

COMMUNITY NOTEBOOK:

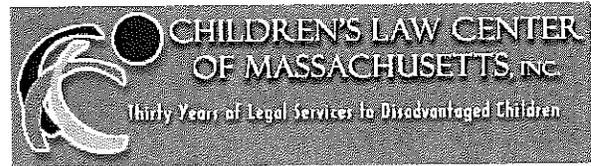
Education Edition

Youth Advocacy Department and
The Children's Law Center of Massachusetts

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Ed Law PROJECT



Juvenile Indigent Defense
ActionNetwork A Project of Model for Change



Committee for Public Counsel Services

TO THE READER

Fall 2010

Dear Parent, Teacher, Mentor, Youth Worker, and Child Advocate,

The “School to Prison Pipeline” sucks in thousands of young children each year and spits out just as many adults who spend their lives in and out of prison, drug programs, and homeless shelters, and are unable to provide for themselves. School failure robs individuals of the opportunity to lead fulfilling lives and deprives society of productive, taxpaying citizens. The EdLaw Project, a partnership between the Youth Advocacy Department and the Children’s Law Center of Massachusetts, has put together this Education Community Notebook because we believe that with even a little support, thousands of children can be diverted from this pathway.

Children need thoughtful advocates to help them access the educational resources they need to thrive. This Notebook offers an in-depth overview of the key elements of the Commonwealth’s complex education system—from academic and testing standards to discipline guidelines. To support your advocacy efforts, we have included advocacy tips throughout the Notebook to highlight areas where your advocacy can mean the difference between school failure and academic engagement.

School failure is often ignored until a child presents problems with behavior and/or truancy, but the vast majority of behavior and truancy issues can be traced back to a lack of academic achievement. For the most part, kids who are performing well academically will behave well in the classroom, regardless of problems in the home or neighborhood. Poor children, especially children of color, are the most likely to have unmet educational needs. Academic failure is usually detectable early in the child’s academic career. Early intervention is almost always the cheapest and most effective strategy.

To make matters worse, many schools respond to behavior and truancy problems with harsh and knee jerk discipline practices and/or court referrals. While those are sometimes necessary, disciplinary approaches that push kids out of school and fail to address the underlying educational or psychosocial issues are ineffective and costly. Worse, they often exacerbate the behavior problems, lead to more time out of school, contribute to continued school failure, and dramatically increase the likelihood of life-long court involvement and incarceration.

We hope you find this Education Community Notebook to be a useful tool for helping children achieve greater academic, life, and legal success. If you have any questions about the Notebook or education advocacy, please feel free to contact The EdLaw Project in Roxbury at 617-989-8100 or by email at mspanjaard@publiccounsel.net or the Children’s Law Center in Lynn at 781-581-1977.

Marlies Spanjaard, JD, MSW
Coordinator, The EdLaw Project

THE ELEMENTS OF MASSACHUSETTS SECONDARY EDUCATION

MASSACHUSETTS CURRICULUM FRAMEWORKS AND MCAS

All youth need to experience academic success. Many court-involved youth have been effectively denied an appropriate education from an early age. Good advocates need to understand the policies that define a quality education in Massachusetts. A quality education includes equal access to an enriched curriculum, effective teaching methods delivered by highly qualified instructors, and the presence of engaged, informed parents or guardians in order to stimulate students. Additionally, effective school systems must recognize the needs of the individual learner by affording a student every opportunity to meet grade promotion and graduation standards. The Massachusetts Education Reform Act of 1993 instituted sweeping reform, two provisions of which detail statewide curriculum standards and strict measures of student proficiency: the Massachusetts Curriculum Frameworks and the Massachusetts Comprehensive Assessment System (MCAS).

MASSACHUSETTS CURRICULUM FRAMEWORKS

The Massachusetts Curriculum Frameworks are statewide standards that identify what students should know and be able to do in each content area at each grade level. The Curriculum Frameworks include standards for arts, English language arts, foreign languages, comprehensive health, mathematics, history and social science, science and technology/engineering, English Language Proficiency (LEP), and vocational technical education for each grade level. Local districts use the state curriculum frameworks to develop more specific curricula for their students.

View the current frameworks at www.doe.mass.edu/frameworks/current.html

MASSACHUSETTS COMPREHENSIVE ASSESSMENT SYSTEM

Massachusetts is one of many states that uses “high stakes” testing to make critical decisions about a student, such as high school graduation and grade promotion. In Massachusetts, that test is the Massachusetts Comprehensive Assessment System. The MCAS has been criticized for many reasons including punishing students for the system’s failures to teach them what they need to know to pass; creating a “teaching to the test” environment; punishing students who do not test well; as well as increasing grade retention and dropout rates. Understanding MCAS, however, is essential for developing a complete picture of your client’s academic situation.

WHAT IS MCAS?

The MCAS is a performance-measuring test administered to every student enrolled in a Massachusetts public school from the third to tenth grades. Based on the Massachusetts Curriculum Frameworks, the assessment tests a variety of subjects including English language arts, mathematics, science and technology/engineering, history, and social science. Individually, results help determine whether students are meeting the learning standards set by the state and can be used to identify those who may need additional support services or remediation. The assessment is a major element used in reporting the strengths and weaknesses in the curriculum of Massachusetts schools and districts. The Massachusetts Department of Elementary and Secondary Education (DESE) uses MCAS results to report on the Adequate Yearly Progress (AYP) of schools and districts in accordance with the federal No Child Left Behind Act (p. 9).

All students being educated through public funding are required to take the MCAS, including public school students, students with Limited English Proficiency, students with disabilities, and students in the custody of the Department of Children and Families and the Department of Youth Services. In addition, students who are receiving a publicly funded education in public charter schools, educational collaboratives, private schools, or institutional settings are required to take the exam. However, homeschooled students are neither required to take the MCAS nor have a right to take the exam. Students required to take the MCAS may use one of the following formats:

- Routine (standard) MCAS testing;
- MCAS testing using one or more test accommodation(s); or
- MCAS Alternate Assessment (p. 4)

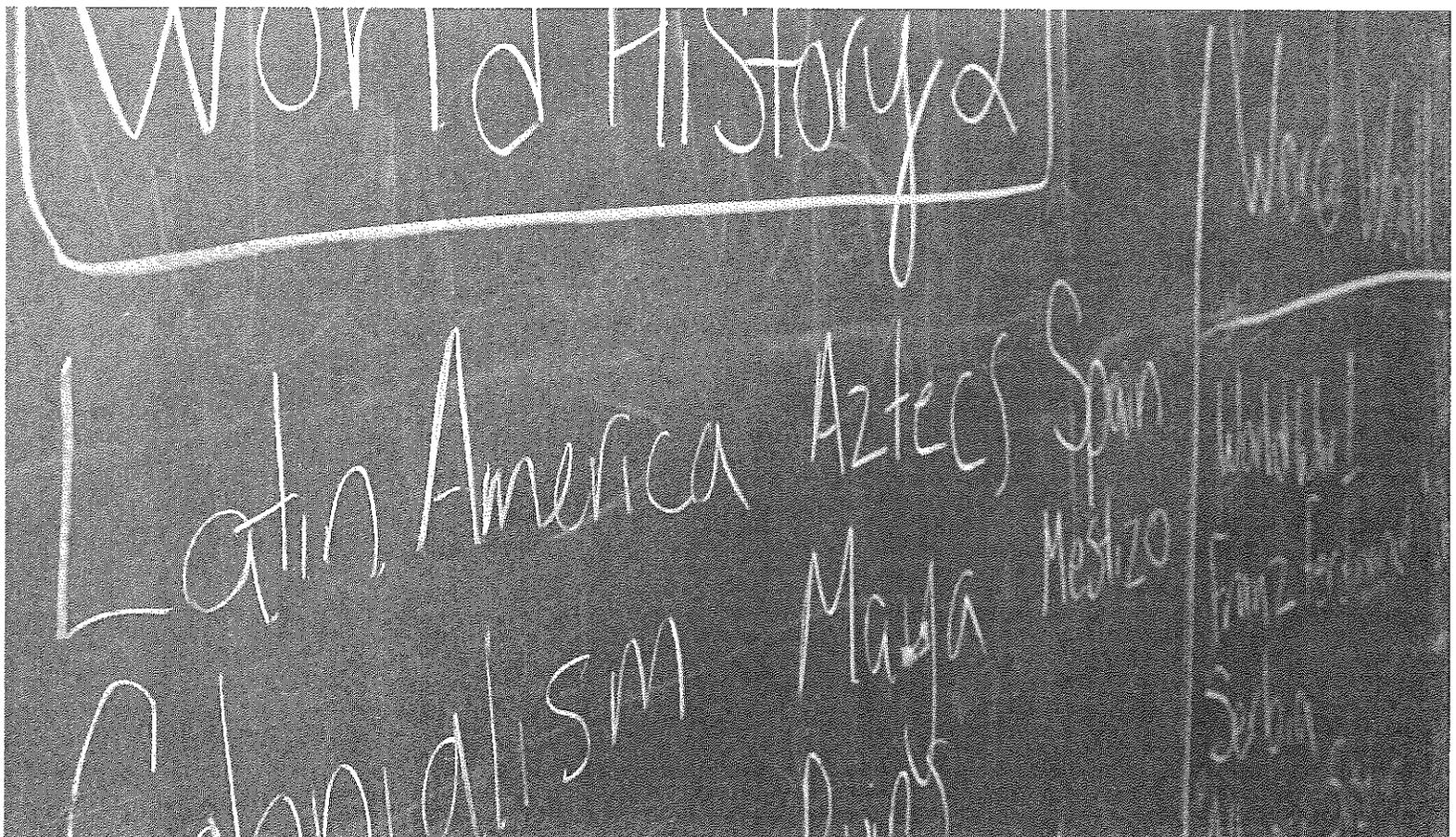
STUDENTS WITH DISABILITIES

A student's special education team is responsible for determining how the student will participate in the MCAS exam. Accommodations may include changing the timing or scheduling of the test, the setting of the test, presentation of the test, and how the student responds to the test. Certain students may be found eligible for the MCAS Alternate Assessment. Any accommodations should be documented in the Individualized Education Plan or in the 504 plan (p. 18).

ADVOCACY TIP
MONITORING STUDENT PROGRESS

For students with special needs, ensure that MCAS accommodations are documented and the student is made explicitly aware of them.

For specific standard and non-standard MCAS accommodations for students with disabilities, visit www.doe.mass.edu/mcas/participation/sped.doc



MCAS ALTERNATE ASSESSMENT

A small number of students with significant disabilities who are unable to take the standard MCAS tests, even with accommodations, participate in the MCAS Alternate Assessment (MCAS-Alt) as determined by his or her Special Education Team. The MCAS-Alt is a review of a portfolio, compiled by the teacher, of specific materials based on the Curriculum Frameworks that demonstrates the skills and knowledge of the student. The portfolio may include work samples, instructional data, videotapes, previous work and assessments, and other supporting information. A student must earn a score of Needs Improvement or higher on the MCAS-Alt to achieve the state competency determination necessary to obtain a diploma.

STUDENTS WITH LIMITED ENGLISH PROFICIENCY

With the exception of students who are in the first year of enrollment in a public school, students with Limited English Proficiency are required to take all the MCAS tests scheduled for their grade. The Massachusetts DESE defines a Limited English Proficiency student as “a student whose first language is a language other than English and who is unable to perform ordinary classwork in English.” LEP students in the first year are not required to take ELA or reading tests scheduled for their grade, but a school has the option of assessing the student in ELA and history and social science. Current or former LEP students are permitted to use approved bilingual word-to-word dictionaries on any MCAS test.

Tenth grade Spanish-speaking LEP students who have been in the United States for fewer than three years may receive additional accommodations. If the student can read and write at or near grade level in Spanish, he or she may be able to take the mathematics MCAS using an English/Spanish version. Students may write answers in English or Spanish. All students must take the English Language Arts tests in English.

In addition to participating in MCAS, LEP students must annually take the Massachusetts English Proficiency Assessment (MEPA) tests in reading, writing, speaking, and listening. Information on the MEPA is available at www.doe.mass.edu/mcas/mepa.

For specific standard and non-standard MCAS accommodations for LEP students, visit
www.doe.mass.edu/mcas/participation/lep.doc

COMPETENCY CRITERIA

All students must meet the Competency Determination requirement on the MCAS in order to receive a high school diploma. In order to meet the Competency Determination graduation requirement students must meet the following criteria:

- Earn a scaled score of at least 240 on the grade ten English language arts and mathematics tests

OR

- Earn a scaled score between 220 and 238 on these tests AND fulfill the requirements of an Educational Proficiency Plan (EPP)

AND

- Earn a scaled score of at least 220 on one of the high school MCAS Science and Technology/Engineering (STE) tests: Biology, Chemistry, Introductory Physics, or Technology/Engineering

SCORING THE MCAS

Results are reported for individuals, schools, and districts with the following performance levels:

MCAS

Exit



Advanced (grades 4-10): Demonstrates a comprehensive and in-depth understanding of rigorous subject matter, and provides sophisticated solutions to complex problems

Above Proficient (grade 3): Demonstrates mastery of challenging subject matter and constructs solutions to challenging problems

Proficient (grades 3-10): Demonstrates a solid understanding of challenging subject matter and solves a wide variety of problems

Needs Improvement (grades 3-10): Demonstrates a partial understanding of subject matter and solves some simple problems

Warning (grade 3) / Failing (grades 4-10): Demonstrates a minimal understanding of subject matter and does not solve simple problems

EDUCATIONAL PROFICIENCY PLANS

An Educational Proficiency Plan, or EPP, is a planning tool developed for students who did not score at least a 240, or “Proficient,” on the mathematics and/or English language arts MCAS grade ten tests or retests. An EPP consists of three elements:

- A review of a student’s strengths and weaknesses based on MCAS scores, coursework, and teacher/ advisor input
- A list of the courses the student must successfully complete in grades 11 and 12 in the relevant content area
- A description of the assessment the school will administer annually to determine the student’s progress toward proficiency in those areas

Students with EPPs must achieve the stipulations of the plan, in addition to scoring at least a 220 on the MCAS test in question, in order to receive a diploma.

MCAS APPEALS

The MCAS appeals process allows students to demonstrate through course work that they have met or exceeded the English Language Arts and/or mathematics proficiency standards on the grade ten MCAS tests, even though they have repeatedly been unable to pass the tests.

In order to be eligible for an MCAS appeal a student must meet the following criteria:

- Must have taken the grade ten MCAS at least three times, or submitted at least two MCAS-Alt Assessment portfolios in the subject area of the appeal;
- Must have maintained at least a 95% attendance level during the school year prior to *and* the year of the appeal (with possibility of justified exemption);

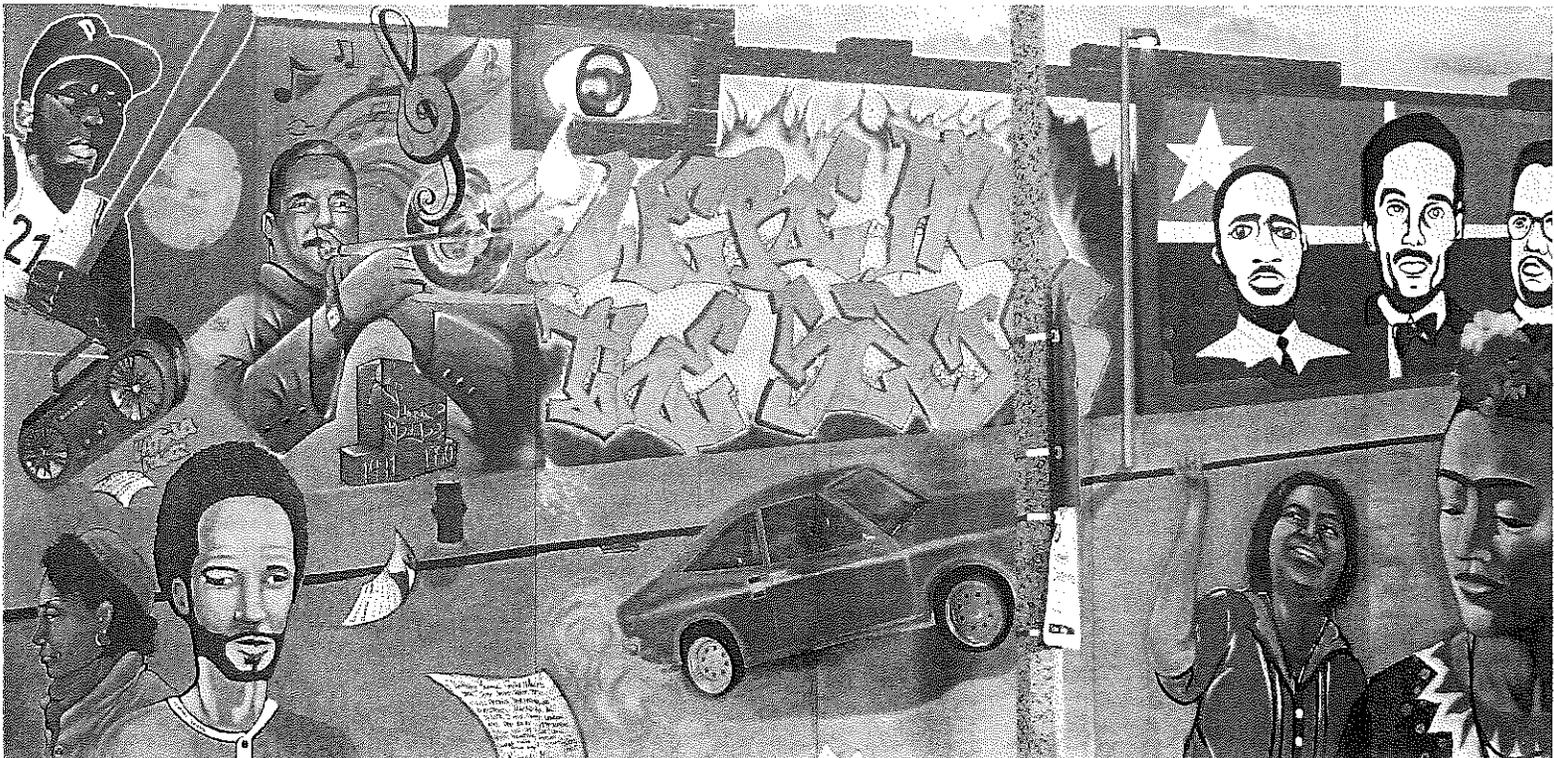
AND

- Must have satisfactorily participated in tutoring and other academic support services under an individual student success plan (ISSP).

ADVOCACY TIP APPEALING A DENIAL

If a superintendent refuses to file an MCAS appeal, the student's advocate should encourage the parents to appeal that decision to the school committee, and then to the Commissioner of the Department of Education.

The appeal must be filed by the Superintendent or a designee of the district in which the student is enrolled.



PATHWAYS TO GRADUATION

DIPLOMA

In Massachusetts, in order to earn a diploma from a public high school, a student must meet the state Competency Determination graduation requirement and meet all local district graduation requirements (p. 4). Competency Determination is met by earning a passing score on the tenth grade Massachusetts Comprehensive Assessment System (MCAS).

There are compelling reasons why students should complete high school and earn a diploma. According to Andy Sum, professor of economics and Director of the Center for Labor Market Studies at Northeastern University in Boston, the long term cost of not having a high school diploma includes lower employment over their working lives, considerably lower annual earnings, less access to employee benefits (including health insurance and pension coverage), and a significantly higher incidence of poverty. For society, losses include less real output, greater marital instability, lower federal, state, and local tax receipts, and much higher rates of incarceration in jails and prisons.

ADVOCACY TIP MONITORING STUDENT PROGRESS

Advocates should encourage students to pursue and obtain a high school diploma. With the exception of youth with significant disabilities, students should be on a high school diploma track.

CERTIFICATE OF ATTAINMENT

The Certificate of Attainment is a state-endorsed credential adopted by local school committees to promote access to educational, job training, and employment opportunities for students who have completed their high school program of study but have not passed the MCAS. Generally, to be eligible, students must have made a good faith effort to attain the standards on the MCAS English Language Arts and mathematics tests and must have completed all local graduation requirements, including attendance, course completion, and satisfactory grades.

There are options for those students wishing to earn a diploma who have fulfilled the local district requirements for obtaining a diploma but have not yet met the competency determination:

- Continue to take the MCAS retest even if the student does not attend high school
- Consider eligibility for MCAS performance appeals (p. 6)
- Request a special education team meeting to discuss further options for support (eligible special education students only)
- Explore school and community-based options for tutoring supports

ADVOCACY TIP CERTIFICATE OF ATTAINMENT

The Certificate of Attainment is not a diploma and does not grant a student the same opportunities as a diploma, such as access to many four-year colleges. Often students are unaware that they are not on track to receive a diploma. Therefore, it is critical to be informed of credit status and MCAS scores.

ABILITY TO BENEFIT TEST

Many post-secondary schools that accept applicants with a Certificate of Attainment will require that they demonstrate their “ability to benefit” (ATB) by passing an approved test to qualify for state and federal tuition aid. Though the specific content of these examinations can vary from one institution to another, they generally include reading comprehension, sentence skills, and arithmetic sections.

POLICIES THAT CAN IMPACT STUDENT PROGRESS

A student's road to graduation is multi-faceted, and in Massachusetts there are many policies designed to evaluate and guide his or her progress. Understanding the breadth and depth of a student's full academic profile is an essential advocacy tool. Specific policies can vary between schools and districts and are found in a school district's handbook. Generally, student handbooks can be found on the website of the local school district, and it is a good idea to be familiar with the policies in your district. Below are the most common policies that effect a student's academic progress.

- Promotion policies
 - ◆ Retention
 - ◆ Social promotion
 - ◆ Grading
 - ◆ Academic warning notices
- Attendance policies
- District-specific learning standards (e.g., curriculum)
- District requirements for obtaining a diploma
 - ◆ Waivers for some course requirements
 - ◆ Alternatives for obtaining diploma
- District timetables for MCAS testing and retests
- Other district-wide benchmark standardized testing
- School transfers
- Opportunities for additional support services
 - ◆ Summer School requirements
 - ◆ Individual Student Success Plans (ISSP)
 - ◆ Tutoring

ADVOCACY TIP MONITORING STUDENT PROGRESS

Advocates should understand school requirements and request student records to ensure that students are on track to complete the local district requirements. Pay close attention to lab science and foreign language as these subjects can be difficult for those students to keep up with if held for extended periods of time in a DYS facility or hospital.

ALTERNATIVE SCHOOLS

It is important to find out about the "alternative" schools in your district. The word "alternative" can be used to describe many different school environments. Some alternative schools provide a viable option for meaningful education, while others are little more than warehouses for children who have been suspended or expelled, and other times still, the word is used to describe a therapeutic special education school placement. Parents and advocates should research the academic reputation of the schools in their district before agreeing to send children there.



OBTAINING STUDENT RECORDS

Requesting records is a vital first step in advocating on behalf of students. A review of these records can help a parent or advocate focus their support efforts. Obtaining student records can be done with written permission of the parent, guardian, or student (if over 18 years of age). At a minimum, be sure to ask for records of attendance, grades, standardized test scores, discipline records, special education records, and evaluations.

NO CHILD LEFT BEHIND ACT

STANDARDS, ACHIEVEMENT, AND ACCOUNTABILITY

The No Child Left Behind Act of 2001 (NCLB) is a federal law aimed at increasing the academic achievement of students nationwide and raising the bar for accountability in public schools. Responsibility for complying with NCLB is primarily left to state and local education agencies. While NCLB does not create individual claims of actions, the law does allow parents some important rights and options regarding the education of their children.

ADEQUATE YEARLY PROGRESS (AYP)

One of the main goals of NCLB is to assure that all students are “academically proficient” by the 2013-2014 school year. In order to achieve this goal, each school is required to meet Adequate Yearly Progress (AYP) as determined by participation rate and performance on a standardized test (in Massachusetts, the MCAS), an additional attendance or graduation requirement, and either the state's performance target or the group's own improvement target.

If a school fails to meet AYP two years in a row, the school is designated as being “in need of improvement” and must follow a required course of action to improve performance. A school or district's “Accountability Status” dictates that course of action.

LEVELS OF ACCOUNTABILITY STATUS

IMPROVEMENT — If a school is not making progress after one year of “in need of improvement” then the school must allow parents of low-income students to obtain additional services from outside providers to supplement their schoolwork. These are called Supplemental Educational Services.

Visit www.doe.mass.edu/ses for a full state listing of approved educational service providers.

CORRECTIVE ACTION — If a school is not making progress after two years of being “in need of improvement” then, in addition to the above, the school may need to take additional corrective actions which may include staff replacement, curriculum reform, extending the school day or year, or seeking outside expert advice.

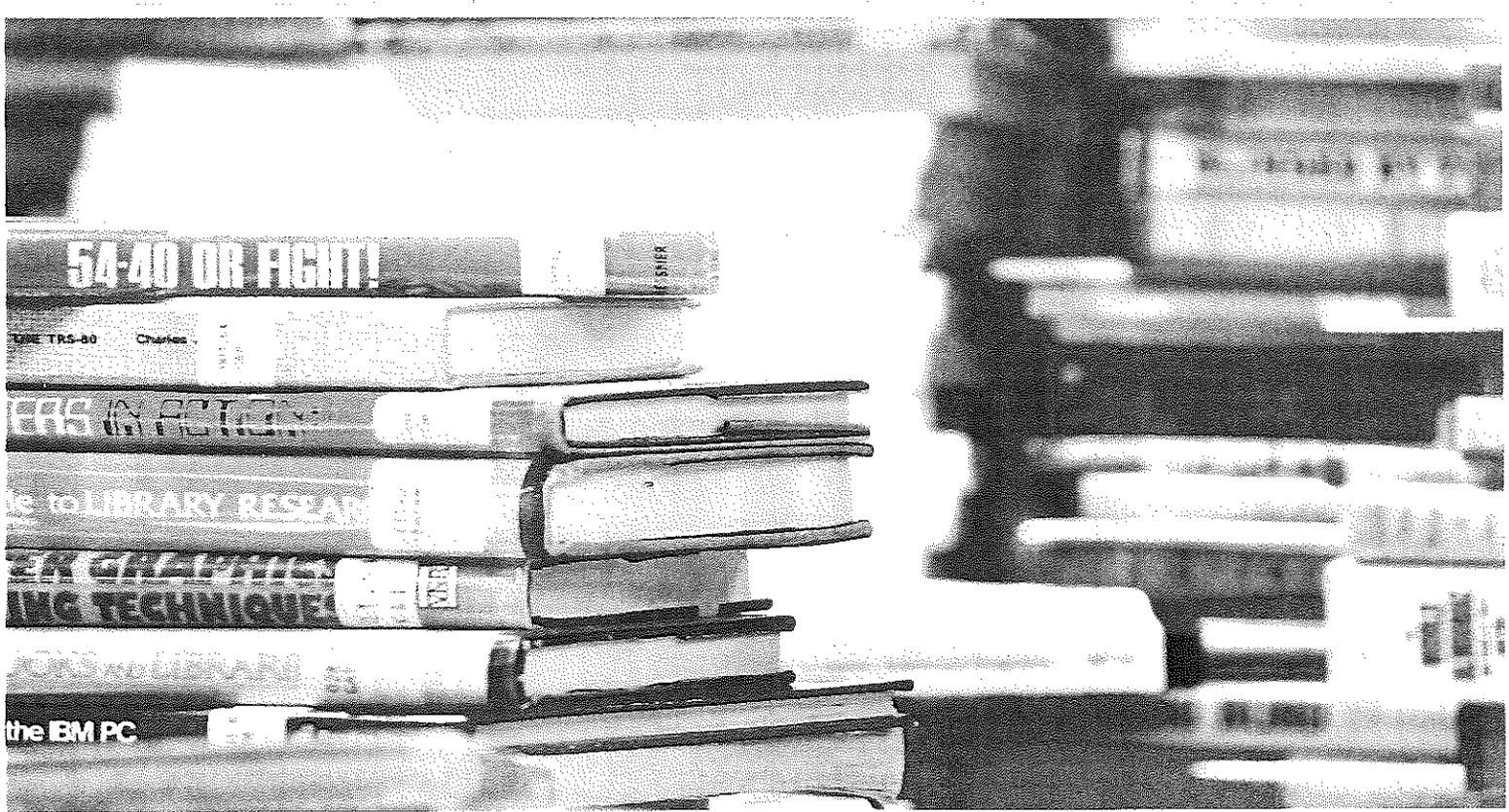
RESTRUCTURING — If the school is not making progress after three years of being “in need of improvement” the school is required to restructure. In the restructuring period, the school will still fund Supplemental Education Services and allow transfers, but additionally, it will be required to make plans for alternate governance. Restructuring can include reopening as a charter school, replacing staff relevant to the failure of achieving AYP, seeking outside management, or submitting to a state take-over.

To view past AYPs for Massachusetts, visit www.doe.mass.edu/sda/ayp

ADVOCACY TIP

REQUESTING A TRANSFER UNDER NCLB

A student attending a school with an “In Need of Improvement” status may transfer to any school in the city that is not designated as “in need of improvement” as long as there are openings in that school. A transfer can be requested at any of the Family Resources Centers in your city. It is important to remember that just because a school is not listed as “in need of improvement,” it may still be struggling. It is important to research and visit available schools prior to requesting a transfer.



Status designations of Improvement, Corrective Action, and Restructuring require schools to do the following:

- Develop and implement a school improvement plan to be developed jointly with parents
- Receive technical assistance from the district and/or state
- Provide students with options to transfer and be transported to another school that is making progress

UNSAFE SCHOOLS

Schools are required to notify parents if the school has been identified as an unsafe school. For a school to be designated as "persistently dangerous," a school must meet either of the following criteria for three consecutive years beginning with the most recent enrollment data available to the Department of Elementary and Secondary Education as well as the prior two years:

- One or more students have been expelled for violation of the Federal Gun-Free Schools Act
- The number of students who have been permanently excluded or expelled from school for a period greater than 45 days under state law for weapons or physical assaults or for violent crimes exceeds 1.5% of the student enrollment based on yearly enrollment data submitted to the DESE.

Under NCLB's "unsafe schools" option, a parents may transfer a child to a safe school if the current school is identified as "persistently dangerous" or if the child is a victim of a violent crime at school. An individual student who is a victim of a violent criminal offense which takes place at school (includes the premises, on buses, or at school-sponsored event) must, to the extent feasible, be allowed to transfer immediately to another public school within the school district.

TITLE I

Title I of the No Child Left Behind Act of 2001 provides federal funding to eligible schools to develop educational programs that enable low-income students to achieve the proficiency goals outlined by NCLB. Schools qualify based on demonstrating that the K-12, ages 5-17, membership has a sufficiently high percentage of economically disadvantaged students. Title I regulations require school districts to provide services to all schools where at least 75% of students qualify for free or reduced price meals. Schools and districts funded by Title I must develop a comprehensive plan outlining each program, plainly referencing its intended implementations and results, with garnered support from parents, teachers, and administrators alike. Outlined below are four important elements schools must provide in conjunction with school-wide programs.

SCHOOL AND DISTRICT REPORT CARDS

Report cards must specifically state AYP designation of school and must include the following:

- **Assessment Information**—Comparing districts, grades, and subjects by MCAS performance level versus Massachusetts performance targets
- **Accountability Data**—Includes student attendance, Competency Determination rates, AYP history, and Accountability Status for each school and district
- **Teacher Quality Data**—Number of teachers in core academic areas, percentage of core academic teachers identified as “highly qualified,” and student/teacher ratio

WHOLE SCHOOL IMPROVEMENT PLANS

The Whole School Improvement Plan (WSIP) is a detailed educational battle plan designed to guide teachers, inform parents, and state a plan to ensure a high promotion/graduation rate. The WSIP includes the following:

- Instructional goals and strategies (including educational reform, if necessary)
- An analysis of past student testing performance
- Notes on parental inclusion
- Professional development plan for all teachers
- Strategies to help struggling students

SUPPLEMENTAL EDUCATIONAL SERVICES

If a school is not making AYP after three years, low-income students can receive Supplemental Educational Services (SES) approved by the Department of Education and provided outside the regular school day.

NOTE: It is up to the parent to complete the paperwork to have services started.

PARENT INVOLVEMENT AND THE HOME/SCHOOL COMPACT

Individual schools and districts must facilitate parental involvement in developing a written “Parent Involvement Policy” covering three areas:

- Describe the school’s responsibility to provide quality curriculum and instruction to the students
- Describe how parents are responsible for supporting their student’s learning
- Address the importance of communication between teachers and parents

SPECIAL EDUCATION

RIGHTS, ELIGIBILITY, AND IMPLEMENTATION

The Individuals with Disabilities Education Act (IDEA) of 2004 is the federal law ensuring services to students with disabilities. IDEA provides eligible students from ages three to 22 a free and appropriate public education. Assistance may include consultative or psychological services, transportation, speech or occupational therapy, and are provided at no cost to the student. Similar state protections are provided under Massachusetts General Law Chapter 71B. Associated federal regulations are at 34 C.F.R. 300 and 201, and state regulations are at 603 C.M.R. 28.00.

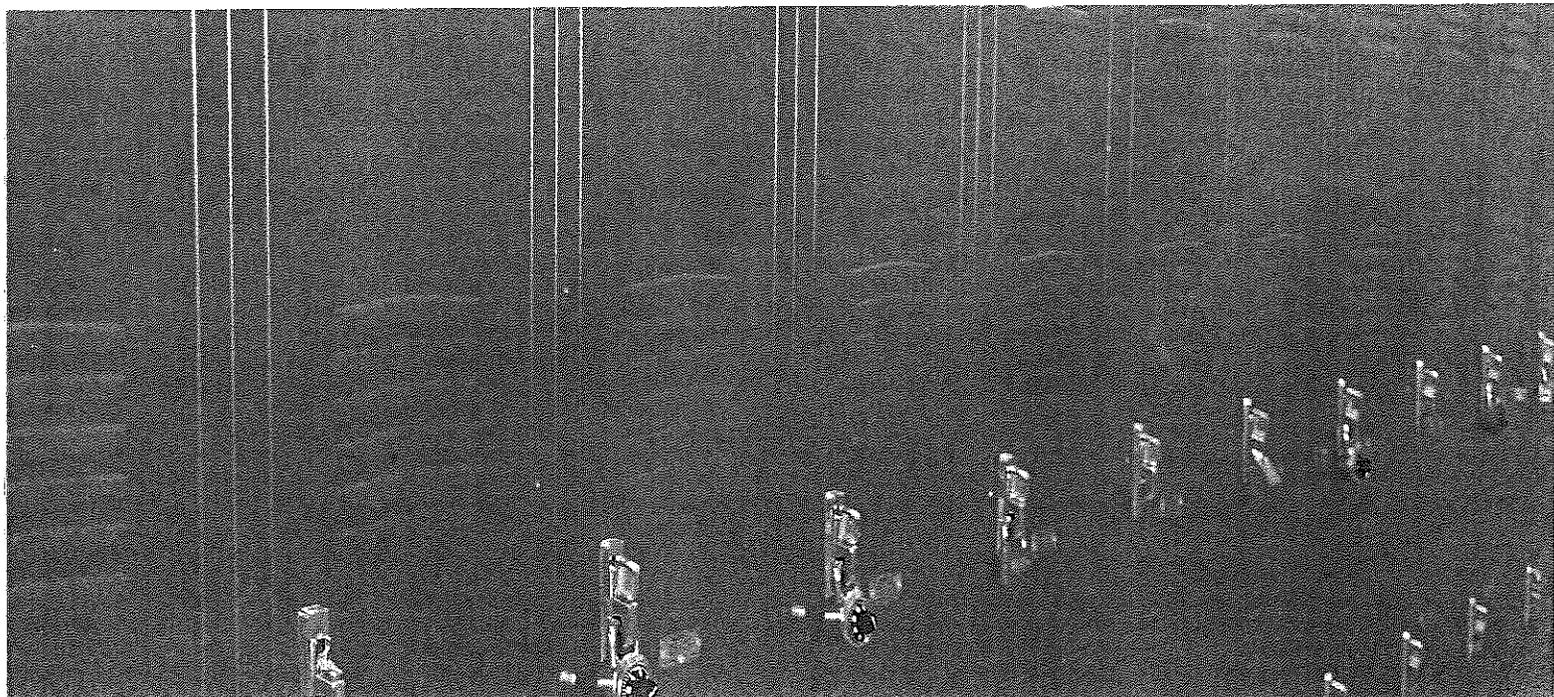
In Massachusetts, over eighty percent of the children involved in the busiest courts have unmet educational needs and nearly ninety percent have school discipline problems (Citizens for Juvenile Justice, *Special Education Reform*). Often behavior issues result from unmet educational needs. Identifying children who may be eligible for special education services based on their early school career is one more way to ensure their success.

Parents, youth serving professionals, and advocates need to be zealous in pushing for appropriate services at the first sign of academic difficulties. Special education services can be very expensive and school districts often have limited resources. Detecting and addressing educational needs early can reverse academic failure, reduce the need for future arduous interventions and ultimately bring a halt to a youth's progression through the school-to-prison pipeline.

EVALUATION

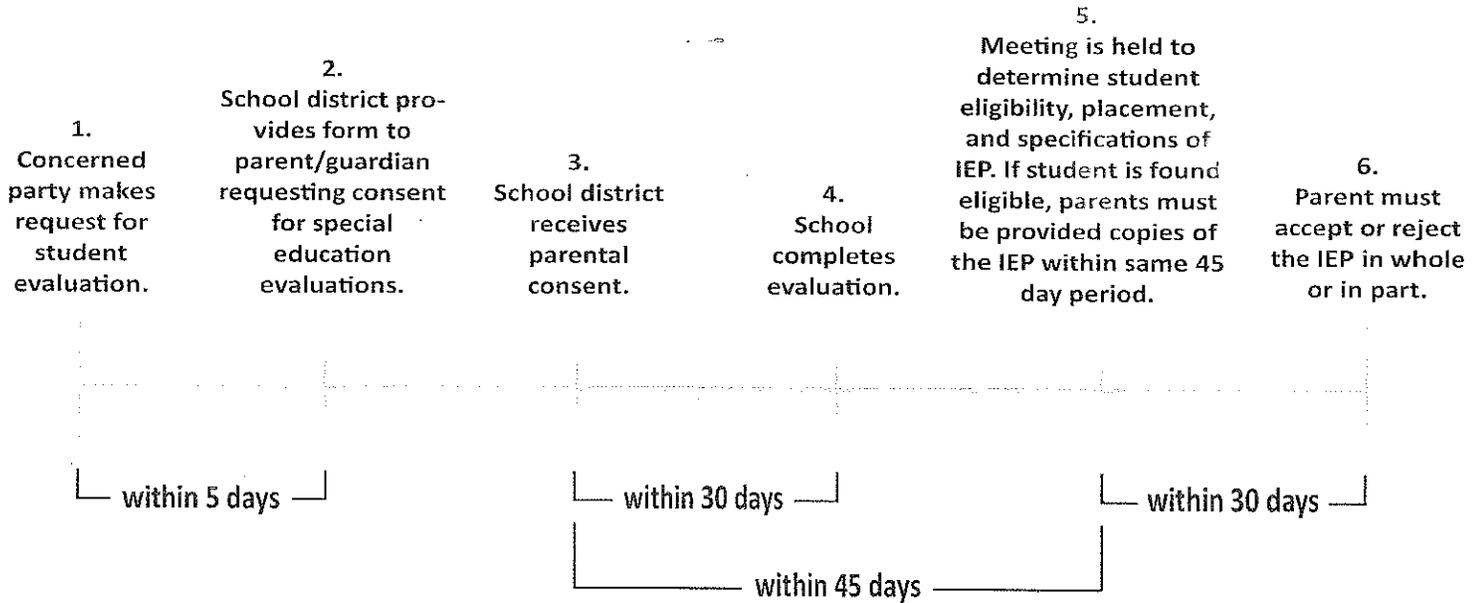
In order for a student to be evaluated for special education services, a parent, caregiver or youth-serving professional needs to request an evaluation referral. The request should be in writing, signed and dated, and copies should be retained by the parent. A student with these issues might benefit from an evaluation to determine whether he or she is eligible for special education or related services due to:

- a medical condition relating to the student's physical, mental, or emotional health/development that may affect his or her ability to progress in school
- failure to make progress in school
- a history of behavioral issues and/or frequent disciplinary action



Special Education Timeline

Obtaining special services for an eligible student requires the cooperative involvement of both the school and parent/guardian. The initial request for an evaluation made by a concerned party (e.g., a parent, teacher, mentor, etc.) should be made in writing to the school. Once the school receives consent for an evaluation, the following timeline is set in motion.



THE TEAM

The Team is responsible for determining whether the student is eligible for special education services. IDEA requires that a Team include the following individuals, each with an equal voice:

- The parent(s) or guardian of the student
- The student (if he or she is 14 years of age or older)
- At least one regular education teacher
- At least one special education teacher/provider
- An individual who can interpret the instructional implications of evaluation results
- A representative from the district who:
 - a. is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of individuals with special education needs
 - b. is knowledgeable about the general education curriculum
 - c. is knowledgeable about the availability of resources of the local educational agency

ADVOCACY TIP
ATTENDING A TEAM MEETING

Team meetings can often be overwhelming to parents. Though they are an equal member of the education team they can feel overruled by school staff when considering services for the student. Advocates can attend meetings to provide support to parents and express their opinions regarding services.

TAKE NOTE

INTERPRETOR SERVICES

A school district is required to provide an interpreter at every Team meeting for non-English speaking parents and/or students. Additionally, all written documents, such as the IEP and evaluations, must also be translated. If a parent cannot read or write, or is visually or hearing impaired, the school must accommodate to those specific needs.

At the initial Team meeting, the team leader facilitates the members of the Team to complete the following agenda items:

- Discuss concerns about the student
- Review the results of all evaluations and provide the parent/guardian with written reports of these results (if requested, parents can get copies of these reports at least two days prior to the team meeting)
- Determine whether, based on these results, the student has a qualifying disability
- Determine the student's eligibility to receive special education and/or related services including quantity of services, type of accommodations, appropriate placement, and program location

To find a child eligible for special education services, the Team must find that the child meets the following criteria:

- Has a qualifying disability (i.e., mental retardation, hearing impairment, speech or language impairment, visual impairment, emotional disturbance, orthopedic impairment, autism, traumatic brain injury, specific learning disability, or other health impairment)
- Is failing to progress in the general curriculum as a result of the disability
- Requires specialized instruction and related services in order to make progress in the general curriculum

ADVOCACY TIP

OUT-OF-SCHOOL

PROVIDER RECOMMENDATIONS

Families working with outside providers, such as therapists, social workers, or youth workers should encourage them to come to the Team meeting to provide their support and information to the Team. If out-of-school providers are not able to attend Team meetings, parents should request written recommendations from them to present to the Team.

Special Education Service Continuum

Pull Out Services

Services administered to students outside the regular classroom, such as: counseling, speech and language therapy, or occupational/physical therapy.

Separate Classrooms

Specialized instruction for all academic areas in a classroom of no more than 12 students. Common classrooms include those focused on learning disabilities or behavioral problems.

Residential School

Privately run schools for the most disabled students who require 24-hour support in addition to specialized instruction and support in co-curricular areas.

Resource Room

Specialized instruction in one or more academic areas in a classroom of no more than 12 students, most commonly for English or math.

Day School

School specifically focused on children with disabilities who need special support in all academic and co-curricular areas. These schools can be private or public.

THE INDIVIDUALIZED EDUCATION PLAN (IEP)

If the student is found eligible for special education services, the Team will develop the Individualized Education Plan (IEP). Development of the IEP occurs at the initial eligibility determination meeting. Changes to the IEP can occur at any team meeting including mandated annual reviews, three year evaluation meetings, or any other time the team meets in its official capacity.

An Individualized Education Plan must include the following components:

- The student's placement
- The student's program location
- The present levels of academic achievement
- Measurable annual goals
- All services and accommodations the school will provide

Different IEP services provide unique services. Some placements will provide students with specialized instruction within a regular classroom, some will be substantially separate from the regular classroom, and others will be in specialized schools that primarily serve students with disabilities. Regardless of the name or type of placement proposed, understanding how the services will be provided in the placement and by whom is key to understanding whether the placement and services are appropriate for an individual student.

It is important to ensure that a parent understands and agrees with the type of setting and services that the school district is proposing to provide to the student. A parent should visit the proposed placement before agreeing to fully accept an IEP.

As soon as the school district has received the signed IEP, it is required to immediately implement all services and accommodations which have been accepted.

TAKE NOTE STUDENT INCLUSION

Under IDEA's inclusion initiative, a student must be placed in the Least Restrictive Environment (LRE) that will allow the student to make effective progress. This means that, to the maximum extent appropriate, a student should be educated in a regular educational environment with children who do not have disabilities.

TAKE NOTE REJECTING AN IEP

Even if a parent accepts the IEP, it can later be rejected. A parent might choose to do this if, for example, the student does not seem to be making progress despite the services he or she is receiving. The parent can simply write a letter to the school withdrawing acceptance of the IEP stating the reasons why the IEP is being rejected in part or in full. When an IEP is rejected, the last agreed upon IEP stays in place until a new IEP is accepted. If a parent rejects an IEP they have previously accepted, the child's placement and services will remain the same until the dispute is settled.

REJECTING THE IEP, FULL OR IN PART

The parent/guardian decision maker may:

- request another Team meeting to discuss the reasons for rejecting the IEP
- request a hearing/mediation with the Bureau of Special Education Appeals (BSEA)

A student continues to receive any accepted services and placement until new services or placement is agreed upon.

INDEPENDENT EVALUATIONS

If dissatisfied with the school's evaluations, the parent may request an independent evaluation conducted by a qualified professional of the parent's choice. The request must be made within 16 months of the school's evaluations. The school district may be required to cover part or all of the cost of this evaluation, depending on a family's income level. However, publicly funded evaluations must meet state requirements for evaluator qualifications and follow set pay rates (603 CMR 28.04 (5)).

The testimony of the evaluator at a due process hearing may be necessary and families should take this into consideration when choosing an evaluator.

STUDENT FOUND INELIGIBLE FOR SERVICES

Parental consent should be requested and a reevaluation completed before a stoppage of any services. If a parent disagrees with the determination, the parent can appeal the decision to the Bureau of Special Education Appeals. Parents should ask for a written document stating the decision regarding ineligibility as well as the reasons why.

THE BUREAU OF SPECIAL EDUCATION APPEALS (BSEA)

The BSEA is an independent body and as of July, 1 2010 is a part of the Department of Administrative Law Appeals. It resolves disputes between school districts and students with disabilities regarding eligibility, evaluation, placement, IEP, provision of special education services pursuant to state and federal law, or procedural protections of state and federal law for students with disabilities.

A decision of the BSEA is a final agency decision. Generally, the decision of the BSEA shall be immediately implemented. However, the aggrieved party may file a complaint for review of the hearing officer's decision to state or federal district court. The review on appeal is governed by M.G.L. Chapter 30A, the Administrative Procedure Act.

A hearing at the BSEA is an administrative procedure before a hearing officer where a parent is not required to have an attorney. However, it is recommended that parents do seek counsel as school districts will almost always have an attorney.

ADVOCACY TIP INDEPENDENT EVALUATIONS

Families often do not know they have a right to request an independent evaluation or that the school district may be required to pay for it. Though independent evaluations can seem complicated because they are requested through the school, it is the parent's responsibility to find an evaluator with the appropriate qualifications. It may be helpful to check with the district's special education office, as many provide a list of previously approved evaluators.

TAKE NOTE HEARING REQUESTS

A school district cannot request a hearing to challenge a parent's failure or refusal to consent to an initial evaluation or initial placement of a student in a special education program.

A parent can request a hearing on any issue regarding the denial of a free appropriate public education pursuant to Section 504 of the Rehabilitation Act of 1973 and/or IDEA.

For BSEA hearing procedural rules visit www.doe.mass.edu/bsea/forms/hearing_rules.pdf

DISPUTE RESOLUTION OPTIONS

Facilitated Team Meeting: The parties to an IEP meeting can agree that the presence of a neutral third party would assist them in successfully drafting an IEP.

Mediation: A meeting can be facilitated by a neutral individual who is trained in special education law and in methods of negotiation. The mediator helps the parent and school district talk about their disagreement and reach an agreement that both sides can accept.

Due Process Hearing: These meetings are conducted by a hearing officer. At the hearing, each party has the opportunity to present evidence (through documents and the testimony of witnesses) to support its position. Also, the parties have the right to cross-examine witnesses and to submit rebuttal evidence. Hearing officers enter binding decisions.

SpedEx: Available after a hearing request has been filed. The process uses an independent, neutral education SpedEx consultant jointly agreed-upon by the family and school. The consultant assists parties to determine which program the child needs to ensure a free and appropriate public education in the least restrictive environment. The consultant's fee will be paid by the Department of Elementary and Secondary Education. Neither party is bound by the consultant's recommendations.

Advisory Opinion: Available to parties who have requested a due process hearing. Each party has one hour to give a presentation of its case to a hearing officer, after which the hearing officer issues a written, nonbinding opinion within an hour of the close of the presentations. Parties may agree to make the resulting opinion binding.

A full list of resolution options exists at www.doe.mass.edu/bsea/default.html

ANNUAL REVIEW MEETINGS AND THREE-YEAR REEVALUATIONS

A student's special education Team must meet at least once a year to discuss the student's progress, develop a new IEP, and consider the types of services, accommodations, and placement the student might benefit from. The parent must decide whether to accept, accept in part, or reject the new IEP. Although the Team must meet at least once a year, it can meet more frequently. A parent has the right to request a Team meeting at any time and the school district is required to accommodate a parent's request, within reason.

At least every three years, or earlier if warranted, a school must request parental consent to complete a reevaluation. All evaluations initially completed should be included in the reevaluation.

TRANSITION SERVICES

The Individuals with Disabilities Education Act requires that transition planning must occur as part of the IEP process beginning at age 14 (or younger if determined by the Team) to ensure the student's goals and vision are taken into account. This may include preparation for post-secondary education, employment, vocational training, independent living, and/or other community experiences. Massachusetts has a planning process, the Chapter 688 Referral, which identifies the potential need for services from adult human services agencies for students with significant disabilities. The referral is made two years before graduation or two years before turning 22 years of age. Unlike special education, there is no guarantee adult services will be provided.

ADVOCACY TIP FOLLOWING UP ON A MEETING REQUEST

Although a school must honor all requests for a Team meeting when called for by a parent, there is no mandated timeline they must follow. Advocates can support their clients in this situation by encouraging the parents to follow up about scheduling the meeting or following up with the school themselves.

AGE OF MAJORITY

In Massachusetts, when a student reaches 18 years of age he or she is deemed eligible to make decisions regarding his or her education, unless there has been a formal court action giving guardianship to another adult. A student can share this responsibility with or delegate it to another adult. A student and parent must be notified of all the rights and responsibilities of the age of majority at least one year before the student turns 18. Even after a student turns 18, a parent can still have access to a student's records and continues to have the right to receive written notices.

EDUCATIONAL DECISION MAKING RIGHTS

IDEA requires states to protect the rights of students entitled to special education services who are in the custody of a state agency or whose parent or guardian cannot be identified or located. An important aspect of protecting a student is knowing who has the educational decision making rights. In Massachusetts, the Special Education Surrogate Parent Program (SESPP) was created to fulfill this role and the Department of Elementary and Secondary Education makes the assignments upon application. A special education decision-maker must meet these criteria:

- Be over 18 years of age
- Have appropriate skills and knowledge to make the decisions for the student
- Not be an employee of a state agency involved in the care or education of the specific student
- Not have a conflicting interest in the student

It is important to be clear who has the decision-making rights of the child. Parents do not lose their right to be a child's decision maker because of inexperience or lack of knowledge. Log on to www.espprogram.org to read more on recruiting and training special education decision-makers in Massachusetts.

504 PLANS

Section 504 of the Rehabilitation Act of 1973 is designed to protect people from discrimination on the basis of a disability in programs and activities, both public and private, that receive federal money. Some students with disabilities are able to make progress in school without the need for specialized instruction and related services but require supportive services or accommodations in order to participate fully. Like IDEA, Section 504 mandates that a student receive a free appropriate public education. In 2008, Congress passed amendments to the Americans with Disabilities Act (ADA) which dramatically expanded eligibility of K-12 students under 504.

A student is eligible for protection under 504 if he or she meets one of the following requirements:

- Has a physical or mental impairment that substantially limits one or more major life activities (e.g., walking, thinking, concentrating, sleeping, eating, seeing, hearing, speaking, breathing, learning, reading, writing, performing math calculations, working, caring for oneself, and/or performing manual tasks)
- Has a record or records of such an impairment
- Is regarded as having such an impairment

A student is evaluated by the school in order to determine whether he or she is eligible for a 504 plan and to develop a plan if found eligible. In contrast with IDEA, the school is only required to notify the parent of the evaluation, but is not required to receive parental consent. However, it is recommended that schools seek consent.

See www.doe.mass.edu/sped/links/sec504.html for more information on 504 Plans.

HOMELESS STUDENTS

The McKinney-Vento Homeless Assistance Act is a federal law first enacted in 1987 to ensure educational rights and protections for homeless students. Historically, a homeless student would experience significant disruption of his or her education due to numerous school transfers. The act defines homeless students, outlines their rights, and requires that school districts assign a liaison to facilitate their enrollment in school. Liaisons are district staff members responsible for ensuring the identification, school enrollment, attendance, and opportunities for academic success of students in homeless situations. They serve as the point of contact at the district level for all issues regarding homeless students and as the coordinator for district compliance with McKinney-Vento. The homeless education liaison's primary responsibility is to reach out and find the homeless students in their district.

WHO IS HOMELESS?

Children and youth who “lack a fixed, regular, and adequate nighttime residence” are considered homeless for educational purposes. Students in these situations are considered homeless:

- “Doubled up”—sharing the housing of friends or relatives due to the loss of housing, economic hardship, or a similar reason
- Living in motels, hotels, trailer parks, or camping grounds because of the lack of alternative adequate accommodations
- Living in emergency or transitional shelters
- Abandoned in hospitals
- Awaiting foster care placement
- Have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings
- Living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings
- Migratory children who qualify as homeless because they are living in circumstances described above
- Unaccompanied youths—adolescents who are not in the physical custody of their parents

TAKE NOTE

UNDERSTANDING HOMELESSNESS

The definition of “homeless” is very broad and its manifestation is not always obvious. Contact the school district’s homeless liaison to see what can be done to help your client if he or she does qualify.

WHAT ARE THE RIGHTS OF HOMELESS STUDENTS?

- To maintain enrollment in their school of origin whenever feasible
 - ◆ The school of origin is either the school the student was attending prior to the loss of permanent housing or the last school the student attended
 - ◆ Homeless students also have the right to attend their local school—any public school that students living in the same attendance area have the right to attend
 - ◆ Homeless students should remain at the school of origin, unless it is against the wishes of the parent, guardian or student
 - ◆ Students are allowed to remain in their school of origin for the duration of their homelessness or if they secure permanent housing, the remainder of the school year
- To receive transportation between school and temporary living situation as needed
- To be immediately enrolled in school and permitted to attend class even if normally required documentation (i.e., immunization and proof of residency records) is missing
- To receive appropriate services such as special education services, preschool, and free or reduced lunch

DISCIPLINE

Zero tolerance policies push children out of school and hasten their entry into the juvenile and eventually the criminal justice system. Since the early 1990's, many school districts have adopted demonstrably ineffective responses to school code violations. The result has been a dramatic increase in the number of students suspended annually from school often for minor infractions. Additionally, there has been an increase in police presence in schools, as well as new laws that mandate referrals of students to law enforcement for school code violations.

While it may seem that removing students with behavioral issues is the "safe" thing to do, in fact the research shows that schools that suspend or expel at a lower rate have higher achievement and greater safety. Moreover, it is detrimental to students and communities for children to be unsupervised all day. Every day that a student spends out of school because of disciplinary action, means a day that he or she is not benefitting from educational instruction and another day that he or she will fall behind. Advocates need to do everything they can to keep kids in school and ensure that school systems provide appropriate services for them to succeed. Understanding the state laws regarding school discipline is critical for advocating for educational success for students. Below is an overview of the key Massachusetts laws pertaining to the discipline of public school students.

STATE LAW PROVISIONS

Massachusetts General Laws, chapter 76, section 17:

A school committee shall not permanently exclude a pupil from the public schools for alleged misconduct without first giving him or her and his or her parent or guardian an opportunity to be heard. The school committee is charged with determining the expulsion of a student in all circumstances other than those included in M.G.L. c. 71 sec. 37H and 37H1/2, which allows principals to determine expulsion or suspension in certain circumstances.

Each school district must develop its own code of discipline provisions that includes all standards and procedures for suspension, expulsion, and other disciplinary policies.

Massachusetts General Laws, chapter 71, section 37H:

- Every school district must publish a Code of Discipline or Code of Conduct.
- Students may be expelled by the principal for possessing a weapon or drugs at school or at school sponsored events, or for assaulting school staff.
- Students must receive written notification that they may have a disciplinary hearing before the principal. The notice must include the right to be represented by an attorney and the right to present evidence and witnesses.
- Students have the right to appeal a suspension or expulsion to the Superintendent if requested within ten days of receiving written notice of the decision to suspend or expel.
- Students have the right to be represented by an attorney at an appeal hearing.

TAKE NOTE

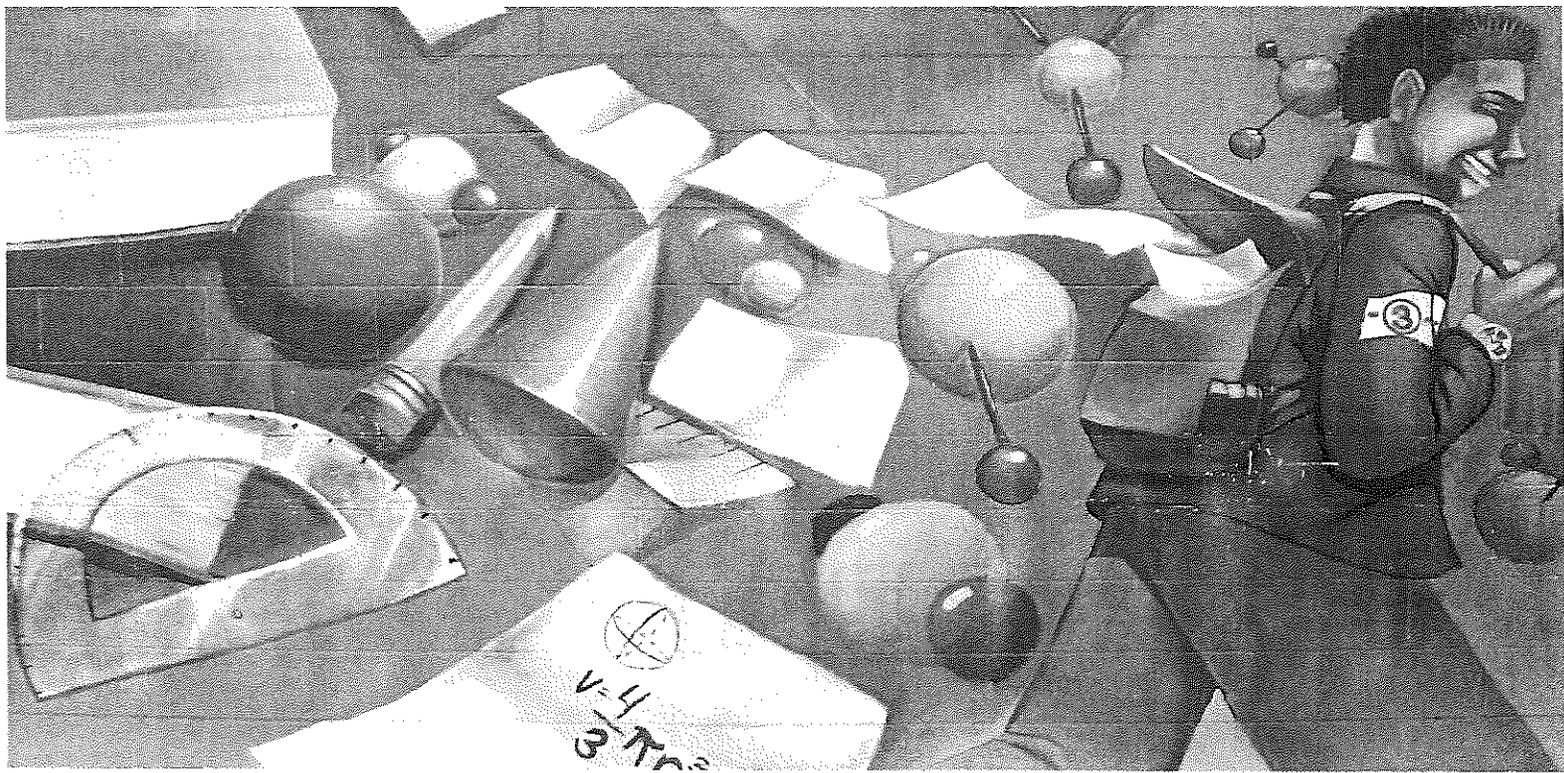
DISCIPLINE HEARINGS

Your advocates may be able to represent their clients at school hearings if they are related to the case. Contact Helen Fremont at hlfremont@publiccounsel.net.

TAKE NOTE

APPEALING A 37H EXPULSION

The student may appeal the decision to the superintendent and request a hearing within ten days from the date of receiving written notice of the expulsion.



Massachusetts General Laws, chapter 71, section 37H 1/2:

This law allows principals to impose the following disciplinary sanctions:

- Suspend a student charged with a felony or upon felony charge of issuance of felony delinquency complaint up to the resolution of those charges in court
- Expel a student if convicted of, upon adjudication of, or admission in court of guilt of a felony or felony delinquency

In order to discipline a student under this law, the principal must also determine that the student’s continued presence in school would have a substantially detrimental effect on the school’s general welfare.

TAKE NOTE

APPEALING A 37H 1/2 EXCLUSION

Students have the right to appeal the decision to the Superintendent if requested in writing within five calendar days of the decision. The appeal hearing must be held within three calendar days of the request. At the hearing, the student has the right to counsel and the right to present oral and written testimony. A decision must be rendered within five days. The dissatisfied party can file an action in state court.

DISTRICT AND SCHOOL-BASED DISCIPLINE POLICIES TO KNOW AND UNDERSTAND

Details of district and school discipline policies can generally be found in the school’s student handbook, available either online or in hard copy. Speaking with school administrators or guidance counselors to learn more about the policies may also be necessary. Pay close attention to the following policies:

- Hearing procedures
- The specific consequences for specific infractions
- Alternatives to suspension or expulsion
- Alternatives that the school is required to have tried prior to suspension or expulsion
- How students can make up missed school work
- Procedure for returning to school
- Providing interpreters to parents for whom English is not their first language
- What administrator can preside over the disciplinary hearing
- Appeal rights

ADVOCACY TIP

MONITORING STUDENT PROGRESS

Ensure that students are on track academically to complete the local district requirements, specifically in lab science and foreign language, which can be difficult for those held for extended periods of time in a DYS facility or hospital.

SUSPENSION AND EXPULSIONS

Each school district is responsible for defining suspension and expulsion and for delineating the behavior that can lead to each. In general, suspension is a short term exclusion from school. Expulsion usually indicates a long-term or permanent exclusion.

In Massachusetts, if a student is expelled, the school district is generally not obligated to provide educational services, with the exception of students with disabilities. However, some school districts have a policy of providing alternative education for students who have been expelled.

ADVOCACY TIP SUSPENSIONS/EXPULSIONS:

If you are working with a student who has been disciplined, understand the following district policies:

- Making up missed school work
- Making up missed standardized tests (i.e. MCAS)
- Obtaining help with completing homework out of school
- Ensuring that the attendance record accurately reflects days out of school as disciplinary days and not absences
- Whether alternative education is provided to expelled students

CLERKS HEARING OR SCHOOL-BASED ARRESTS

Criminal charges or a delinquency complaint stemming from an incident occurring at school can be brought by the school or individuals, including school personnel, depending on the circumstances. Sometimes, this can result in a clerk magistrate's hearing to determine whether or not actual charges will be brought or whether a delinquency complaint will issue. A student may bring a lawyer to this proceeding, but the court is not required to appoint a lawyer if the student is indigent.

Unfortunately, our over-burdened courts have limited resources for helping kids succeed in school. Furthermore, a criminal record makes life success much more difficult. Attorneys and parents must fight to avoid delinquency or criminal charges and resist the temptation of an easy end to court involvement through a plea or other means.

DISCIPLINE OF STUDENTS WITH DISABILITIES

If a school is contemplating an expulsion or any exclusionary disciplinary action that would keep a special education student out of school for more than ten days, the student's special education team must hold a manifestation meeting. Students eligible for special education services have two important rights relevant to disciplinary processes:

- The right to "stay put" in his or her placement - A student may not be kept out of his or her placement as a result of a disciplinary sanction for more than ten cumulative days in one school year unless a manifestation determination review is held and the special education team determines that the student's behavior was not a manifestation of his or her disability.
- The right to continue to receive a free appropriate public education during any disciplinary period beyond ten days - special education students must still receive the educational services in his or her IEP during exclusions from school.

At the manifestation determination review, the special education team must answer two questions:

- Was the student's conduct caused by or directly related to his or her disability?
- Was the student's conduct the direct result of the school's failure to implement the IEP?

If the answer to either of these questions is yes, then the behavior is a manifestation of the disability and the school may not discipline the child for more than ten days. Instead, the school must conduct a Functional Behavioral Assessment and implement a Behavioral Intervention Plan or modify an existing plan in order to provide appropriate educational services. If the answer to both of these questions is no, then the behavior is not a manifestation of the disability and the student may be subject to discipline as a regular education student.

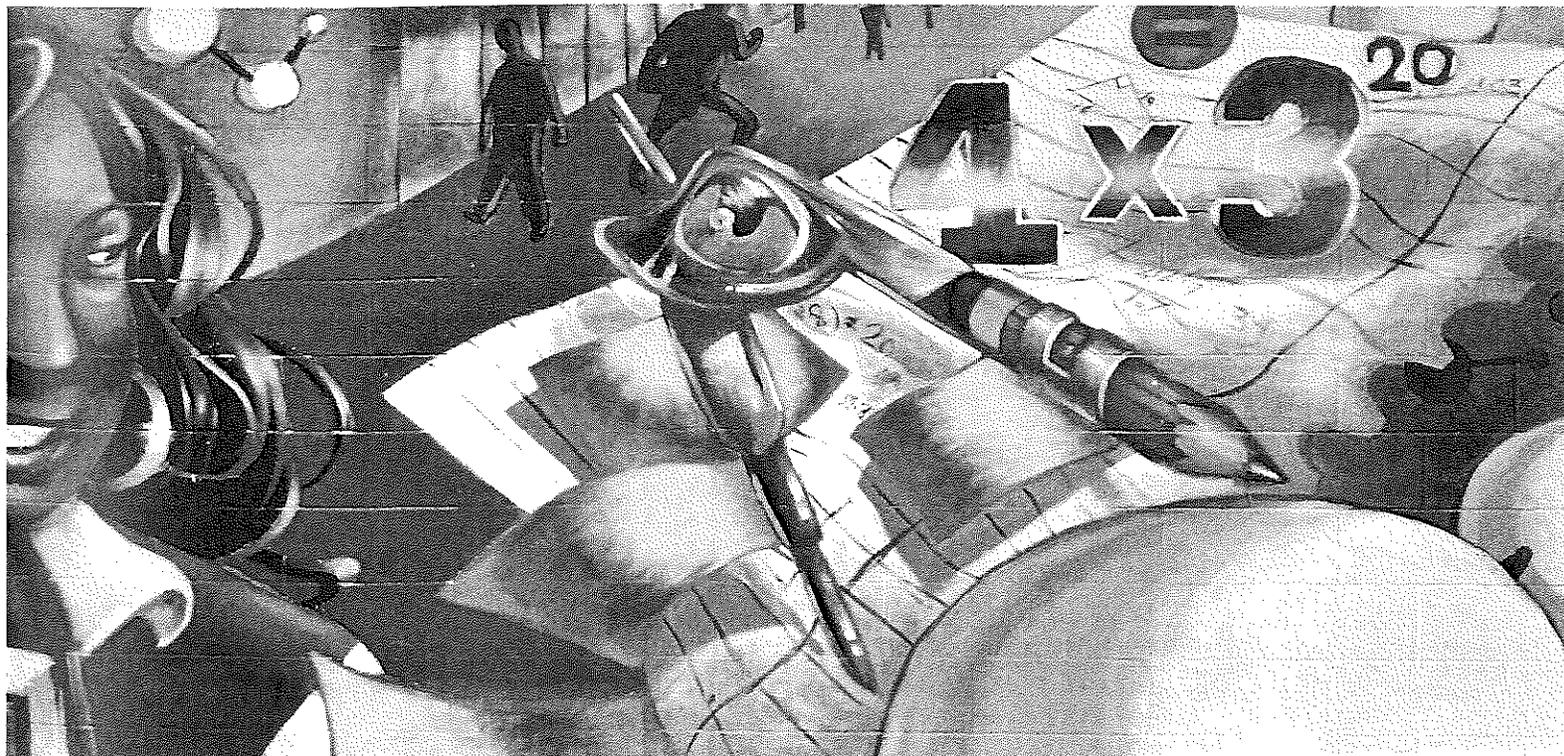
Students eligible for special education services can be moved to another school setting (Interim Alternative Education Setting) for up to 45 school days without a manifestation determination review **if** the incident leading to discipline can be categorized as one of the following situations:

- The possession of a weapon or possession or use of illegal drugs at school/school sponsored events; or
- The infliction of serious bodily injury upon another person while at school/school functions. Serious bodily injury means: substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily part or mental faculty.

Parents and school districts can otherwise agree to another placement.

A parent or other person with educational decision-making rights has the right to appeal the decision of the Team to the Bureau of Special Education Appeals (BSEA). During an appeal the student remains in a disciplinary placement or an interim alternative education setting until a decision is ordered or until the time period for placement expires. The hearing must be scheduled within 20 school days and a decision rendered within ten school days.

A school district may request a hearing at the BSEA to transfer a student to an Interim Alternative Education Setting for 45 school days if there is concern that keeping a student in his or her current special education placement is substantially likely to result in injury to that student or other students. A hearing must be scheduled within 20 school days and a decision rendered within ten school days of the hearing.



STUDENTS NOT YET ELIGIBLE FOR SPECIAL EDUCATION SERVICES

Students who have not been determined to be eligible for special education and related services and who have engaged in behavior that violates a school code of conduct may assert any protections provided for students already eligible if the school district "had knowledge" that the student may have a disability prior to the conduct.

The district "has knowledge" if one of the following situations exist:

- The teacher or other school personnel has expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education or to other supervisory personnel of the school district
- The parent has expressed concern in writing to supervisory or administrative personnel of the school district, or teacher, that the student is in need of special education and/or related services
- The parent has requested an evaluation of the child for possible special education needs

ADVOCACY TIP CALLING FOR AN EVALUATION

Parents may not realize they have a right to have their child evaluated for special education services. An advocate who notices that a client is performing poorly in school should discuss this option with the family and consider requesting an evaluation.

These protections do not apply if the parent has not allowed an evaluation or refused services, or if the student was evaluated and determined to be ineligible. If there is no basis of knowledge, the student is subject to disciplinary action as a regular education student who engaged in comparable behaviors.

If a request for an evaluation for special education needs is made during the period of disciplinary action, the evaluation should be expedited. If the student is found eligible for special education and/or related services, the services will be provided. Pending the evaluation, the student will remain in the placement determined by the school which can include a disciplinary placement.

EDUCATIONAL SERVICES IN INSTITUTIONAL SETTINGS

The Department of Elementary and Secondary Education provides certain special education services to students in certain facilities operated by or under contract with the Department of Mental Health, the Department of Youth Services, County Houses of Corrections, or the Department of Public Health. The Department retains the discretion to determine based upon resources, the type and amount of special education and related services that it provides in such facilities. Where a student's IEP requires a type or amount of service that the facility does not provide, the school district where the father, mother or legal guardian resides remains responsible to implement the student's IEP by arranging and paying for the provision of such services.

ADVOCACY TIP RIGHT TO EDUCATION

Many children in custody are not getting their full range of special education services. To assure that students are getting their services while in custody, parents and advocates should alert institutional staff as to the student's status as a student with special needs and provide them with the IEP if possible. Find out what services the institution will be providing and follow up with the sending school district to provide the additional services.

Local school districts also have responsibilities to students in institutional settings. Students in these settings remain the responsibility of the school district where the father, mother or legal guardian resides for referral, evaluation, and the provision of special education in accordance with state and federal law as students in public schools. The school district where the father, mother or legal guardian resides shall be responsible to coordinate with the Department of Elementary and Secondary Education to ensure that the student receives an evaluation, an annual review, and special education services as identified at a Team meeting convened by the parent's school district. A representative from DESE shall participate in Team meetings for students receiving special education services in an institutional setting.

ENGLISH LANGUAGE LEARNERS

In 2002, Massachusetts voters affirmed a ballot initiative requiring that public school students be taught all subjects (with limited exceptions) in English and be placed in English Language classrooms. As a result districts had to change the way they educated students who are English Language Learners (ELL). Districts can support ELL students through Sheltered English Instruction (SEI) classrooms, two-way bilingual classrooms, or English Language acquisition services.

First through twelfth grade students who are English Language Learners (ELL) *must* be placed in an SEI classroom. There are two exceptions to this rule: If the student is in a two-way bilingual program or granted a waiver. Kindergarteners may be placed in SEI classroom, a two-way bilingual classroom, or in the mainstream classroom with assistance in English language.

If a student assigned to an SEI classroom is performing well academically and can understand English instruction, he or she can transition into a mainstream classroom with services. If the student is not ready to enter a mainstream classroom after a year, the school will make a recommendation for what they think is best for the student. This might be another year in a SEI classroom or entering a two-way bilingual program. If the parent/guardian objects and wants to appeal the recommendation, they may do so. There is no “cap” or maximum number of years a student can remain in the SEI program. Many students will be placed into a SEI program for only a year, but they may stay in the SEI program for longer if needed.

A parent may seek a waiver granting them permission for their child to not be placed into an SEI program. This is granted when the principal and staff believe that an alternative course of education would be better suited for the student’s academic progress and acquisition of English. In order to be granted a waiver, the parent must apply annually by visiting their child’s school and providing written informed consent.

- Students under the age of ten are eligible to apply for a waiver only after 30 days in an SEI classroom. The waiver must be approved by the principal *and* the superintendent.
- Students over the age of ten are eligible to apply for a waiver without having spent any time in an SEI classroom. The waiver needs to be approved by the principal.

Once a student has been granted a waiver, he or she may continue to receive language support services as needed.

ELL DEFINITIONS

English Language Learner (ELL):

A child who does not speak English or whose native language is not English, and who is not currently able to perform ordinary classroom work in English. A student is considered ELL until she or he can meaningfully participate in a mainstream classroom without language supports.

Limited English Proficient (LEP):

Used interchangeably with *English Language Learner*.

Sheltered English Instruction (SEI):

Program where all the materials and teaching is done in English with a curriculum designed for students who are English Language Learners.

Two-way Bilingual classroom:

Classroom that provides instruction in English and a second language. Classrooms are composed of both native and non-native English speakers. Since instruction is in both languages, both groups of students become proficient in both languages.

A parent may decide to “opt-out” of the SEI program for their child even without the approval of school or district staff. To “opt out” of the program, districts may require parents to sign a consent form documenting their decision.

For more information about English Language Learner Education in Massachusetts, see

http://www.doe.mass.edu/ell/chapter71A_faq.pdf

ADVOCACY TIP

NATIVE LANGUAGE ACCOMMODATIONS

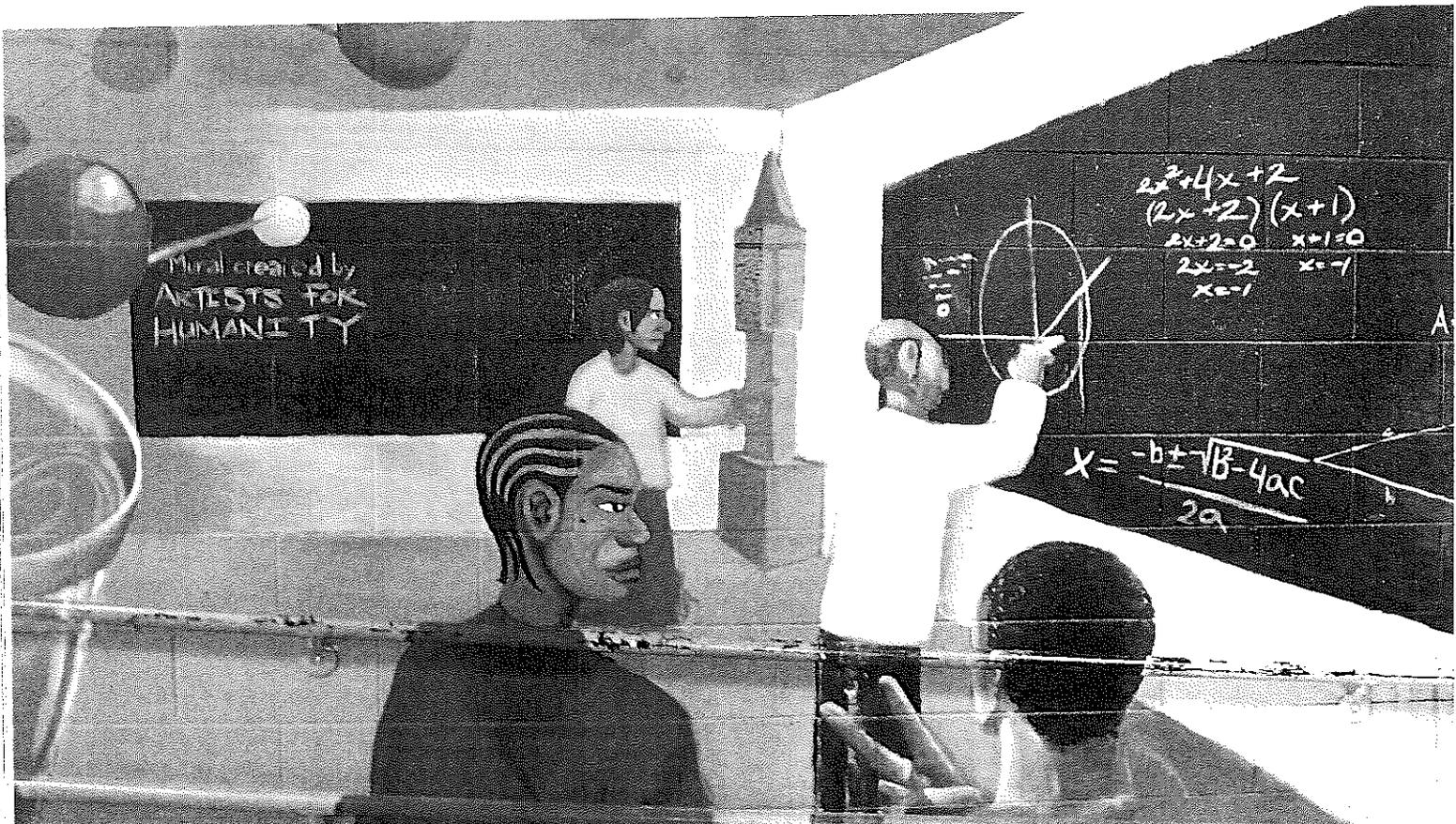
- Students should receive guidance and counseling in the student's primary language.
- School notices must be written in the primary language of the home (this includes disciplinary notices).
- Students and parents have a right to have an interpreter at disciplinary hearings as well as special education meetings.

TAKE NOTE

ASSESSMENTS FOR LEP STUDENTS

Federal and state laws require that LEP students be assessed annually to measure their proficiency in reading, writing, listening, and speaking English, as well as the progress they are making in learning English.

All student identified as LEP who attend Massachusetts public schools (grades K-12) are required to take the Massachusetts English Proficiency Assessment (MEPA) which measures reading and writing skills as well as the Massachusetts English Language Assessment-Oral (MELO) which measures listening and speaking skills.



ONLINE RESOURCES

MCAS

Massachusetts DOE Website for the MCAS
www.doe.mass.edu/mcas

Boston.com MCAS District/School Result Website
www.boston.com/news/education/k_12/mcas

NO CHILD LEFT BEHIND

U.S. Department of Education Website for NCLB
www.ed.gov/nclb/landing.jhtml

Massachusetts DOE Website for NCLB
www.doe.mass.edu/nclb

SPECIAL EDUCATION

Massachusetts Association of 766 Approved Private Schools
www.spedschools.com

Wrightslaw Website for Special Education Law
www.wrightslaw.com

U.S. Department of Education
Office of Special Education and Rehabilitative Services
www.ed.gov/about/offices/list/osers/osep/index.html

Massachusetts DOE Special Education Website
www.doe.mass.edu/sped

Massachusetts Trial Court Law Libraries
(for special education law)
<http://www.lawlib.state.ma.us/index.html>

DISCIPLINE

American Bar Association
www.abanet.org/youthatrisk

Wrightslaw Website with Resources
for Behavior Problems and Discipline
www.wrightslaw.com/info/discipl.index.htm

Mass. DOE Website for Education Laws and Regulations
www.doe.mass.edu/lawsregs/advisory/discipline/AOSD1.html

HOMELESS STUDENTS

National Law Center on Homelessness and Poverty
www.nlchp.org

National Center for Homeless Education
www.serve.org/nche

Massachusetts Coalition for the Homeless
<http://www.mahomeless.org/>

National Association for the
Education of Homeless Children and Youth
www.naehcy.org

ENGLISH LANGUAGE LEARNERS

Massachusetts Department of Education Website for
English Language Learners/Bilingual Education Advisory Council
www.doe.mass.edu/ell

WestEd Website on Fostering Academic
Success for English Language Learners
www.wested.org/policy/pubs/fostering

U.S. DOE Office of English Language Acquisition
www.ed.gov/about/offices/list/oela/index.html

OTHER JUVENILE ADVOCACY GROUPS

National Center on Juvenile Justice
www.edjj.org

National Center for Juvenile Justice
www.ncjj.org

Center for Juvenile Justice Reform
www.jlc.org

National Juvenile Defender Center
www.njdc.info

Citizens for Juvenile Justice
www.cfjj.org

EDUCATION ADVOCACY ORGANIZATIONS

Center for Law and Education

99 Chauncy Street, Suite 402
Boston, MA 02111
p: 617-451-0855
e: kboundy@cleweb.org
www.cleweb.org

Children's Law Center of Massachusetts, Inc.

298 Union Street
P.O. Box 710
Lynn, MA 01903
p: 781-581-1977
www.clcm.org/community_education.htm

Disability Law Center

Boston Office (Main)
11 Beacon Street, Suite 925
Boston, MA 02108
p: 617-723-8455
e: mail@dlc-ma.org
www.dlc-ma.org

Western Massachusetts Office

32 Industrial Drive East
Northampton, MA 01060
p: 413-584-6337
e: mail@dlc-ma.org
www.dlc-ma.org

The EdLaw Project

10 Malcolm X Boulevard
Roxbury, MA 02119
p: 617-989-8150
e: mspanjaard@publiccounsel.net
www.youthadvocacydepartment.org/edlaw

Federation for Children with Special Needs

Boston Office (Main)
1135 Tremont Street, Suite 420
Boston, MA 02120
p: 800-331-0688
e: fcsninfo@fcsn.org
www.fcsn.org

Western Massachusetts Office

324 Old Springfield Road
Belchertown, MA 01007
p: 413-323-0681
e: fcsninfo@fcsn.org

Juvenile Rights Advocacy Project

Boston College Law School
885 Centre Street
Newton, MA 02459
p: 617-552-2530
e: sherman@bc.edu
<http://www.bc.edu/schools/law/jrap/home.html>

Legal Assistance Corporation for Central Massachusetts

405 Main Street, 4th Floor
Worcester, MA 01608
p: 508-752-3718
www.laccm.org

Massachusetts Advocates for Children

25 Kingston Street, 2nd Floor
Boston, MA 02111
p: 617-357-8431
e: llockart@massadvocates.org
www.massadvocates.org

Mental Health Legal Advisors

399 Washington Street, 4th Floor
Boston, MA 02108
p: 617-338-2345
e: mhlac@mhlac.org
www.mass.gov/mhlac

The Special Education Clinic: Trauma and Learning Policy Initiative

The WilmerHale Legal Services Center
Harvard Law School
122 Boylston St.
Jamaica Plain, MA 02130
p: 617-522-3003
www.law.harvard.edu/academics/clinical/lsc/clinics/specialed.htm

Suffolk University Education Advocacy Clinic

45 Bromfield Street, 7th Floor
Boston, MA 02108
p: 617-305-3200
e: iraskin@suffolk.edu
www.law.suffolk.edu/academic/clinical/edadvocacy.cfm

Parent/Professional Advocacy League

Boston Office

45 Bromfield Street, 10th Floor
Boston, MA 02108
p: 617-542-7860
www.ppal.net

Worcester Office

51 Union Street, Suite 308
Worcester, MA 01608
p: 508-767-9725
www.ppal.net

South Coastal Counties Legal Services

Boston Office (Main)

11 Beacon St., Suite 925
Boston, MA 02108
p: 617-723-8455
www.sccls.org

Additional offices:

Brockton Law Office

231 Main St., Suite 201
Brockton, MA 02301
p: 508-586-2110
www.sccls.org

Hyannis Law Office

460 West Main St.
Hyannis, MA 02601
p: 508-775-7020
www.sccls.org

Fall River Law Office

22 Bedford Street, 1st Floor
Fall River, MA 02720
p: 508-676-6265
www.sccls.org

New Bedford Law Office

21 South Sixth St.
New Bedford, MA 02740
p: 508-979-7150
www.sccls.org



Youth Advocacy Department
Ten Malcolm X Boulevard
Roxbury, MA 02119
(617) 989-8100
Fax: (617) 541-0904
youthadvocacydepartment.org