



# Advocates for Children of New York

Protecting every child's right to learn

## **Education Rights of Court-Involved Youth** **Students' Rights Under "J.G. v. Mills"**

***J.G. et al. v. Mills* is a 2004 federal court case brought by Advocates for Children of New York and the Legal Aid Society against the New York City Department of Education (DOE). The settlement requires the DOE to assist students going and coming from court-ordered facilities and the school system.**

### **Who has rights under *J.G.*?**

- Any New York City student who is transitioning between certain court-ordered settings and the community.
- This includes students who are coming from and going to detention sites and secure, limited secure, or non-secure residential facilities through the NYC Administration for Children's Services (ACS) or the New York State Office of Child and Family Services (OCFS).

### **What rights do students have under *J.G.*?**

- Students transitioning back to the community from these court-ordered settings have the right to return to school in a timely manner.
- If the student has an Individualized Education Program (IEP), the student has the right to appropriate special education services.
- The DOE must help students transfer records and credits earned while in a court-ordered setting and must assist students with re-enrolling in schools after leaving court-ordered settings. Additionally, the DOE must provide appropriate special education and remedial services for eligible transitioning students.

Students' rights under *J.G.* are different depending on whether they have been placed through ACS or OCFS.

## **OCFS**

### ***For students RETURNING from an OCFS facility, the DOE must:***

- Provide a school placement within 5 school days of the student's appearance at a DOE enrollment office.
- Request student records from OCFS if the DOE has not received them.
- If the student is in high school, ensure that the school evaluates transcripts from OCFS and other schools for transferrable credit. Any decision not to grant credit may be appealed in writing to the principal of the school.
- Offer eligible students educationally related support services (ERSS), academic intervention services (AIS), and guidance services.
- Allow eligible students to attend summer school.
- **If the returning student has an IEP, the DOE must:**
  - Provide a school placement with special education services similar to those in the student's most recent IEP from OCFS or the DOE within 5 days of the student's arrival at an enrollment office.

- Request the student's IEP(s) and evaluations from OCFS if the DOE has not received them.
- Develop a new IEP within 30 days from the date of registration at community school (unless the student was not placed within 5 school days of seeking enrollment, in which case the IEP must be provided within 30 days of the student's appearance at the enrollment office.)

**For students ENTERING an OCFS facility, the DOE must:**

- Provide student records to the OCFS facility.
- **If the entering student has a disability, the DOE must:**
  - Provide IEPs and evaluations received by Passages and any Education Plans (temporary IEPs) developed by Passages.

## **PASSAGES ACADEMY**

**For students RETURNING from Passages Academy, the DOE must:**

- Register the student at their last community school within 2 school days of discharge.
- If the DOE, in discussion with the family, decides that the student requires a different school placement than the last community school, the DOE must transfer the student within 5 school days of the student's appearance at a DOE enrollment office.
- Provide student records from Passages Academy to the community school.
- Offer eligible students educationally related support services (ERSS), academic intervention services (AIS), and guidance services.
- Allow eligible students to attend summer school.
- **If the returning student has an IEP, the DOE must:**
  - Provide a school placement with all required special education services.
  - Provide any Comparable Service Plans (temporary IEPs) created while at Passages.
  - Provide contact information for relevant Passages staff for input in the creation of new IEPs.
  - If the student was enrolled at Passages for at least 30 days, and did not receive all necessary services, consider whether the student needs additional services to make up for those missed at Passages.
  - Remind the school to check if the student is able to get a mandatory 3-year (triennial) evaluation or annual review.

**For students ENTERING Passages Academy, the DOE must:**

- Provide remedial services for students who are performing below grade-level.
- Allow eligible high school students to take Regents and Regents Competency tests.
- Allow eligible 8<sup>th</sup> grade students to take State standardized examinations required for promotion.
- If the student is not making progress and is suspected of having a disability, refer the student for an evaluation. If the student's need for referral is immediate, Passages may request an immediate evaluation.
- **If the entering student has an IEP, Passages Academy must:**
  - Request the student's most recent IEP within 5 school days of the student's admission to Passages.
  - Create a Comparable Services Plan (temporary IEP) within 5 school days of the student's admission.
  - Hold a team meeting to review the student's prior IEP and other information to make appropriate changes to the Comparable Services Plan within 30 days of the student's admission.
  - Provide all related services in the student's most recent IEP, unless the DOE is unable to get a provider or Passages has a documented basis for a change in services.
  - Determine if the student needs a mandatory triennial evaluation or annual review.
  - Provide an overdue mandatory triennial evaluation after 60 days of enrollment at Passages, or after the 30-day Education Plan review at the parent's request, or immediately at the parent's request if placement at a non-public school or residential setting is recommended by the evaluation.

## Enforce Students' Rights!

DOE must have an assigned person available at each borough enrollment office to help students transition from court-ordered settings. Be sure to ask for this person (called a Special Populations Liaison) at the enrollment office.

The *J.G.* settlement is ongoing! Advocates for Children of New York continues to work to ensure that court-involved youth have access to an appropriate education. Please contact us if you or someone you know has been denied the right to education due to court involvement, especially if:

- A community school did not award credit for work done at an OCFS facility
- A community school has not provided appropriate special education services to a student with an IEP, including the creation of an IEP within 30 days of the student's appearance at an enrollment office
- Passages Academy has not provided special education services for a student who needs them

For help with any of these problems, contact the School Justice Project at Advocates for Children of New York:

- Amy Breglio: [ABreglio@advocatesforchildren.org](mailto:ABreglio@advocatesforchildren.org) or (212) 822-9540
- Dawn Yuster: [DYuster@advocatesforchildren.org](mailto:DYuster@advocatesforchildren.org) or (212) 822-9542

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