



Requesting an Impartial Hearing for Extended School Eligibility for Students with Disabilities

Students in New York have the right to stay in school until the end of the school year in which they turn 21, or until they earn a high school diploma. If your child is 21 or will turn 21 in June 2021, they will lose their right to be in school on June 25, 2021. If your child turns 21 in July or August 2021, they will lose their right to stay in school after August 31, 2021. This is sometimes called “aging out.”

If your child meets graduation requirements this year and receives a diploma, they are not eligible to return to high school next year.

However, if your child is aging out this summer or is scheduled to graduate and, because of COVID-19, has not gotten the special education supports they need to meet graduation requirements or their transition goals, you can ask the Department of Education (DOE) to give your child more time in high school. This is sometimes called “extended eligibility.”

To request extended eligibility, first talk to your school or email specialeducation@schools.nyc.gov. If the DOE says no, or you do not get a response, you can request an impartial hearing to ask for an order requiring the DOE to give your child more time.

Requesting an Impartial Hearing

You can work with an attorney to request an impartial hearing or you can request one yourself. Request an impartial hearing yourself by filling out this [2-page form](#). You can download the form and fill it out using Adobe. Or, print the form and complete it by hand.

Filling out the Form

On page 1 of the form:

Check the first box, “I request an Impartial Hearing be scheduled.” Below this, check one of the 2 boxes if you have previously requested an impartial hearing for your child and it is ongoing or has been withdrawn in the past 12 months.

At the bottom of page 1 and the top of page 2:

Fill in the requested information about your child and provide your contact information. Be sure to list a phone number where the DOE can reach you on weekdays from 9am-5pm and an email address that you check regularly.

On page 2 of the form

In the section called “Problem and Proposed Solution to the Described Problem,” explain why you are asking for extended eligibility. See below for some examples of what you can write.

THE PROBLEM

During school closures and remote/hybrid learning caused by the COVID-19 pandemic, the DOE has not given my child the supports that they were entitled to under the IDEA and Section 504. As a result, my child...

Include all that apply:

- has not gotten the supports they need to make adequate progress toward graduation requirements*
- has not gotten the supports they need to make adequate progress toward their transition goals.*
- is aging out of school at the end of the 2020-2021 school year and has not had enough time to work on many skills they will need before exiting high school, such as **[insert examples of skills your child still needs to develop]**.*
- is getting a diploma but has not learned the skills they need to be ready to graduate, such as **[insert examples of skills your child still needs to develop]**.*
- is not prepared to successfully transition to **[insert post-HS plan: college, vocational program, day habilitation program, volunteer position]**.*

PROPOSED SOLUTION

I am requesting extended eligibility for my child. I am asking that the DOE allow my child to stay at their high school through the end of the 2021-2022 school year to get the supports they did not receive during COVID-19. This additional time is necessary to make up for the services they were denied during hybrid/remote learning.

NOTE:

“Extended eligibility” is just one of many solutions you can ask for in your hearing request. These solutions are also called “remedies.” For a list of other remedies you could consider including in your request, see pages 39-42 of AFC’s [Guide to Special Education](#).

Requesting Stay-Put or Pendency

Under the law, the whole impartial hearing process should take 70 days. It is very unusual for the process to move as quickly as it should. Many impartial hearings take months.

During an impartial hearing, your child may be able to continue receiving the services on the last IEP that you agreed to. Your child may also be able to stay in the last school that you and the DOE agreed on. This is called “pendency” or “stay put.” For example, if your child attended a private school that

the DOE paid for in 2020-21, the DOE might be ordered to keep paying tuition at that school while your hearing continues.

If you file want your child to stay at their last school, include this request as part of your “proposed solution” on page 2 of the form. You can write:

I am requesting pendency at my child’s current school, [list school name].

If, after getting your form, the DOE does not agree to let your child stay at their high school, ask the hearing officer for a “pendency order” directing the DOE to let your child stay in school while your hearing is in progress. If you cannot get in touch with your hearing officer, or your hearing officer does not schedule a hearing to discuss pendency, email Advocates for Children (AFC) at agingout@advocatesforchildren.org or call our Education Helpline at 866-427-6033.

Submitting the Form

By Email

- Send your completed form to ihoquest@schools.nyc.gov and speced@nysed.gov.
- Although it is not required, please also copy (cc) agingout@advocatesforchildren.org. This will send Advocates for Children a copy of your request for a hearing. Copying this address does not mean AFC is representing you in your hearing. It will help AFC know how many parents are asking for this type of help. AFC will keep your information confidential.

By Fax

- If you are unable to email the form, you can fax it to 718-391-6181.
- Keep a copy for yourself!

What happens next?

You should get a confirmation email from the DOE within 48 hours.

After the DOE gets your request, they may agree with you and offer to settle your case or disagree with you and go forward with the impartial hearing. See AFC’s [Guide to Impartial Hearings](#) for more information on the impartial hearing process and timelines. Please note that during COVID-19, all impartial hearings are happening by phone, not in person.

Still have more questions? Please call the Jill Chaifetz Education Helpline:

Monday through Thursday • 10 am to 4 pm • 1-866-427-6033 (toll free)

www.advocatesforchildren.org

This fact sheet does not constitute legal advice. This fact sheet attempts to summarize existing policies or laws without stating the opinion of AFC. If you have a legal problem, please contact an attorney or advocate.

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