

# Rights of NYC Public School Students

## Enrollment

- **Every child between the ages of 5 and 21** who does not have a high school diploma has the right to attend a full day school program (5 ½ hours a day).
- Students are entitled to attend their zoned schools, subject to available seats.
- Students who have moved within New York City have the right to remain in the same school **until they graduate**. They do not have the right to yellow school bus transportation. All students who have recently moved and are seeking a new school placement have the right to a placement within 5 school days. Their school records must be promptly transferred from their old school.
- Your child has a **right to apply** to charter schools, transfer high schools, magnet schools, or other schools in your own or any other NYC district.
- Documentation of a child's immigration status is not required for school placement, and a family's immigration status should not appear on any school records.

## School Records

- You have a **right to see** your child's records. Be sure to put your request in writing. Schools must respond within 45 days.
- You have a **right to contest** any entry in your child's records that is inaccurate, derogatory, or misleading. You also have a **right to enter an explanation** into your child's records, and the school must attach your explanation to the part of your child's file that is in dispute.
- Your child's records must remain **private**. The school may not show your child's records to anyone outside the Department of Education (DOE) without your permission or a court order.
- You have the right to have your child's records **translated** and to receive documentation from their school and the DOE in your primary language.

## Corporal Punishment and Harassment

- School staff cannot use physical force against a student, unless restraining that student from harming his/her self or another. If your child is abused physically or verbally by school staff, write an immediate complaint to the principal.
- Bias-based harassment, intimidation or bullying committed by students against other students is prohibited and subject to disciplinary action.

## Discipline

- Your child can only be removed from school during an official suspension, which requires notice in writing and an opportunity to contest the charges. Schools can only suspend students for behavior that violates the Discipline Code.
- A principal's suspension can last up to 5 days. Superintendent's suspensions can result in longer removals, but students are entitled to a formal hearing.
- Your child cannot be transferred from their school as the result of a suspension without your consent.
- Your child has the right to attend an alternate school setting during an out-of-school suspension. They have the right to receive work from their school and to take all standardized tests, including the Regents exams.

## Hold-Overs

- Parents should be informed during parent-teacher conferences, and at the latest by Feb. 15, if their child is at risk of being held over for the following school year.
- Children who are at risk of being held over should receive **supportive services** from the school so that they can avoid being held over. Every school has funds to help students catch up in basic reading and math skills. Summer school can also help struggling students.
- **To be promoted**, students in **grades K-3** must show progress towards meeting standards in literacy and math. Principals make the final decision about promotion, with involvement from you and your child's teacher.
- Students in **grades 3-8** must earn at least a Level 2 on the ELA and math tests. Principals may also determine promotion based on student work, teacher observations and grades. In addition, **students in 8th grade** must pass all of their core courses to move on to high school.
- If your child does not meet the criteria for promotion, the principal may **appeal** by submitting a portfolio of your child's work to the Superintendent. Talk to the principal if you have questions or concerns.
- Students in **grades 9-12** must earn the necessary number of credits for each grade and achieve at least 90% attendance. To graduate, students also must pass the required Regents exams or RCTs.
- Please refer to Chancellor's Regulation A-501 for more information on the DOE's promotion policy.

## Our Mission

AFC promotes access to the best education New York can provide for all students, especially students of color and students from low-income backgrounds. We use uniquely integrated strategies to advance systemic reform, empower families and communities, and advocate for the educational rights of individual students.

## Still have more questions?

**Please Call**  
**The Jill Chaifetz Education Helpline**  
Monday through Thursday  
10AM to 4PM  
(866) 427-6033 (toll free)

**Advocates for Children  
of New York**  
151 West 30th Street, 5th Floor  
New York, NY 10001  
phone (212) 947-9779  
fax (212) 947-9790  
[www.advocatesforchildren.org](http://www.advocatesforchildren.org)

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## AFC'S GUIDE TO

# Basic Student Rights

April 2010



**Advocates for Children  
of New York**  
Protecting every child's right to learn

# SPECIAL EDUCATION

## Alternatives to Special Education

Just because a child has a behavior problem or has fallen behind in reading or math does not mean that the child needs to be referred to special education. First, the school should:

- Meet with you to discuss the problems at school. If your child has a behavioral problem, the school should create a behavior management plan, with your input. Your child may also benefit from at-risk school counseling, peer mediation, or a referral to services outside of school.
- If your child is not meeting academic standards, they are entitled to remedial services called **Academic Intervention Services (AIS)**. You and the school should discuss what kind of AIS the school can offer to help your child catch up to grade level.
- If your child has been diagnosed with a disability, he or she may be entitled to accommodations and services in school through a federal law called **Section 504**. This law makes it illegal for any federally funded program to discriminate against people with physical or mental disabilities. The law may be particularly helpful if your child is not entitled to special education services, or if you do not want to go through the special education system.
- If you do not want your child to be evaluated for special education services, you do not have to consent. Schools may pressure you to do so. You may want to speak to an advocacy organization for advice if this is happening to you.

## Referring a Child to Special Education

You or the principal can refer your child to be evaluated for special education services. Others can request a referral for special education, but only a parent can give consent.

You can request that your child receive a special education evaluation at anytime, whether they are in general education or already receiving services. If your child has already been evaluated and the evaluation is more than a year old, the school is required to do new testing. If the current evaluation is less than a year old, the school may refuse your request.

To refer your child for special education services or to request a new evaluation, write a letter to your child's school, send a copy to the Committee on Special Education (CSE), and keep a copy for your own records. Send your request by certified mail (return receipt requested); the request can also be faxed or hand delivered. Your child's school is required to help you if you need assistance with your request.

## After Consenting to an Evaluation

Once you provide written consent to an evaluation, the school or CSE must **complete all necessary evaluations**, meet with you to decide what, if any, services your child needs, and begin providing services within 60 school days. You may also submit independent evaluations. On the day of your meeting, a team of clinicians, which includes you and your child's teacher, will create an **Individualized Education Program (IEP)** for your child.

Once the IEP is written, the DOE must give your child an **appropriate placement**. If you do not receive a placement letter within 60 school days, you are entitled to a Nickerson letter that allows you to place your child in a private school (from a list of approved schools), paid for by the DOE.

An IEP is a legal document that lists the services to which your child is entitled. If your child's IEP includes services (such as speech and language therapy, OT, or PT) that are not available at your child's school, then you are entitled to a **Related Services Authorization (RSA)**, which allows you to hire an outside service provider at DOE expense.

## If you Disagree with the IEP

A student's IEP must be reviewed every year. A student should also be re-evaluated every 3 years. A school can decide not to re-evaluate your child if they think it is unnecessary; however, you have the right to request new evaluations then or any time you are concerned about your child.

*If you disagree with your child's IEP, you can:*

- Request another IEP meeting
- Request mediation (an informal meeting with an outside mediator that is non-binding)
- Request an impartial hearing. This is a more formal administrative proceeding where an impartial hearing officer will listen to both sides of the case and make a binding decision.

*If you think the DOE's evaluation was inadequate or inappropriate, you can:*

- Get an outside evaluation at your expense and meet again with the IEP team.
- Request that the DOE pay for an outside evaluation. The DOE must respond by either referring you to an outside evaluator or going to an impartial hearing to prove that their evaluations are good enough.

You also have the right to withdraw your consent to special education entirely. The DOE will then stop providing all special education services for your child. Your child will then be moved into a general education setting and/or no longer receive services. Your child will lose all protections for special education students in any disciplinary hearing. The DOE also will no longer need to conduct evaluations or hold IEP meetings for your child.

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• **More detailed information regarding the rights of special education students is available in AFC's "Guide to Special Education." For information on due process rights, see the "Short Guide to Impartial Hearings." Both are available on our website ([www.advocatesforchildren.org](http://www.advocatesforchildren.org)).**  
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## Where to Go With Concerns

When you are concerned about something that is happening in your child's school, it is usually best to start with your child's teacher and work your way up. Put your concerns in writing, and follow up on all conversations and meetings. Try writing to:

- Your child's teacher;
- The supervisor or assistant principal;
- The principal.

Every public school in the city also has a **Parent Coordinator**, who is responsible for identifying family concerns and working with school leaders to address those concerns in a timely manner.

If your issue cannot be resolved at the school level, you can contact the **District Superintendent's office** for assistance. Every district, including Districts 75 and 79, has a **District Family Advocate** to support parents and help them get the information they need. Every school also has a **Network Leader** who may be able to help resolve problems within your child's school.

For questions about **special education** issues, contact:

- Your **School Based Support Team (SBST)**;
- The principal; and, if necessary,
- The DOE's Special Education Call Center. To reach the call center, dial 311 and ask for it by name.

If you still have questions, please contact AFC's **Jill Chaifetz Education Helpline** (866-427-6033, Monday - Thursday, 10AM - 4PM)

