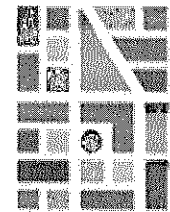


Negotiating the School-age Special Education System (Ages 5-21)



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The Kathryn A. McDonald Education Advocacy Project

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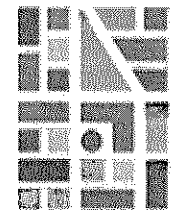
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I. Children in Foster Care: Special Education Trends and Barriers



Children in Foster Care: Special Education Trends

- Studies nationwide indicate that half of all children in foster care have substantial delays in cognition, speech and behavioral development
- The National Survey of Child and Adolescent Well-Being notes that “recurrent physical abuse, emotional abuse, or chronic neglect can lead to difficulties in learning, behavior and physical and mental health”
- A national study of children who had contact with the child welfare system showed that only 54% of those who exhibited developmental risk factors were receiving services

Barriers to Receiving Special Education Services for Children in Foster Care

- The special education system relies on parents to assert and protect their children's rights
- Children involved in Family Court Cases frequently experience multiple placements
- Many of the Committee on Special Education (CSE's) do not know how to obtain parental consent for a child in foster care. In many instances, the CSE contacts the foster parents to obtain consent, even though the birth parents still retain their rights. In other instances, the CSE fails to follow proper procedures for appointing a surrogate and closes the child's case when a parent cannot be located.

II. Overview of the Special Education System



Key Concepts in Special Education Law

- *Free Appropriate Public Education*

- ❖ ***Free:** At NO COST to the parent*
- ❖ ***Appropriate:** Program must be reasonably calculated to enable the child to receive educational benefits*
- ❖ ***Public:** Services and placement are usually provided through public schools, but can also be provided through private agencies that are paid through public funds*
- ❖ ***Education:** Specially designed instruction to meet the unique needs of students with disabilities*

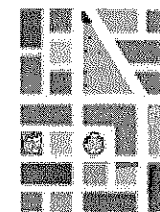
- *Least Restrictive Environment*

- *Parental involvement and Consent*

Overview of The Special Education Process

- 1. Pre-Referral Support*
- 2. Referral to the Committee on Special Education (CSE)*
- 3. Parent signs consent for Evaluation*
- 4. Evaluations are completed*
- 5. CSE meeting to determine eligibility and write Individualized Education Program (IEP)*
- 6. CSE offers placement*
- 7. Parent and Child visit potential school placement*
- 8. Parents signs consent for placement and initiation of services*
- 9. Services Begin*
- 10. Annual Review*

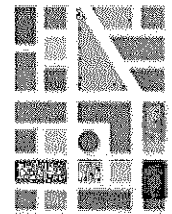
III. Committee on Special Education Referrals



Committee on Special Education Referrals

- *Students suspected of having a disability should be referred to their school's Committee on Special Education. In some districts, each school operates its own Committee on Special Education; in other districts, there is a centralized Committee on Special Education that services multiple schools*
- *The referral should be submitted in writing and should highlight specific concerns*
- *The referral can be made by the student's parent or by the commissioner or designee of the school district or other public agency responsible for the child's education*
- *A request for a referral may be made by a professional staff member of the child's school, a physician, a judicial officer, a staff member of a public agency responsible for the child's education, or the student if he/she is over 18 years of age*
- *The Committee on Special Education must complete evaluations and hold a review meeting within 60 days of receiving parental consent*

IV. Consent for Special Education



Consent for Special Education

- *Parental consent is required before the Committee on Special Education can evaluate or provide special education services to a child*
- *A child's parent makes special education decisions and must provide consent for evaluations and placement*
- *In some limited circumstances, a surrogate parent or a person in parental relation appointed by the parent may sign consent instead of the parent*

Consent for Special Education Continued

A parent is defined as:

- ❖ *A child's birth or adoptive parent*
- ❖ *A child's guardian*
- ❖ *A child's custodian*
- ❖ *An individual acting in the place of a biological or adoptive parent*
- ❖ *A foster parent*
- ❖ *A person designated by a parent to be a person in parental relation*
- ❖ *A surrogate parent appointed by the school district or by a judge*
- ❖ *A person appointed by a judge*

Consent for Special Education Continued

- *If more than one person is qualified to act as parent, the birth or adoptive parent is presumed to be the parent and is given priority unless he or she does not have the legal authority to make educational decisions for the child*
- *If the parents' rights have been terminated, any of the other individuals listed within the definition of "parent" may act as the parent and sign consent for special education evaluations and services*
- *The term "parent" does not include the state even if the student is a ward of the state. Foster care caseworkers, representatives from the Department of Social Services and RTC staff members do Not fall within the definition of parent and cannot consent for special education evaluations or services*

Consent for Special Education Continued

Surrogate parent:

❖ *A surrogate parent should be appointed to make educational decisions for a child if the birth or adoptive parents' identities are unknown, their whereabouts are unknown or if their rights have been terminated and there is no other person in the child's life who meets the definition of parent.*

Consent for Special Education Continued

- * A surrogate parent appointed by the school district must:
 - Not be an employee of the state or local educational agency or any agency involved in the education or care of the child
 - Have no personal or professional interest that conflicts with the interest of the child
 - Have knowledge and skills that ensure adequate representation of the child
- * A foster parent may serve as a child's surrogate parent
- * If the child is a ward of the State, a judge may appoint a person to serve as a surrogate parent

Consent for Special Education Continued

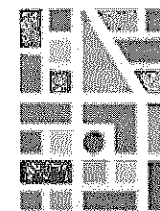
A “Person In Parental Relation” Appointed By The Parent

- * Right to temporarily designate another person to make education or health decisions for a child, as long as the other person agrees. The person who is assuming this responsibility is called the “designee” or the “person in parental relation” to the child.
- * The designation may be for a maximum of six months at a time and is renewable.

Case Study- Justine

- * Justine is a 7 year-old child who is repeating first grade. She was removed from her parents' home and has been living in a non-kinship foster home for nine months. The permanency goal is family reunification. The parents have visitation once a week, but they only show up about 50% of the time. Justine's foster family has expressed interest in adopting her if attempts to reunify the family are unsuccessful. Justine is struggling in school and her teacher is concerned that she may have a learning disability.
- Who can consent for Justine to be evaluated and receive special education services?
- If the parent refuses to consent for special education evaluations and/or services, what can/should be done?

V. Special Education Evaluations



Special Education Evaluations

- * School-age children receive the following evaluations:
 - Social History interview
 - Psycho-educational evaluation
 - Classroom observation
- * Other evaluations may be requested, such as:
 - Speech and Language Evaluation
 - Occupational Therapy Evaluation
 - Physical Therapy Evaluation
 - Psychiatric Evaluation
 - Functional Behavioral Assessment

Special Education Evaluations Continued

Outside Evaluations

- * If evaluations have been completed by an agency other than the school district, they can be submitted to the school district and may be used to determine eligibility for special education services.

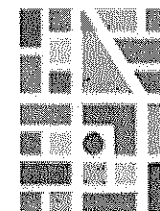
Special Education Evaluations Continued

- * The parent or surrogate parent is entitled to receive copies of all of the completed evaluations prior to the CSE review meeting.
- * If the parent or surrogate parent disagrees with the results of the school district's evaluations, he/she may request an Independent Educational Evaluation (IEE) at public expense. The school district must immediately arrange for an IEE or must file for an impartial hearing to demonstrate that the evaluation it conducted was adequate.

Case Study- Jason

- * Jason is a second grader in a general education classroom. He has spent several years in foster care and his parents rights were recently terminated. The school calls the foster parent every day because Jason is acting out. He runs out of the classroom during daily reading class, crawls under the desks during lessons, and tears up his worksheets during class. Jason has trouble doing his homework and cannot read kindergarten level sight words. His handwriting is very light and shaky. He holds his pencil with the tip of his fingers. Jason cries easily, is very sensitive to criticism, and clings to his parents and his teacher.
 - Should Jason be referred to the Committee on Special Education?
 - Who can sign consent for the evaluations and services if he is found eligible?
 - What information would you include in your referral?
 - What evaluations would you ask for?
 - The evaluations paint an overly negative picture of Jason. You feel that the school is exaggerating his behaviors because they want him moved out of the school. What can you do?

VI. Committee on Special Education Review Meetings



CSE Review Meetings

- * When evaluations are complete, the Committee on Special Education (CSE) should contact the parent or surrogate parent to schedule a review meeting.

Attendance

- * The following people should attend the CSE review meeting:
 - The parent or surrogate parent
 - A general education teacher, whenever the student is or may be participating in the general education environment
 - A special education teacher or provider of the student
 - A school psychologist

CSE Meetings Continued

Attendance (cont'd)

- A representative of the school district who is qualified to provide or supervise special education and who is knowledgeable about the general education curriculum and the availability of resources in the school district
- An individual who can interpret evaluation results
- A school physician (if requested in writing 72 hrs prior to the meeting)
- An additional parent member of a student with a disability if the parent requests their attendance 72 hrs prior to the CSE meeting (may be waived)
- At the invitation of the parent or school district, other individuals with “special knowledge or expertise” about the child
- The child (if appropriate given the child’s age and cognitive ability)

CSE Review Meetings Continued

Recommendations

- * The participants at the CSE meeting will write an Individualized Education Program (IEP) that reflects the services and modifications the child needs in order to receive a FAPE.
- * Items included on the IEP are:
 - Classification of Disability: The child's disability must be classified into one of 13 categories: Autistic, Deaf, Deaf-Blind, Emotionally Disturbed, Hard of Hearing, Learning Disabled, Intellectually Disabled, Multiply Disabled, Other Health Impaired, Speech Impaired, Traumatic Brain Injury, Visually Impaired

CSE Review Meetings Continued

Recommendations (cont'd)

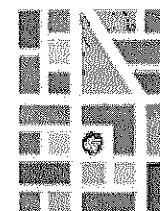
- Program/Placement (must be in the LRE)
- Related Services (Counseling, Hearing Education Services, Occupational Therapy, Paraprofessional Support Services, Physical Therapy, School Health Services, Sign Language Interpreters, Speech/Language Therapy, Vision Education Services)
- Annual Goals and Objectives
- Assistive Technology
- Behavior Intervention Plans
- Promotion Criteria

CSE Review Meetings Continued

Recommendations (cont'd)

- Diploma Goal
 - » Advanced Regents Diploma
 - » Regents Diploma
 - » Local Diploma
 - » IEP Diploma
- Testing Accommodations
- Transition (starting at age 15, plan should address post-secondary instruction, vocational education, employment, community integration and independent living skills)

VII. Continuum of Special Education Services in New York State



Continuum of Special Education Services in New York State

The IEP will make program and service recommendations. The following are the various service and placement options for children receiving special education services in New York, ranging from least to most restrictive. Students may spend all or part of their day in any combination of the class options on the continuum.

Continuum of Special Ed. Services in NYS (cont'd)

The continuum of Special Education services for school age children with disabilities is an array of services including:

- * General Education with Supplementary Aids and Services**
- * General Education with Related Services Only**
- * Special Education Teacher Support Services**
- * Collaborative Team Teaching / Integrated Co-Teaching**
- * Special Class in a Community School**
- * BOCES/Specialized Public School**

Continuum of Special Ed. Services in NYS (cont'd)

- * State operated schools**
- * Special Act School Districts**
- * Private approved day and residential schools**
- * Home and Hospital Instruction**

Continuum of Special Education Services NYS

Continued

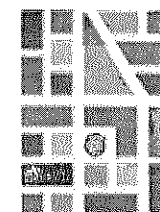
Additional services that may be recommended include:

- ❖ *Transition Services*
- ❖ *Transitional Support Services*
- ❖ *Travel training*
- ❖ *Adaptive physical education*
- ❖ *Twelve- month special services and/or program*
- ❖ *Special Transportation*

Case Study- Anthony

- * Anthony is a pre-school student who will be entering Kindergarten in September. He has mild cerebral palsy and a seizure disorder. He uses a wheelchair and needs assistance with activities of daily living, such as eating and toileting. Anthony has several siblings who are close to him in age. Anthony enjoys playing with them and seems to learn a lot from spending time with them.
 - What is the least restrictive environment in which Anthony's needs can be met?
 - Would your answer change if Anthony were entering high school instead of Kindergarten?
 - What related services and supports might Anthony need?

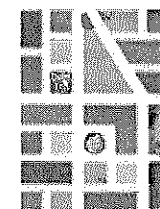
VIII. Timelines



TIMELINES

- * Once a parent makes a referral, the district must obtain consent within ten days*
- * The CSE must complete evaluations, hold an IEP meeting and offer an appropriate placement within 60 days from the date of parental consent for evaluations
- * If the recommendation is for placement in an approved in-state or out-of-state private school, then the Board of Education will arrange for such programs and services within 30 school days of the Board receipt of the recommendation from the committee

IX. Resolving Disputes



Resolving Disputes

What do I do if the Committee on Special Education (CSE) has violated the 60-day time line for evaluation, developing an IEP and placement?

** Send a complaint to the New York State Education Department*

What do I do if a child's IEP or placement is inappropriate?

- * Demand a New Placement*
- * Request a CSE Review*
- * Request Special Education Mediation*
- * Request an Impartial Hearing*

X. QUESTIONS?

