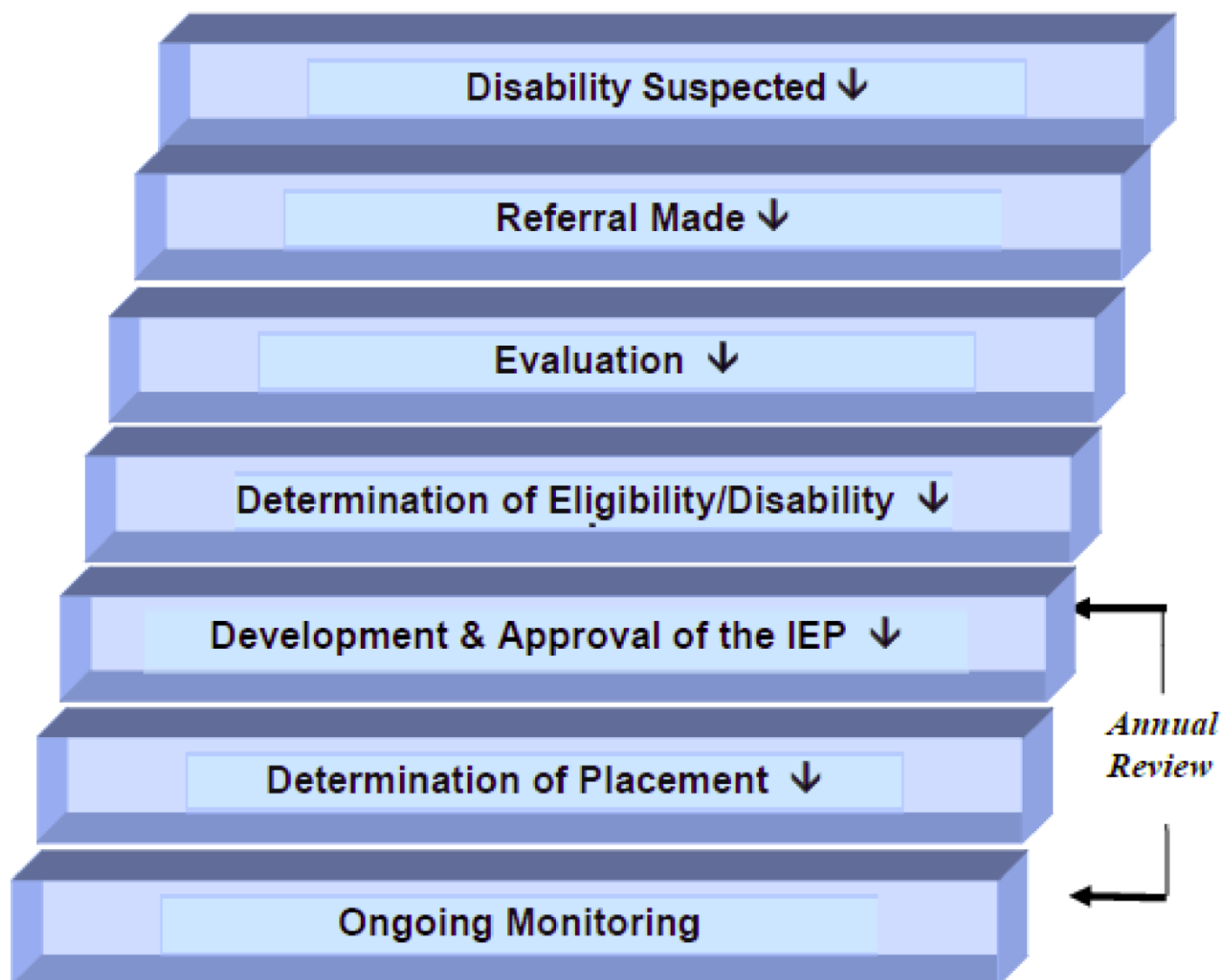


Steps in the NH Special Education Process



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Some Common Acronyms Used in the Special Education Process

ADD or ADHD: Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder

ADR: Alternative Dispute Resolution

BIP: Behavior Intervention Plan – positive behavior interventions & supports incorporated in an IEP.

DOE/ NH DOE: Department of Education / New Hampshire Department of Education

ESY or ESYP: Extended School Year / Extended School Year Programming – special education and related services provided to a child with a disability in addition to their school year program.

FBA: Functional Behavior Assessment – an assessment of a child’s behavior; serves as a foundation for the positive behavioral interventions and supports in a child’s IEP.

FAPE: Free Appropriate Public Education – special education in the least restrictive environment for children with disabilities, at public expense and under public supervision, through an IEP.

IDEA: Individuals with Disabilities Education Improvement Act – the Federal special education law

IEE: Independent Educational Evaluation – an evaluation conducted by a qualified examiner not employed by the school district.

IEP: Individualized Educational Program – the document, developed by the IEP team, which describes the child’s special education program.

ISP: Individualized Services Plan - document describing services that an LEA has agreed to provide to a parentally-placed private school child with disabilities (also called a “services plan”)

LEA: Local Education Agency – the local school district

LRE: Least Restrictive Environment.

PBIS: Positive Behavioral Interventions and Supports

RTI: Response to scientific, research-based intervention – a general education initiative that may also be used as part of an assessment to determine if a child has a specific learning disability.

STO: Short-term objective – a component of the IEP (part of a child’s annual goals)

WPN: Written Prior Notice – The document that must be given to parents when the IEP team proposes to initiate or change, or refuses to initiate or change, the identification, evaluation or placement of a child. The WPN is to be given after the decision is made, but before the change is put into effect. It must include:

1. A description of the action (what) proposed or refused by the Team;
2. An explanation of why the Team proposes or refuses to take the action;
3. A description of any other options that the Team considered and the reasons why those options were rejected;
4. A description of each evaluation procedure, test, record, or report (document) the Team used as a basis for the proposed or refused action;
5. A description of any other factors that are relevant to the Team’s proposal or refusal;
6. A statement that the parents of a child with a disability have protection under the procedural safeguards of this part of the regulations and, if this notice is not an initial referral for evaluation, how a copy of a description of the procedural safeguards can be obtained; and
7. Resources parents may contact to get assistance in understanding these procedural safeguards.



Introduction

The special education process may seem overwhelming to parents. This is especially true when a parent has just learned that their child may have a disability. The Parent Information Center (PIC) has developed this booklet so that parents of children who have, or who are suspected of having, disabilities, youth/young adults with disabilities, educators and others can be better informed about the special education process, and the steps to ensure that children with disabilities receive a free appropriate public education (FAPE) in the least restrictive environment (LRE). We hope that parents and school personnel are able to use this information to work together as partners in the process. If disputes occur that cannot be resolved informally, however, formal dispute resolution procedures are available to parents and school districts (see pg. 20).

Steps in the NH Special Education Process is based on the state special education law, RSA 186-C and regulations, the New Hampshire Standards for the Education of Children with Disabilities. The NH Standards implement Federal and State special education law. A statement in the policy and purpose of RSA186-C says: “It is the policy of the state that “all children in New Hampshire be provided with equal educational opportunities. It is the purpose of this chapter to ensure that all children with disabilities have available to them a free appropriate public education in the least restrictive environment that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.”

This booklet is an overview of parents’ rights and responsibilities. It is not intended to be a complete listing of rights or a legal opinion. Individuals wanting a copy of the NH Standards may contact the NH Department of Education (DOE) at (603) 271-3741 or visit their website <https://www.education.nh.gov>. The Parent Information Center (PIC) has developed *A Guide to the NH Standards for the Education of Children with Disabilities*, which includes text from referenced sections of State and Federal laws. In collaboration with the NH Department of Education, copies of *the Guide* have been printed and may be picked up from the NH DOE or at the PIC office. PIC offers free workshops for persons wanting to learn more about the special education process (see contact information on back page).

Overview of the NH Special Education Process

This booklet provides a description of parents’ rights, roles and responsibilities in the NH special education process. The special education process includes specific steps, each with its own requirements. Each step in the special education process includes procedures for parents and schools to work together and to resolve any disagreements they may have. The process includes referral, evaluation, determination of eligibility, development of the child’s individualized education program (IEP), determination of educational placement, and an annual review of the child’s IEP and placement. All major decisions are made by the IEP team (see pages 6-7), which includes the child’s parents. Decisions are made based on information such as formal and informal evaluations, observations, and the parent input.

A brief overview of the steps in the NH special education process follows:

Disability Suspected and School District Child Find Requirements

Anyone who suspects that a child may have a disability and need special education may refer the child for special education consideration. School districts are required to have formal “Child Find” procedures to locate, evaluate and count children who may have disabilities to ensure that eligible children are provided needed services (see page 7).

When a parent, teacher or other person suspects a child may have a disability and need special education, he/she may make a referral to the school or LEA (local education agency, which is another term for the school district). If a parent makes the referral, a best practice is to make the referral in writing, dating the letter, and explaining why the parent believes the child may have a disability and needs special education. Parents will find it helpful to keep copies of all letters, forms and reports for their records. If the referral comes from someone other than the parent, including from the child’s teacher, the parent must immediately be notified in writing that a referral has been made.

Within 15 business days after receiving the referral, the school must schedule a meeting of the IEP Team (parents are members of the IEP team). This meeting is called the disposition of referral meeting. At this meeting the IEP Team determines whether the child’s needs can be met using existing pupil support services available to all children (general education interventions). Otherwise, the IEP team would determine that there is reason to suspect the child may have a disability and recommend what further testing is needed. The IEP Team must notify the parents, in writing, of their decision. Written parental consent is needed before the school can evaluate the child. More information on referral and disposition of referral may be found on pages 7-8. Parents must be given 10 days written notice of any IEP team meeting (5 days for a manifestation determination meeting), but they may agree to waive the 10-day notice if they wish to meet sooner.

Evaluation

When the IEP Team, including the parents, determines that a child needs to be evaluated for special education, they also decide what testing is needed. To determine what additional testing is needed, the IEP Team first considers any information they already have about the child. After the school district receives written parental consent, the child is given a full and individualized evaluation that will provide information the IEP Team can use to determine if the child is eligible for special education, as well as to identify the child’s educational needs (such as academic, communication, developmental, motor, social/emotional, and vocational needs).

Testing must be done by trained and knowledgeable, certified or licensed evaluators, and completed within 60 calendar days after the school has received written parental consent for the evaluations. During this timeframe, a summary report is developed and a meeting held to determine eligibility. At least 5 days before the meeting, the parents are sent a copy of the results, unless they waive this right. If the parents disagree with the school’s evaluation, they may request an independent educational evaluation (IEE) at public expense or they may obtain an IEE at their own expense. More information on evaluations and independent educational evaluations may be found on pages 9-11.

Determination of Eligibility and Disability Category

Based on the evaluation results, the IEP Team decides whether the child is eligible for special education. To be eligible, the child must have a disability for which the child requires special education or special education and related services to receive a FAPE. The child will then be identified with one or more of 14 disability categories defined in the NH Standards. Once a child has an IEP, he/she is reevaluated at least once every three years to ensure the IEP Team continues to have current information on which to base their decisions. More information on determination of eligibility may be found on page 11.

Development and Approval of the IEP

Within 30 days after the child is found eligible for special education, the IEP Team meets to develop an Individualized Educational Program (IEP) for the child. Once a child has an IEP, it is reviewed and revised at least annually, and it must be in place at the start of each school year. The IEP does not go into effect until it is signed (approved) by the parent and school district representative. More information on the IEP may be found on pages 12-14.

Determination of Educational Placement

After the IEP has been signed (approved) by the parent and the school district, IEP Team meets to determine the least restrictive environment in which the child can receive the special education and related services listed in their IEP. If the parent agrees, meetings may be consolidated to cover more than one step in the process. More information on determination of educational placement may be found on pages 15-16.

Implementation and Ongoing Monitoring

The child begins receiving services as soon as possible after the parents and school district consent in writing to the IEP and educational placement. The child's parents, educators and others involved with the child's special education program then monitor the child's progress on an ongoing basis to ensure their educational needs are met. The IEP Team meets at least once each year to review and revise the IEP, or more frequently if any member of the IEP Team has concerns about the child's progress. More information on monitoring may be found on page 16.



Parental Involvement

Parental involvement is a critical component of the special education process. Beginning with the disposition of referral meeting, parents have a right to participate in all meetings with respect to their child's evaluation, eligibility determination, educational placement and provision of a free appropriate public education (FAPE), including developing the IEP.

Parents must be given written notice of IEP team meetings at least 10 days before the meeting is to be held, except for manifestation determination meetings (more information on manifestation determination may be found on page 16), which require only a 5day notice. A notice that has been sent by US mail 12 days prior to the meeting will be deemed to have been received 10 days prior to the meeting. Parents may agree to waive their right to 10-day notice if they wish to meet sooner, and may agree to receive notices by email if the school district makes that option available. The written notice must include the time and place of the meeting, purpose and a list of participants who will attend. Parents and/or the school district may invite other people who have special knowledge or expertise about the child to attend the meeting. The meeting is to be held at a mutually agreed on time and place. If a parent cannot attend, he/she may ask for the meeting to be rescheduled. If a parent cannot attend the meeting in person (e.g. they may be in the hospital, have work conflicts, or be without transportation or child care), but still wishes to participate, alternate means such as a telephone conference call may be used.

If a parent makes a written request to have an IEP team meeting, within 21 days after receiving the request, the school district must either schedule and hold the meeting, or provide the parent with a written prior notice explaining why they refuse to hold the meeting.

TIP: PIC 's website has many sample letters ([see https://picnh.org/sample-letters/](https://picnh.org/sample-letters/)), including a sample letters to make a referral for special education, request a reevaluation, or to request an IEP Team meeting.

The school district must ensure that parents understand the proceedings at IEP team meetings, including arranging for interpreters for parents who are deaf, or whose native language is not English.

NH demonstrates that it values parental involvement by requiring written parental consent at each step in the special education process, including for:

- a. Conducting an Initial evaluation,
- b. Initial provision of special education and related services,
- c. Annual review of the IEP and placement,
- d. Determining or changing eligibility or disability classification,
- e. Conducting a reevaluation,
- f. Changing the nature or extent of the child's special education or related services,
- g. Releasing education records, including to a private school for a parentally-placed child,
- h. Extensions to the re-evaluation timeline,
- i. IEP team meeting excusals,
- j. Before inviting representatives from adult service agencies to IEP team meetings to discuss transition planning or services, and
- j. Before accessing a child's public or private insurance.



Exceptions – If parents refuse consent or fail to respond to a request for consent for the initial evaluation, or refuse consent for a reevaluation, the school district may, but is not required to use due process procedures to pursue the evaluation. If parents refuse or fail to respond to a request for consent for the initial provision of services, or revoke their consent for the continued provision of services, the school district may not use due process procedures to compel the provision of services. The school district is then not liable for failing to provide FAPE or for developing an IEP.

If the parents fail to respond to a request for activities, c-f in the list on the previous page, the school district may implement its proposal after taking reasonable measures to obtain parental consent. If a parent refuses consent for a proposed IEP or placement, the child's most recent agreed upon IEP or placement, or both remains in effect unless the LEA and parent agree otherwise or until the matters are resolved or the parent or LEA files for a due process hearing.

Parents have 14 calendar days to respond to any proposal by the IEP Team. Proposals are described in the WPN (page 1), which supports parental involvement by providing parents with information so they can make informed decisions.

Options for responding to a request for parental consent—When the parent receives a request for parental consent, the parent may: agree with the IEP Team's decision by providing consent, refuse consent, or provide partial consent (they agree with part of the proposal). If a parent provides partial consent, it is important that the parent specify the issues to which he/she does not agree, and schedule an IEP team meeting to try to resolve the areas of disagreement. The school district or parent may request this meeting; **it is not automatically scheduled**. If a parent refuses consent for one or more proposed services/activities or requests additional or different services/activities, the LEA cannot use that refusal or request to deny the child any of the other services or activities to which the parent has consented.

IEP Team

The IEP Team is responsible for making decisions throughout the special education process, including disposition of referral, evaluation, eligibility, IEP development, determination of educational placement and monitoring. IEP Team members may serve in more than one role at the meeting. IEP Team members are:

- ♦ The child's parent (s), legal guardian, or educational surrogate parent,
- ♦ The child, whenever appropriate, or if he/she is an adult child (at age 18, unless determined incompetent by a court, all parental rights transfer to the now adult child),
- ♦ Not less than one regular education teacher of the child if the child is or may be participating in the regular education environment (for preschoolers, an individual qualified to teach a child of that age),
- ♦ Not less than one special education teacher or service provider of the child,
- ♦ A representative of the local education agency (school district) who is qualified to provide or supervise the provision of specially designed instruction, and who is knowledgeable about the general education curriculum and the resources of the school district,
- ♦ An individual who can interpret the instructional implications of evaluation results, and
- ♦ Other individuals who have knowledge or special expertise regarding the child, invited by the parent or school (may include the child's related services providers, paraprofessional or representative from DCYF or a child's Guardian ad Litem for court-involved children)
- ♦ When vocational and/or career and technical education (CTE) programs are being considered, an individual knowledgeable about the programs being considered.



When transition from high school is being discussed, the child must be invited, and representatives from any adult agencies who are likely to be responsible for paying for or providing transition services may be invited (with the written consent of the parent or adult child).

For a child transitioning from Family-centered Early Supports and Services (ESS), the ESS services coordinator or other representative must be invited upon the parent’s request.

If the child is suspected of having a learning disability:

- The child’s regular education teacher, but if the child does not have a regular education teacher, a regular classroom teacher or individual qualified to teach someone of that age, and
- At least one person qualified to conduct individual diagnostic examinations.

Excusal from IEP Team Meetings

The parent and school district (LEA) may mutually agree to excuse an IEP Team member from all or part of an IEP team meeting if the parent and LEA representative agree in writing to the excusal. Additionally, if the meeting involves the IEP team member’s area of expertise, the member must submit written input to the parent and the IEP Team prior to the meeting. NH requires that the LEA or parent notify the other party of the expected absence of a team member at least 72 hours before a scheduled meeting or upon learning of the expected absence of a team member, whichever occurs first.

Disability Suspected and School District Child Find Requirements

School districts are required to identify, locate, evaluate and count all children (ages 2½ to 22) who may have disabilities. This is to ensure that children who may have disabilities are referred to the IEP Team, and if determined eligible, provided with special education and any needed related services.

Referral

Anyone, including the child’s parents or teacher, who knows or suspects that a child may have a disability and need special education, may refer the child for evaluations. When parents make a referral, it is good practice to make the referral in writing, including the date, the child’s name, and the reasons why the parent suspects their child may have a disability and need special education. The referral letter should be sent to the superintendent, special education director, classroom teacher, building principal, or other appropriate individual. If anyone besides the parent makes a referral, the parent must immediately be notified in writing that a referral has been made. Parents should keep a copy of their referral letter or the notification that a referral was made by another individual for their files

TIP: *Well-organized records are an important resource for parents. PIC offers 2 formats to assist parents in organizing their child’s records. One format (see <https://picnh.org/wp-content/uploads/2021/01/PICs-IEP-Organizer-Format.pdf>) may be used for educational and other records/documents. Another basic organizer format, “Organization 101”, and other tools and resources and sample letters may be found on the PIC website at: <https://picnh.org/brochures-tool-kits/>, and sample letters and forms at: <https://picnh.org/sample-letters/>. Parents should choose or develop an organizational system that meets their needs and that they can maintain. A copy of the referral letter and any other correspondence, records or forms could be included in your organizer.*

For school-age children (ages 6-22) enrolled in public school, children who are not enrolled in school, children who are enrolled in for-profit private schools, or for preschool children, the referral would be made to the school district in which the child lives. If parents have enrolled their child in a non-profit private school, the child would be considered to be a parentally-placed private school child, and the referral would be made to the school district in which the private school is located.

Some reasons for making a referral include:

- Failing to pass a hearing or vision screening;
- Unsatisfactory performance on group achievement tests or accountability measures;
- Receiving multiple academic and/or behavioral warnings or suspension or expulsion from a childcare or after school program;
- Repeatedly failing one or more subjects (although a child may be found eligible for special education because of needs related to their disability, even if the child has not failed or been retained in a course or grade, and is advancing from grade to grade);
- Inability to progress or participate in developmentally appropriate preschool activities; and
- Receiving services from family centered early support and services.

This is not an exhaustive list. Other reasons may include difficulty getting along with others or a medical diagnosis of a disability. Please note that a diagnosis of a disability does not ensure that a child will be eligible for special education; although it is one piece of information that the IEP team may consider when determining special education eligibility.

Disposition of Referral

Once a referral has been received by the school district, the IEP Team, which includes the parents, must meet within 15 business days to determine whether the school can meet the child's needs through general educational services, such as reading support, guidance counseling, a change in group/classroom or modified workload, or whether the child may have a disability and need to be evaluated. This 15-day timeframe includes the IEP team determining which, if any, additional evaluations are needed.

Within this 15-day disposition of referral timeframe, the school district must give the parents written notice of the IEP Team's decision regarding the disposition of the referral, including the reasons. If the IEP Team determines additional testing is necessary, this notice must include a request for the parent to provide written consent to conduct any individual evaluations needed to determine the child's eligibility and special education needs. If a parent refuses to consent to the evaluations, the school district may, but is not required to file for a due process hearing.

The IEP Team may recommend trying to meet the child's needs using general education strategies or using response to intervention (RtI). RtI cannot be used to deny or delay a parent's right to have their child evaluated if there is reason to suspect that the child may have a disability and need special education. Information gathered through RtI may be used as one piece of information to be considered by the IEP team when a child is suspected of having a learning disability.

Additional information about RtI may be found at: https://picnh.org/wp-content/uploads/2018/06/RTI-Booklet_WebReady.pdf.

If the parents disagree with the disposition of referral decision, they may consider using informal methods, such as providing more information about their child and/or holding another meeting, to reach agreement. If another IEP team meeting is held, the parents and school district may request that the NH Department of Education provide an IEP Team meeting facilitator for the meeting. Parents also have the right to use one of the formal special education dispute resolution options, including mediation, neutral conference, due process hearing or complaint to resolve their dispute (**see page 19** for a brief description of these options).



Initial Evaluation



Written parental consent is required before for any special education evaluations can be conducted. Once the school district receives the parent's written consent for the testing, the evaluation process begins, and the child is given a full and individualized evaluation to determine eligibility for special education and to identify their educational needs (areas to be assessed may include academic, developmental, general intelligence, health, vision, hearing, motor, communication, self-help, social/emotional/behavioral and vocational).

In deciding what testing is needed, the IEP Team first reviews the child's educational history, including past opportunities to have acquired skills and information, and considers what information they already have, including:

- Evaluations previously done by the school, as well as any independent evaluations,
- Current classroom-based assessments and observations,
- Observations and recommendations by teachers and related service providers,
- The results of the most recent local or statewide assessments, and
- Other information from IEP Team members, including the parents, such as medical records.

The IEP Team then determines what additional testing must be done.

The "evaluation process" means "the completion of evaluations, reevaluations and assessments, a written summary report, and a meeting of the IEP team to review the results of the evaluations and assessments. When the purpose of the meeting is to determine eligibility, the evaluation process also includes the determination of eligibility". It also includes the requirement that the school district must provide the parents (by mail unless the parent and school district agree on another method) copies of each examiner's evaluation and assessment report(s) at least 5 days prior to the meeting at which the reports will be discussed.

Evaluation Timelines- For initial evaluations, the evaluation process must be completed within 60 calendar days after the school district receives the parent's written consent for testing. No extensions are allowed for initial evaluations. For reevaluations, the evaluation process must be completed within 60 days, but the parents and school district may agree to an extension of a specific number of days, not to exceed 30 days (such as 3, 5, 14 or 30 days).

For children who are transitioning from Family-Centered Early Supports and Services (ESS), the evaluations must be completed so that if the child is found eligible for special education, an IEP can be developed and in effect by the child's 3rd birthday.

Evaluation Requirements

Evaluations must:

- ♦ Assess the child's present levels of academic achievement & related developmental needs,
- ♦ Be nondiscriminatory on a racial or cultural basis,
- ♦ Be administered in child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is not feasible to do so,
- ♦ Be validated, selected and administered to accurately reflect what the test measures, not the child's impaired skills, unless that is the purpose of the test,

- ♦ Assess all areas of suspected disability, including health, vision, hearing, social and emotional status (may include a functional behavioral assessment), general intelligence, academic performance, communication status, and motor abilities, and identify all of the child’s special education and related service needs, whether or not commonly linked to the child’s disabilities,
- ♦ Use a variety of assessment tools and strategies, including information from the parents,
- ♦ Not use a single procedure to determine eligibility or an appropriate educational program,
- ♦ Assess specific areas of educational need and not just provide an intelligence quotient (IQ),
- ♦ Use technically sound instruments to assess the relative contribution of cognitive, behavioral, physical or developmental factors;
- ♦ Be used for the purposes for which the assessments or measures are valid and reliable,
- ♦ Be administered in accordance with the test instructions by trained & knowledgeable, and certified or licensed personnel (teachers conducting evaluations must be certified educators), and
- ♦ If an assessment is not conducted under standard conditions (ex: portions of the test were read aloud to the child), a description of how it varied must be included in the evaluation report.

When considering high school transition, evaluations must include age-appropriate transition assessments related to training, education, employment, and where appropriate independent living skills.

To determine if a child has a specific learning disability (LD or SLD), each school district must have a written policy for how they will evaluate and determine eligibility for a child suspected of having a learning disability. The district may use the “discrepancy” model, which identifies whether a significant discrepancy exists between the child’s ability and achievement, a process to determine if the child responds to scientific, research-based interventions (RtI), or other alternate research-based procedures. Regardless of method is used, an observation must be part of the assessment.

Unless waived by the parent, the LEA must send a copy of each evaluation and assessment report to the parent (by mail unless the parents and LEA agree on another option) at least 5 days before the meeting at which the evaluation and assessment reports are to be discussed.

Children Who Move to a New District During the Evaluation

If a child moves from one school district to another before the evaluation is complete, the two school districts must coordinate the evaluation, as necessary to ensure prompt completion of the full evaluation. See **page 10** for more information on students who move during the school year.

Independent Educational Evaluations

Parents always have the right to obtain an independent educational evaluation (IEE) at their own expense, so long as they conform with the criteria established by the school district (parents can ask their district to provide them with the district’s criteria for independent educational evaluations). While the school district may set criteria for IEEs, the extent that such criteria exceed the qualified examiner criteria in the NH Standards or establish geographic limitations, shall not be so restrictive that the parent does not have a choice of independent evaluators.

If a parent disagrees with the school district’s evaluation, the parent may request the school district provide an IEE at public expense. A best practice is to make all requests in writing; a sample letter may be found at <https://picnh.org/sample-letters/>. The school district must respond by either agreeing to provide the IEE at public expense or by filing for a due process hearing to prove that the school district’s evaluation was appropriate. Regardless of who pays for the IEE, so long as the IEE meets the school district’s criteria, the IEP Team must consider the results.

Reevaluations

A child must be reevaluated at least once every 3 years, but more frequently if:

- The parent or other Team member requests a reevaluation,
- The LEA determines that conditions warrant a reevaluation, or
- The IEP Team is considering removing the child's eligibility for special education.

The parents and school district may agree that some or all of the reevaluations are unnecessary.

Determination of Eligibility

Once the evaluations are completed, the IEP Team develops a written summary of the test results. Next, the IEP Team, including the parents, meets to consider all available information and determine if the child has a disability for which he/she requires special education, or special education and related services.

For children with disabilities who are transitioning from Early Supports and Services (ESS), the IEP Team must determine eligibility before the child turns 3 years old, and have a signed IEP in place by the child's 3rd birthday.

To be eligible for special education, a child must be between the ages of 3 and 22, and not yet earned a regular high school diploma. An alternative diploma or HiSet (high school equivalency test, formerly called the GED) does not end a child's eligibility for special education. The child must also have been evaluated and found to have a disability and to require special education as a result of that disability.

Disability Categories: As part of the eligibility determination, the IEP Team decides under which disability category or categories the child is eligible (each disability is defined in the *NH Standards*). The disability categories are:

- | | |
|--|--|
| ▪ Autism | ▪ Deafness |
| ▪ Deaf Blindness | ▪ Developmental Delay for children, ages 3 to 10 |
| ▪ Emotional Disturbance | ▪ Hearing Impairment |
| ▪ Intellectual Disability | ▪ Orthopedic Impairment |
| ▪ Other Health Impairment (may include ADD/ADHD & Tourette's syndrome) | |
| ▪ Multiple Disabilities | ▪ Specific Learning Disability |
| ▪ Speech or Language Impairment | |
| ▪ Traumatic Brain Injury or Acquired Brain Injury | |
| ▪ Visual Impairment, including Blindness | |

If the child is found not eligible for special education, the child is not entitled to receive special education or related services under Federal or State special education law. However, if the child has a disability and, in order to have an equal opportunity to participate in and benefit from services and activities offered by the school district (including academic and nonacademic courses or programs), the child needs services, supports or accommodations, he/she may receive those services, supports or accommodations under Section 504 of the Rehabilitation Act (a Federal civil rights law). The Parent Information Center has a brochure that provides an overview of [Section 504 and Students with Disabilities](#).



Incarcerated children with disabilities - an individual, age 18-22 who is incarcerated in an adult prison is only eligible for special education (which may be modified for bona fide security purposes) if he/she was identified as being eligible for special education and had an IEP prior to their incarceration.

Development of the Individualized Education Program (IEP)

After a child is found eligible for special education, the IEP Team must meet (within 30 days of determining eligibility) to begin developing an IEP. IEP team meetings may have more than one purpose (for example, eligibility and IEP development or IEP development and determination of placement may happen in the same meeting). Once a child has an IEP, it must be reviewed and revised at least annually, and must be in place by the beginning of each school year.

Effective IEP team meetings - IEP team meetings are most successful when all IEP Team members understand their roles, rights and responsibilities, value each member's input, and are committed to working together, using effective communication and collaboration, to meet the child's educational needs. PIC offers free workshops related to these topics. Check the calendar on www.picnh.org or contact PIC for more information or to learn how you can host a workshop. PIC also offers several on-line learning modules at: <https://picnh.org/on-line-learning/>.

Special Factors and the IEP — When developing the IEP, the IEP Team must consider the child's strengths, the parents' concerns for their child's education (the "Parent Concerns" section on the IEP is an important way for parents to participate in the process), and the following "special factors" when developing the IEP:

- If a child's **behavior** impedes their learning, or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address the behavior;

Tip: If anyone on the IEP Team has concerns regarding the behavior of a child with a disability, they may request a functional behavioral assessment to ensure the IEP Team has the information they need to develop/revise the IEP.

- If a child has **limited English proficiency**, consider the language needs of the child, as they relate to the IEP;
- If a child is blind or visually impaired, provide for **instruction in Braille**, unless the IEP Team determines that instruction in Braille or the use of Braille is not appropriate for the child;
- Consider the **communication needs** of the child, and for a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communication with peers and staff in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode;
- Consider the child's **need for assistive technology devices and services**.

Elements of an Individualized Educational Program (IEP)

The LEA shall provide the special education, related services, supplementary aids and services, accommodations, and modifications to a child with a disability in accordance with the child's IEP. Each child's IEP must include the following:

- A statement of the child's present levels of academic achievement and functional performance, including how the disability affects the child's involvement and progress in the general curriculum, or in appropriate activities for preschoolers;
- Measurable annual goals, including academic and functional goals designed to meet the child's needs to enable the child to be involved in and make progress in the general education curriculum, and to meet each of the child's other educational needs resulting from the child's disability;
- Benchmarks or short-term objectives, unless the parent determines them unnecessary for one or more of the child's annual goals, but always for children who take alternate assessments;
- A description of how the child's progress towards meeting their annual goals will be measured and how and when parents will be provided periodic reports of their child's progress, including whether the progress is sufficient to meet the annual goal by the end of the school year;
- An explanation of the extent, if any, the child will not participate with non-disabled children in the regular classroom or program, including extracurricular and nonacademic activities;

- A statement of the special education, related services, and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to advance appropriately towards the annual goals in the IEP, to be involved in and make progress in the general education curriculum and participate in extracurricular and nonacademic activities, and to be educated with children with and without disabilities in the general class and programs, including extracurricular and nonacademic activities;

Related services are services that are needed to assist children with disabilities to benefit from special education. They include: transportation, speech-language pathology & audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of a child's disabilities, counseling services, including rehabilitation counseling, orientation and mobility services, school nursing services, school health services, social work services in schools, parent counseling and training, and medical services for diagnostic or evaluation purposes.

- The projected date for services to begin, and the anticipated frequency, location & duration of the services;
- The length of the school year and school day necessary to implement the IEP;
- Any individual appropriate accommodations necessary to measure the academic and functional performance of the child in state or district-wide assessments. If the IEP Team determines that the child cannot participate in the state or district-wide assessments, a statement of why the child cannot participate and why the alternate assessment selected is appropriate for the child;
- The type of individuals or service providers responsible for implementing the IEP, or the names of the providers;
- A statement of the party/parties financially responsible for implementing the IEP; and
- Signatures of the representative of the school district and of the parent(s), legal guardian, surrogate parent or adult child (when appropriate) stating approval of the IEP.

Additional IEP components apply for older students (see below).

Planning for Transition - Transition in the IEP

Additional components are required to be included in the IEP of youth with disabilities (ages 14-22) to help prepare them for the transition from high school to post-school activities, including post-secondary education, employment, independent living and community participation.

Transition services are designed to be a coordinated set of activities that take into account the child's strengths, needs, preferences and interests and prepare the child to meet their post-secondary goals.

The child must be invited to the IEP team meeting any time transition is being discussed. If the child does not attend the meeting (it is the parent's decision, unless the child is an adult child with a disability), the IEP Team must ensure that the child's preferences and interests are taken into account in transition planning.

Tip: To help prepare their child to become their own self-advocate as the child approaches adulthood, some parents have found it helpful to involve the child at a younger age in preparing for and participating in all or part of their IEP team meetings. A few helpful resources are: the Parent Information Center's [Life After High School: A Transition Toolkit](https://picnh.org/wp-content/uploads/2018/06/Transition-Toolkit-2018v2.pdf): (<https://picnh.org/wp-content/uploads/2018/06/Transition-Toolkit-2018v2.pdf>) and the Transition and [Youth and Transition Topics on-line learning modules](https://picnh.org/on-line-learning/) (<https://picnh.org/on-line-learning/>).

Representatives from any adult service provider that may provide or pay for transition services may also be invited to the IEP team meeting, if the parent or adult student has given written consent.



IEP components for older students with disabilities include:

- Beginning at age 14 (or younger if determined appropriate by the IEP Team), a statement of transition service needs that focuses on the child's courses of study such as participation in advanced-placement courses, vocational classes or program or career and technical education.
- Beginning with the first IEP to be in place when the child is 16 (or younger if determined appropriate by the IEP Team), appropriate measurable post-secondary goals, based upon age appropriate transition assessments, related to training, education, employment, and where appropriate, independent living skills, and the transition services needed to assist the child in reaching those goals. Transition services may include instruction, related services, community experiences, the development of employment and other post-school living objectives, and if appropriate, the acquisition of daily living skills and a functional vocational evaluation.
- By age 17, a statement that the child has been informed of the rights that will transfer to him/her at age 18 (the age of majority in NH).
- NEW in 2022 – When an IEP team meets to review or develop an IEP for a student who is 17 years old or older, or will turn 17 during that school year, the team must discuss voter registration as an appropriate community living/citizenship training goal or competency to be included in the IEP, and if appropriate when and how voter registration should be accomplished. Any decisions made shall be included in the child's IEP.
- NEW in 2022 – If an IEP team is discussing guardianship with a student or the student's family, the team must inform the student and family of the availability of supported decision-making pursuant as an alternative to guardianship. If a supported decision-making agreement is executed, the IEP team must then abide by decisions made by the student in accordance to that supported decision-making agreement.

Prior to a child graduating with a regular high school diploma or leaving high school at age 22, whichever comes first, the school district must provide the child with a summary of the child's academic achievement and functional performance, including recommendations on how to assist the child to reach his/her post-secondary goals.

School districts generally destroy a child's school records soon after the child turns 26 (sooner if requested by the parent). If a student may need school records (e.g. evaluations or IEPs), to support their need for a reasonable accommodation in post-secondary education or for another purpose, they may want to obtain and keep their own copy of their school records.

Extended School Year Services

The school district must provide extended school year (ESY) services to any child for whom the IEP Team determines it necessary in order for the child to receive a FAPE. ESY services are not limited to the summer months and must be individualized (see NH DOE [FY 18 Memo #29](https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/2020-04/fy18_memo_29_extended_school_year.pdf) at: https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/2020-04/fy18_memo_29_extended_school_year.pdf)

Completing the IEP

Parents have up to 14 days to review and decide how to respond to a proposed IEP or to any other proposal that requires their written consent. A parent may agree (consent), disagree (deny consent), or give partial consent. See more about the **options for responding to a request for parental consent** on page 6. When a parent gives partial consent, he/she may request an IEP team meeting to attempt to resolve the areas with which he/she disagrees. All other services or activities to which the parent has consented will be implemented without delay. Parents may use PIC's sample letter to request an IEP team meeting (see <https://picnh.org/sample-letters/>) The LEA may only refuse to convene the IEP team meeting if it determines that the requested changes and/or additions to the IEP have been addressed at a prior IEP team meeting (meaning that they determine that there is no point in meeting further), in which case, the LEA must issue a WPN explaining why they refuse to convene the meeting. The parent's disagreement with the service or activity would still be reflected (documented) in the WPN. The parent could then decide whether to utilize formal dispute resolution options.

If a parent refuses consent for a proposed IEP or placement, the child's most recent agreed upon IEP and/or placement remains in effect unless the LEA and parent agree otherwise, until the matters are resolved unless and until a party files for due process.

Once the IEP is signed, every person responsible for implementing the IEP, and the parent and child (if of the age of majority) must be given a complete copy. The school district is then responsible for providing the services in the IEP.

Determination of Educational Placement



Once the IEP has been approved (signed), the IEP Team determines the least restrictive environment (LRE) in which the child's IEP can be implemented. LRE means that children with disabilities are educated with children who do not have disabilities, and removed to other settings only when, even with supplemental aids and services, the child cannot be educated satisfactorily in the regular classroom. When a child's needs require a setting other than the regular classroom, the IEP Team must determine and make available the appropriate alternative placement.

If a parent enrolls their child in a chartered public school, the child's LEA is responsible for providing the child's special education and related services.

The continuum of alternate learning environments for preschoolers includes:

- ◆ Early childhood program (at least 50% nondisabled children)
- ◆ Home
- ◆ Early childhood special education program
- ◆ Service provider location
- ◆ Separate school
- ◆ Residential facility

The continuum of alternate learning environments for children, ages 6 to 22 includes:

- ◆ Regular education setting (with supports and services as required in the IEP)
- ◆ Resource room (for no more than 60% of the school day)
- ◆ Self-contained special education class (for more than 60% of the school day)
- ◆ Separate approved special education program/school
- ◆ Residential placement
- ◆ Home instruction (with the exception of children who have been excused from full-day attendance by the superintendent because the child is physically or mentally unable to attend school, or for other limited exceptions covered in RSA 193:1, I or RSA 193:5, a child who is receiving home instruction will receive a full day of instruction) ☐ Hospital or institution

When the IEP Team (including the parents) proposes a placement, the parents may agree (consent), disagree (deny consent) or provide partial consent. If the parents and school district cannot agree on the placement, they may utilize formal or informal dispute resolution options to resolve their dispute. Once the parents and LEA agree (consent) to the placement, services for the child are to be made available as soon as possible.

If the IEP Team places a child in an approved public or private program, the LEA is responsible for the costs.

Placement can only be made to an out-of-state program if that program has been approved for special education by the host state; placement cannot be made in an out-of-state program that uses aversive behavioral interventions.

(Aversive Behavioral Interventions are defined on page 19.)

Parentally-placed private school children with disabilities

If the school district offered an appropriate program (one that could provide the child with a FAPE) as a placement for a child with a disability and the child's parents choose to instead place their child in a nonprofit private school at their own expense, the child no longer has an individual right to special education services. The child is only entitled to the special education services the school district where the private school is located chooses to provide him/her using designated IDEA funds. To make this decision, the school district must engage in timely and meaningful consultation with representatives of the private schools located in their district and representatives of the parents whose children are privately placed. An Individual Services Plan (ISP) is developed for any parentally-placed private school child who is provided with special education services through this process. Children who are being homeschooled or who are placed by their parents in a for-profit private school have no right to special education services.

A child with a disability who is placed by their parent in a private school (nonprofit or for-profit) or who is being homeschooled, retains the same right to participate in curricular and extracurricular programs and activities as any child who is being homeschooled or who is attending a private school. The child must be provided with reasonable accommodations to ensure an equal opportunity to participate and benefit in those programs and activities. Those rights are provided through NH education laws/rules, as well as Section 504 of the Rehabilitation Act.

If parents place their child with a disability in a private school because the parent does not believe the school district can provide the child with a FAPE, the parent may, after following the required timelines and notice requirements, file for a due process hearing to attempt to obtain district reimbursement for the private placement.

Monitoring

Monitoring a child's progress in their special education program is an ongoing process relying on parents, teachers, service providers and, as appropriate, the child to track progress, identify problem areas and new or emerging issues, and bring the issues to the attention of the IEP Team.

The IEP Team must meet to review and revise the IEP at least once each year. Each child's IEP must include a statement of how the child's progress towards the annual goals in their IEP will be measured and how and when the parents will be given reports of their child's progress toward meeting the annual goals, including whether the progress is sufficient to meet the annual goals by the end of the school year. These reports must be provided to the parents periodically, such as concurrent with quarterly report cards. The IEP serves as a monitoring tool to make sure that the child's progress, program and placement continue to be appropriate. Other types of monitoring may include:

- ◆ reviewing the child's schoolwork;
- ◆ tracking progress towards annual goals and in the general education curriculum through report cards and other documentation, as required in the IEP;
- ◆ considering any new testing, or new information, available about the child, and if appropriate, conducting additional evaluations or reevaluations;
- ◆ sharing information at parent/teacher conferences; and
- ◆ maintaining home-school communication with communication logs, forms or telephone calls

A parent, teacher or service provider who notices that a child is not making expected progress may request an IEP team meeting to discuss the area of concern, strategize solutions, and revise the IEP or placement, as necessary. If a parent makes a written request for an IEP team meeting to be held, within 21 days the LEA must either schedule and hold the meeting or provide the parents with a WPN explaining why they are refusing to meet. Remember, a best practice is to make all requests in writing!

Children Who Transfer from One School District to Another within the Same Academic Year

When a child with disabilities moves from one school district to another, the child remains eligible for special education services. When the child moves, the former school district is no longer responsible for their special education and related services; once the child enrolls in the new school district, the responsibility transfers to that new district. To ensure continuity of services, it is important for the parents to enroll the child immediately in the new school district and make the new school district aware that the child has an IEP.

When a child with a disability transfers from one school district to another and enrolls in a new school within the same academic year, if the child had an IEP that was in effect in the previous school district, the new school district must, in consultation with the child's parent, provide the child with a FAPE, including services comparable to those described in the IEP from the previous school district, until:

- **In the case of a child who transfers to a school district within the same state,** the new district either adopts the IEP from the previous school district, or develops, adopts and implements a new IEP for the child.
- **In the case of a child who transfers to a school district in another state,** the new district conducts an evaluation if they determine it to be necessary, and develops, adopts and implements a new IEP for the child. During this process, the new school district may not delay the prompt provision of services to the child.

Transfer of records from one district to another when a child moves: When a child moves from one district to another, the new school in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the child's previous school. Similarly, the child's previous school must take reasonable steps to promptly respond to such a request from the new school.



Discipline (Suspension/Expulsion) Requirements

When a child with a disability acts out in school, it is important to determine whether or not the child's behavior is a manifestation of their disability. A behavior is considered to be a manifestation if it:

- ♦ Was caused by the child's disability,
- ♦ Had a direct and substantial relationship to the child's disability, or
- ♦ Was the direct result of the school district failing to implement the IEP.

If it is not clear whether the child's behaviors are a manifestation of the child's disability, or if the IEP Team is trying to figure out how to respond to a child's behaviors, the IEP team may find it helpful to conduct a functional behavioral assessment (FBA). The FBA will provide the IEP Team with the information they need to revise the IEP or placement, including developing positive behavior interventions and other strategies and supports in the IEP.

If parents have concerns about their child's behavior, they may find it helpful to:

- ♦ Obtain a copy of the school's discipline policies and consider if those policies need to be modified to accommodate the child's disability-related needs, or if their child needs additional supports to comply with the policies;
- ♦ Collect information (data) to understand the impact of the child's behaviors on their participation in the general education curriculum and classes, on their progress towards achieving the annual goals in the child's IEP, and on their ability to be in school. Parents can use PIC's Discipline and Behavioral Incident Tracking Sheet (<https://picnh.org/wpcontent/uploads/2018/06/Sample-Discipline-Behavioral-Incident-Tracking-Sheet.pdf>) to keep track of their child's behavioral incidents, outcomes, and number of days the child has been suspended;
- ♦ Request that an FBA be conducted; and/or
- ♦ Request a meeting of the IEP team meeting to discuss the child's behavioral needs, and to determine what types of services, supports, or modifications the child needs.

When a child with a disability violates a code of student conduct, and is subject to suspension, school personnel may consider, on a case-by-case basis, any unique circumstances of the situation and decide not to remove the child.

For children with disabilities who are suspended for 10 days or less in a school year — A child with a disability may be suspended, without services, for no more than 10 days (cumulative) in a school year for behaviors that are not a manifestation of the child's disabilities. If the behavior is a manifestation, the behavior would be addressed through a review of the IEP and/or placement, instead of by suspending (removing) the child. If the school district provides services to children without disabilities who are suspended, they must also provide them to children with disabilities.

After a child with a disability has been suspended for 10 cumulative days in a school year — If a child is suspended again after he/she has already been suspended for a total of 10 days in a school year, the child must be provided with services for any additional days of removal. Those services must be sufficient to enable the child to continue to participate and progress in the general education curriculum and to progress toward meeting the annual goals in his/her IEP. They must consist of a minimum of 10 hours of instruction plus any related services in the child's IEP. If appropriate, a functional behavioral assessment must also be conducted (unless one was already done), and the results used to develop positive behavioral interventions and supports in the child's IEP.

Suspensions that are considered to be a change in placement — Suspensions for more than 10 days at one time, or a pattern of suspensions (for similar behaviors, numbers of days, etc.), totaling more than 10 days in a school year are considered to be a change in placement. In those instances, in addition to conducting a functional behavioral assessment and developing positive behavioral interventions and supports (behavioral intervention plan) the parents, a representative of the school district and other relevant members of the child's IEP Team must meet to determine if the behavior was a manifestation of the child's disability.

This requirement does not apply if the child's suspension is the result of the child bringing a gun, dangerous weapon or illegal drugs to school or to a school function, or inflicting serious bodily injury on another person. Parents must be given 5 days' notice of a manifestation determination meeting. If the behavior is found to be a manifestation of the child's disability, there would be no further punishment, but the IEP Team may decide to revise the IEP or placement to meet the child's needs and prevent a reoccurrence of the behavior. If the behavior is not a manifestation of the child's disability, the child may be suspended, but would continue to receive services during any days of removal beyond 10 days of total removal in the school year. The parents must also be given a copy of the procedural safeguards notice at that time.

Situations when a child may be subjected to a long-term suspension or expulsion — Children with disabilities may be removed to an interim alternative educational setting for up to **45 school days**, without regard to manifestation, for any the following behaviors that take place at school or at a school function:

- ♦ Possessing a gun or dangerous weapon,
- ♦ Knowingly possessing, using or selling illegal drugs, or
- ♦ Inflicting serious bodily injury to another person.

A hearing officer can also order a child's removal to an interim alternative educational setting (IAES) for up to 45 school days if the hearing officer determines that the child would pose a significant danger to him/herself or others if the child remained in their current placement. A hearing officer may impose an extension beyond 45 days if the hearing officer determines that the child continues to pose a danger to the child or others. While the child is in the IAES, the IEP Team should determine if a change in the child's IEP or placement will be needed once the child's removal to the IAES is completed. Parents may access procedural safeguards, including an expedited due process hearing, at any time, including if the parents disagree with the manifestation determination or the removal to the IAES.

Children who have not yet been determined eligible for special education who violate a code of student conduct are only entitled to the protections in IDEA if the district had prior knowledge that the child is a child with a disability.



Aversive Behavioral Interventions: The NH Standards for the Education of Children with Disabilities emphasize a positive and proactive approach to behavior. The NH Standards prohibit the use of aversive behavioral interventions, including procedures intended to cause pain, humiliation, unsupervised confinement, abuse, or neglect. Aversive behavioral interventions mean those procedures that subject a child with a disability to physical or psychological harm or unsupervised confinement or that deprive the child of basic necessities such as nutrition, clothing, communication, or contact with parents, so as to endanger the child's physical, mental, or emotional health.

Procedural Safeguards

Procedural safeguards are rights and/or protections provided to parents and school districts in the special education process. At least once each year, the school district gives parents a copy of their procedural safeguards, which may also be called the parent's rights handbook. Some of the procedural safeguards for parents include the right to:

- ♦ Written prior notice before the school district proposes to initiate or change, or refuses to initiate or change the identification, evaluation, placement of the child, or the provision of a FAPE to the child
- ♦ Have the notice written in language that is understandable to the general public, and provided in the parents' native language or other mode of communication used by the parent, unless it is clearly not feasible to do so
- ♦ Have the school district ensure the parent understands the proceedings of the IEP team meeting, including providing an interpreter or translator for parents (at no cost to the parents) when needed
- ♦ Give or withhold consent for certain activities
- ♦ Examine their child's educational records. The Family Educational Rights and Privacy Act (FERPA) gives parents the right to see their child's school records and provides a process for parents to have inaccurate records corrected
- ♦ Obtain an independent educational evaluation for the child (which may be presented at an IEP Team meeting or due process hearing), at parental expense, or in some situations, at public expense.
- ♦ Utilize formal and informal dispute resolution options to resolve disagreements between the parents and school.

Dispute Resolution: Options for Resolving Conflict

Often, disputes can be resolved by using informal strategies, such as holding further meetings or by parents and school district personnel sharing new ideas or information, such as evaluations or observations so that disputes can be resolved using the least adversarial approach appropriate to the situation. The NH Department of Education (NH DOE) offers both formal and informal dispute resolution options to assist IEP teams in reaching agreement. Informal options include Facilitated IEP Team Meetings and Third-Party Discussion Led by a Moderator.

When informal strategies have not been successful in resolving a dispute, or the parents or school district wish to enter formal dispute resolution, the NH DOE provides options including: filing for a due process hearing and alternative dispute resolution, which includes mediation and neutral conference. There is also the option of filing a state administrative complaint if the parent or other individual is alleging a violation of a child's special education rights.

A brief overview of each of these procedures is provided below.

- ♦ **Informal Dispute Resolution — Facilitated IEP Team Meetings:** Through this program, parents and the school district agree to request that the NH DOE provide a trained IEP team meeting facilitator to attend and conduct the IEP team meeting. The facilitator, who acts as a neutral party, guides the discussions at the meeting, so that both the parents and school district have an opportunity to present and discuss their concerns while using positive communication strategies supported by the facilitator. An IEP Team meeting facilitator can sometimes change the tone of the meeting by allowing the IEP team members to focus on working together to reach agreement on their issues.
- ♦ **Informal Dispute Resolution — Third-Party Discussion Led by a Moderator:** An independent moderator, who is also a trained hearing officer, moderates a dialogue between the parents and school district (this is not an IEP team meeting). Moderators do not make decisions; they may however, offer insights, ask questions and offer suggestions to assist the parties in identifying and considering potential solutions to resolve their areas of disagreement.

- ♦ **Formal Dispute Resolution — Due Process Hearing:** Parents or the school district may file for a due process hearing if they cannot reach agreement regarding the identification, evaluation, eligibility determination, placement or provision of a free appropriate public education (FAPE) for the child. The person filing for the hearing must meet specific notice requirements. If the parents have filed for the hearing, the school district will schedule a resolution session within 15 days to attempt to resolve the issue to the satisfaction of the parents. If the resolution session is not successful, or if both parties agree to waive the session or to use mediation instead, the hearing will continue in accordance with the timelines set for the process.

At the hearing, both parties have the right to be represented by counsel (at their own expense) and to present their case, including evidence that has been shared with the other party prior to the hearing. The hearing officer will then make a decision regarding the outcome. Both parties must abide by the ruling, unless they file an appeal to civil court.

- ♦ **Formal Dispute Resolution — Alternative Dispute Resolution:** The NH DOE offers neutral conference and mediation as alternatives to due process for resolving disputes regarding the identification, evaluation, placement and provision of a FAPE.
- ♦ **Formal Dispute Resolution — State Administrative Complaint:** When there is a belief that the school or other public agency has violated State or Federal law/requirements (example: not following the IEP or conducting an evaluation within the timeline established by the State), a complaint may be filed with the NH DOE. The complaint will then be investigated and appropriate steps ordered to remedy any violations found.

Dispute Resolution Resources:

- ⇒ Information about the NH DOE's facilitated IEP team meeting option may be found at: <https://www.education.nh.gov/who-we-are/division-of-learner-support/bureau-of-student-support/specialeducation/services>
- ⇒ Information about the NH DOE's formal dispute resolution options, and the third-party moderated discussion option may be found at: <https://www.education.nh.gov/who-we-are/division-of-learner-support/bureau-of-student-support/special-education/complaints>
- ⇒ The NH DOE's Model Procedural Safeguards Handbook in English and translated into 10 other languages and in audiobook format may be found at: <https://www.education.nh.gov/who-we-are/division-of-learner-support/bureau-of-student-support/special-education/laws-rules-policies>. This page also includes links to the Federal Individuals with Disabilities Education Improvement Act (IDEA), the Guide to the NH Standards for the Education of Children with Disabilities and other select resources

Other Resources:

- ⇒ Parent Information Center's website, including on-line training modules, calendar of training activities and events, information resources, sample letters, brochures and toolkits: www.picnh.org
- ⇒ NH Family Voices website, including information, resources and training activities: www.nhfv.org. NH Family Voices provides free, confidential services to families and professionals caring for children with chronic conditions and / or disabilities.
- [⇒ The Youth for Education Advocacy and Health Care (YEAH) Council website, www.yeahnh.org, is a site where youth with disabilities and special health care needs can connect to other youth, and find information and resources on topics including youth self-advocacy and leadership.



MISSION: *PIC ... supporting informed decisions that enhance each child's development and well-being*

The Parent Information Center (PIC), is a New Hampshire statewide family organization that provides families and youth, with a focus on children/youth with disabilities/special health care needs, and the providers who serve them, with the knowledge and support they need to make informed decisions that enhance each child's development and well-being. We achieve positive outcomes through our partnerships with families, youth, educators, organizations, and others.

PIC is committed to the belief that ~

- *Families make the difference.*
- *When families, professionals, and other partners are well-informed and have a shared commitment to work together, everyone benefits.*
- *As youth move toward adulthood, they have increasing ownership of their future.*
- *Every child can succeed and contribute as valued members of the community.*

PIC is a private, nonprofit agency that is a recognized leader in building strong family/school/community partnerships. PIC provides information, support and educational programs for parents, family members, youth, educators/service providers and the community. PIC is a pioneer in promoting effective parent involvement in the special education process.



The Parent Information Center on Special Education is a project of PIC, providing training, information and resources on special education issues to families, educators and others.

For more information about your rights or to learn how you can support the Parent Information Center (PIC), please call PIC. You may also register to attend one of PIC's FREE workshops on topics such as: the IEP, special education laws and process, effective parent/professional communication and collaboration, secondary transition, and positive behavioral interventions. PIC also has print materials available on these and other topics.

Note: This document is not intended to serve as a complete overview of either Federal or NH special education law. It is for informational purposes only.