Education Advocacy in Action

A Toolkit for Parents, Caregivers, Students, & Youth Justice Advocates

2021

Legal Aid of North Carolina's Right to Education Project

Legal Aid of North Carolina, Inc.

Right to Education Project

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Dear Youth Justice Advocate:

We are grateful to be able to work alongside you. We are sharing these resources to support you in your ongoing efforts to ensure that schools are meeting the educational needs of the young people in your life. These materials include information about the rights of students and guardians in schools, as well as additional tips and tools for use in making sure students get all of the support that they need and to which they are legally entitled. You can use these tools to assist you in your advocacy on behalf of your students and/or you can share them directly with other families for them to use in advocating for their children.

Specifically, you will find the following information enclosed:

- ✓ General tips for advocating for students' school success
- ✓ Advocacy guides related to:
  - School enrollment
  - Regular education interventions for struggling students, including MTSS interventions and Section 504 plans
  - Special education eligibility, rights, and IEPs
  - School discipline
  - Bullying
- ✓ Specific tips relating to advocacy for re-entering court-involved youth
- ✓ A guide to common education acronyms, abbreviations, and terms
- ✓ Template forms for requesting records, meetings, evaluations, and more…

We hope that these resources will be useful to you in your advocacy efforts. Please note that every student's situation is very different, and so the **tips and recommendations included in the enclosed materials should not be interpreted as legal advice in your specific situation**.

If you would like to refer a family to Legal Aid of North Carolina, contact our helpline at 866-219-5262 or apply online at www.legalaidnc.org/apply. If you have general questions about any of the enclosed materials or our intake process or if you want to request a training or additional resources, don't hesitate to contact Managing Attorney Jen Story at 919-226-5921 or jenr@legalaidnc.org.

You can also visit our website at http://www.legalaidnc.org/rep to download additional copies these and other materials. Please also feel free to share these resources with other parents/guardians, students, and advocates!

Sincerely,

Right to Education Project Team
Legal Aid of North Carolina

EDUCATION ADVOCACY IN ACTION

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EDUCATION ADVOCACY ISSUE-SPOTTING GUIDE

SCHOOL ENROLLMENT AND ACCESS

Is a school district refusing to enroll and provide any educational services to a youth?

Issue-Spotting	What does the law say?	What steps can you take?	Toolkit
Is the enrollment denial due to the student ***living apart from their parent/legal guardian*** and/or ***away from their home school district*** for important reasons unrelated to "school district shopping"?	Youth living with non-parent caregivers due to documented necessity can enroll in caregiver's district. Youth who are homeless (including unstable housing) or in foster care can enroll where they were before the instability/foster placement OR where they currently reside. Youth in PRTFs must be educated by PRTF. Youth in other licensed facilities/group homes can enroll in school district where the facility/home is located.	1. Review *Enrollment Rights* overview. Challenge any enrollment denial through the proper channel at your student's school. 2. For homeless youth, connect with McKinney-Vento liaison for enrollment assistance. 3. For youth in foster care, ensure DSS social worker convenes a Best Interest Determination (BID) meeting. 4. Call LANC if still unable to enroll.	pp22-23
Is the enrollment denial due to an ongoing **long-term suspension, 365-day suspension, or expulsion**?	Youth *who have IEPs* cannot be denied enrollment. For *all other youth*, consideration must be given to whether the district is required to enroll and offer alternative education.	1. Review *Enrollment Rights* overview. Challenge any enrollment denial through the proper channel at your student's school. 2. For youth with IEPs, review special education resources. 3. For youth with disabilities who don't have but may need IEPs, review *Special Education Eligibility* overview. 4. Call LANC if still unable to enroll.	pp22-23 pp35-46 pp32-34
Is the enrollment denial due to: • An ***arrest and/or adjudication in juvenile court***? • A ***misdemeanor arrest or conviction in adult court?*** • An ***arrest for adult felony***?	Youth cannot be denied enrollment.	1. Review *Court Involvement and School Enrollment* overview. 2. Advocate with school/district to ensure they understand the difference between an "adjudication" and a "conviction." 3. Refer to LANC if still unable to enroll.	pp24-25
Is the enrollment denial due to a ***felony conviction in adult court***?	If a youth convicted of a felony in adult court *has an IEP*, they cannot be denied enrollment. If a youth *does not have an IEP*, they may enroll in school, but access is not promised by law. They can appeal enrollment denial	1. Review *Court Involvement & School Enrollment* overview. Challenge any enrollment denial through the proper channel at your student's school. 2. For youth with IEPs, review special education resources. 3. For youth with disabilities who don't have but may need IEPs, review/share *Special Education Eligibility* overview. 4. Refer to LANC if still unable to enroll.	pp24-25 pp35-46 pp32-34

ATTENDANCE STRUGGLES

Is a youth struggling to attend school regularly?

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
Are the attendance struggles related to ***housing instability?***	Youth who are homeless (including having unstable housing) have extra protections to ensure they can attend school regularly. Those include school choice (school they were attending before instability or school where they are now), transportation, immediate enrollment, and appeal rights.	1. Review *Enrollment Rights* overview. 2. Connect with McKinney-Vento (M-V) liaison for enrollment and/or transportation assistance if needed to address attendance hurdles. 3. Refer to LANC if required M-V protections are denied.	pp22-23
Are the attendance struggles related to ***underlying disabilities*****?**	Schools must address disability-related barriers to a student's ability to access the school environment and curriculum. For *youth with 504 Plans or IEPs*, this should include conducting a functional behavioral assessment (FBA) and behavior intervention plan (BIP) to understand and address the root cause of the school avoidance. It could also include accommodations (access to class recordings, etc.). Students with IEPs may also receive specialized instruction to address the underlying cause of the school avoidance. If a *youth without an IEP* has attendance struggles that are suspected to be disability-related, they should be referred for an evaluation to assess eligibility for an IEP.	1. <u>For youth with IEPs:</u> Review special education advocacy resources. Encourage parent to request an IEP Team meeting and an FBA/BIP. 2. <u>For youth with disabilities who don't have but may need IEPs:</u> Review *Special Education Eligibility* overview and templates. Consider submitting a written evaluation request to determine whether your student may be eligible for special education supports. 3. <u>For all other youth</u>: Review *General Education Interventions and 504 Plans* overview. Consider requesting an FBA/BIP and any accommodations or other supports needed. 4. Refer to LANC if needed services are requested and then denied by the school.	pp35-46 pp32-34 pp26-31
Is the student avoiding school/class because of ***unaddressed bullying?***	Schools must take steps to investigate, address, and remediate the harms of bullying in schools. IEP and 504 Teams must update students' IEP and 504 plans if needed to address related harms of bullying.	1. <u>For all youth:</u> Review the *Bullying* overview. Put your bullying concerns in writing and submit to the principal. As needed, consider filing a grievance if the school fails to properly address the bullying. 2. <u>For youth with IEPs or 504 Plans</u>: Consider requesting an IEP or 504 Team meeting to implement extra supports to address bullying harms. 3. Refer to LANC if schools, IEP Teams, or 504 Teams fail to properly address reported patterns of bullying.	pp51-54 IEP: p37 504: p29

ACADEMIC STRUGGLES

Is a youth struggling to keep up with and pass their classes?

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
(For students ***<u>without</u> an IEP or 504 Plan***) Is the student receiving any individualized support at school? Is there reason to believe they may have a disability that is causing their academic struggles?	Every district in NC is required to implement Multi-Tiered Systems of Support (MTSS), which includes individualized regular intervention supports for struggling students. Parents who suspect their children may be in need of special education services can request that they be evaluated to better understand the scope of their needs and eligibility for special education services. Schools also have an affirmative duty to identify students who may have a disability.	1. Review *General Education Interventions and 504 Plans* overview. 2. Request a copy of the MTSS plan and consider requesting a team meeting to discuss additional assessments and supports for the student. 3. <u>If disability is suspected</u>, review *Special Education Eligibility* overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. 4. Refer to LANC if a school refuses to evaluate a student or if the parent disagrees with an IEP Team's decision to find the student ineligible for special educations services.	pp26-31 pp32-34
(For students with ***504 Plans***) Does the student's 504 Plan properly address all areas of their disability-related need?	Schools must provide all necessary accommodations to remove a student's disability-related barriers to the school environment and school curriculum.	1. Review *General Education Interventions and 504 Plans* overview. 2. Request a copy of the 504 plan and consider requesting a team meeting to discuss additional evaluations and accommodations for the student. 3. Refer to LANC if a 504 Team refuses to conduct requested evaluations or provide necessary accommodations.	pp26-31
(For students with ***IEPs***) Does the student's IEP properly address all areas of their disability-related need?	Schools must ensure that students with disabilities receive all necessary accommodations, related services, specialized instruction, and other supports needed to make progress on their IEP goals and in the general curriculum. Schools must also ensure that these services are provided in settings with non-disabled peers to the greatest extent possible.	1. Review special education advocacy resources. 2. Consider requesting an IEP Team meeting to discuss the need for reevaluations and additional services and supports to address unmet academic needs. 3. Refer to LANC if an IEP Team refuses to conduct requested evaluations or provide necessary accommodations and services.	pp35-46

SCHOOL DISCIPLINE *Is a youth facing a school suspension?*			
Issue-spotting	**What does the law say?**	**What steps can you take?**	**Toolkit**
Is the student being ***suspended from riding the school bus?***	Riding the bus is considered a privilege rather than a right, and so in general there are not strong legal protections or due process rights tied to bus suspensions. However, schools must still ensure that students' disability related behaviors – including those that occur on the bus – are being therapeutically addressed and accommodated.	1. Review *School Discipline* overview. Consider requesting a meeting with the principal to ask for a different consequence. 2. <u>For youth with IEPs/504 Plans:</u> Review relevant toolkit resources. Consider requesting an IEP or 504 Team meeting, an FBA/BIP, and, if needed, transportation as a related service. 3. <u>For youth with disabilities who don't have but may need IEPs:</u> Review *Special Education Eligibility* overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. 4. <u>For all other youth</u>: Review/share the *Behavior Interventions for All Students* overview. 5. Refer to LANC if needed disability-related services and accommodations are requested and denied.	pp47-48 pp35-46 (IEP) pp26-31 (504) pp32-34 pp30-31
Is the student facing ***in-school suspensions*** (ISS)?	In general, students do not have significant legal protections or due process rights related to in-school suspensions. However, schools must still ensure that disability-related behaviors do not interfere with a student's ability to access the school environment or curriculum. For students with IEPs, schools must conduct manifestation determination reviews (MDR) if a student is excluded from the services in their IEP for more than 10 cumulative days. Placements in ISS without providing special education services count towards that cumulative 10-day total.	1. Review *School Discipline* overview. Consider requesting a meeting with the principal to ask for a different consequence. 2. <u>For youth with IEPs:</u> Review *Special Education and School Discipline* overview. Consider requesting an IEP Team meeting and an FBA/BIP. If the student's suspension total (ISS and OSS) is more than 10 days, ensure an MDR is held. 3. <u>For youth with disabilities who don't have but may need IEPs:</u> Review *Special Education Eligibility* overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. 4. <u>For all other youth</u>: Review *General Education Interventions and 504 Plans* overview. Consider requesting an FBA/BIP and any accommodations or other supports needed to therapeutically address misbehavior. 5. Refer to LANC if needed disability-related services and accommodations are requested and denied.	pp47-48 pp40-42 pp32-34 pp26-31

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
Is the student facing a ***short-term suspension*** (STS)(less than 10 consecutive days)?	Students facing an STS have the right to: 1. An explanation of why they are being suspended (what school rule they broke and the evidence the school has); 2. An opportunity to tell their side of the story, which can be a very informal conversation between a student and administrator; and 3. An opportunity to, upon request, take books home, get homework and make up missed tests. Students can only appeal STS in limited situations via a school grievance process if school policies weren't followed or rights were violated. Students with IEPs and 504 Plans <u>and</u> students with disabilities who the school knows or should know are in need of an IEP or 504 Plan have extra protections when facing STS. They cannot be STSed for more than 10 *total* days in a school year for disability-related behavior. Once they surpass 10 total days of exclusion, schools must hold a manifestation determination review (MDR). Schools should, and in some cases must, conduct FBAs and create BIPs to prevent future misbehavior. Students with IEPs have the additional right to continued educational access during any suspension beyond 10 cumulative days of suspension, regardless of manifestation.	1. Review *School Discipline* overview. Consider requesting a meeting with the principal to ask for a different consequence. If school policies weren't followed or rights were violated, consider filing a grievance. 2. <u>For youth with IEPs or 504 Plans:</u> Review *Special Education & School Discipline* overview. Consider requesting an IEP Team meeting and an FBA/BIP. If the student's suspension total (ISS and OSS) is more than 10 days, ensure an MDR is held and an FBA/BIP completed. Ensure uninterrupted education access provided for students with IEPs for any disciplinary removals beyond the 10th *cumulative* days of suspension/removal. 3. <u>For youth with disabilities who don't have but may need IEPs:</u> Review *Special Education Eligibility* overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. Ask for the evaluation to be expedited if the student is under a suspension. 4. <u>For all other youth</u>: Review *General Education Interventions and 504 Plans* overview. Consider requesting an FBA/BIP and any accommodations or other supports needed to therapeutically address misbehavior. 5. Refer to LANC if needed disability-related services and accommodations are requested and denied.	pp47-50 pp40-42 pp32-34 pp26-31

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
Is the student facing a ***long-term suspension*** (LTS)(more than 10 consecutive days)?	Students facing a long-term suspension have the right to <u>all</u> the same rights that students facing STS have (see above) They have the additional rights to: 1. Receive alternative education services during the suspension, unless the school provides an important reason. (NOTE: students with IEPs <u>cannot</u> be denied alternative education services) 2. Formal due process rights that include written notice and the right to formal hearings to appeal the LTS to the superintendent (may be a hearing panel), the board of education, and to Superior Court.	1. Review *School Discipline* overview. Appeal LTS according to board policies. 2. <u>For youth with IEPs or 504 Plans:</u> Review *Special Education & School Discipline* overview. Ensure an MDR is held and FBA/BIP completed if needed. 3. <u>For youth with disabilities who don't have but may need IEPs:</u> Review *Special Education Eligibility* overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. Ask for the evaluation to be expedited. 4. Refer to LANC for assistance appealing LTS.	pp47-48 pp40-42 pp32-34
Is the student facing a ***365-day suspension***?	Schools can only issue 365-day suspensions for incidents involving firearms on campus. Students facing 365-day suspensions have <u>all</u> the same rights as students facing long-term suspensions (see above). They have the additional right to request a reconsideration of their suspension after they have served 180 days.	1. Review *School Discipline* overview. Appeal 365-day suspension according to board policies. If unsuccessful, submit request for readmission after 180 days of suspension. 2. <u>For youth with IEPs or 504 Plans:</u> Review *Special Education & School Discipline* overview. Ensure an MDR is held and FBA/BIP completed. 3. <u>For youth with disabilities who don't have but may need IEPs:</u> Review/share *Special Education Eligibility* overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. Ask for the evaluation to be expedited. 4. Refer to LANC for assistance appealing 365-day suspensions and/or petitioning for readmission.	pp47-48 pp40-42 pp32-34

Issue-spotting	What does the law say?	What steps can you take?	Toolkit
Is the student facing **alternative school/program placement**?	Local board policy generally governs the appropriateness of alternative placement decisions. A student placed at an alternative school/program for disciplinary reasons may appeal to the board of education if the placement decision is made in violation of state or federal law or local board policy. An appeal of right brought before the board of education may be further appealed to the superior court if (1) the board of education's placement decision • is made in violation of constitutional provisions, • is in excess of the statutory authority, • is made upon unlawful procedure, • is affected by other error of law, • is unsupported by substantial evidence, or • is arbitrary or capricious; Or (2) if the alternative school/program placement • is part-time, • does not allow the student to make timely progress towards graduation and grade promotion, or • fails to meet the academic requirements of the standard course of study. Students with IEPs and 504 Plans and students with disabilities who the school knows or should know are in need of an IEP or 504 Plan have extra protections when facing reassignment. Within 10 school days	1. Review *School Discipline* overview. Appeal alternative school/program placement decisions according to board policies if you disagree with the placement. 2. <u>For youth with IEPs or 504 Plans:</u> Review *Special Education & School Discipline* overview. Ensure an MDR is held and FBA/BIP completed if the placement is being made for disciplinary reasons. The student should not be placed in an alternative learning program/school solely because she has a disability. 3. <u>For youth with disabilities who don't have but may need IEPs</u>: Review *Special Education Eligibility* overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. Ask for the evaluation to be expedited if the student is under a suspension. 4. Refer to LANC for assistance appealing wrongful alternative school placements.	pp47-48 pp40-42 pp32-34

	of deciding to place the student, the school must hold a manifestation determination review (MDR). Schools should, and in some cases must, conduct FBAs and create BIPs to prevent future misbehavior.		
Is the student facing an ***expulsion*** (permanent exclusion)?	Students facing expulsions have <u>all</u> the same rights as students facing long-term suspensions (see above), <u>except</u> schools are not legally required to offer alternative education services to expelled youth *without* disabilities. In addition to demonstrating that a student violated the alleged code of conduct provision, the school must also show that allowing the student to attend any school or program in the district would threaten the safety of others. Expelled students can petition for readmission every 180 days.	1. Review/share *School Discipline* overview. Appeal expulsion according to board policies. If unsuccessful, submit a request for readmission after 180 days of suspension. 2. <u>For youth with IEPs or 504 Plans:</u> Review *Special Education & School Discipline* overview. Ensure an MDR is held and FBA/BIP completed. 5. <u>For youth with disabilities who don't have but may need IEPs:</u> Review *Special Education Eligibility* overview and templates. Consider submitting a written evaluation request if you suspect your student needs special education services. Ask for the evaluation to be expedited. 3. Refer to LANC for assistance appealing expulsion and/or petitioning for readmission.	pp47-48 pp40-42 pp32-34

BULLYING *Is a youth facing bullying in school*			
Issue-spotting	**What does the law say?**	**What steps can you take?**	**Toolkit**
<u>For all students</u> Is the student facing bullying at school that is severe and/or persistent enough to create a **hostile environment** and/or make them ***reasonably fear for their safety***?	North Carolina law requires that every school district have a formal, written policy governing the procedures for promptly investigating and, as appropriate, taking action to address reports of bullying. School staff who are made aware of incidents of bullying are required to report the bullying to the proper officials in the school/district. Students who report bullying have the right to be free from retaliation.	1. Review the *Bullying* overview. 2. If you have not already done so, put your bullying concerns in writing and submit to the principal. 3. Consider filing a grievance if the school fails to properly address the bullying. 4. <u>For youth with IEPs or 504 Plans</u>: Consider requesting an IEP or 504 Team meeting to implement extra supports to address bullying harms. 5. Refer to LANC if a complaint is needed to address a school's, IEP Team's, and/or 504 Team's failure to properly address reported patterns of bullying.	pp51-54 pp35-46 (IEP) pp26-31 (504)
<u>For all students</u> Is the bullying on the basis of the student's ***race, color, national origin, sex, disability, or religion****?*	Federal civil rights law protects students from bullying on the basis of a protected class: race, color, national origin, sex, disability and religion.	1. Review the *Bullying* overview. 2. If you have not already done so, put your bullying concerns in writing and submit to the principal. 3. <u>For youth with IEPs or 504 Plans</u>: Consider requesting an IEP or 504 Team meeting to implement extra supports to address bullying harms. 4. Refer to LANC if a complaint is needed to address bullying based on a protected class and/or if IEP or 504 Teams fail to address reported patterns of bullying.	pp51-54 pp35-46 (IEP) pp26-31 (504)
<u>For students with IEPs and 504 plans</u> Is the bullying impacting the student's ability to learn or access the services and accommodations in their IEP or 504 Plan?	If the bullying is causing academic or emotional harm that impacts a student with a disability's educational access or progress, their IEP or 504 Team must meet to discuss whether changes to their Plan are needed to address barriers. Changes should not remove the student from their placement or setting, unless it would not be their best interest to remain in that setting and their needs can't otherwise be met there with accommodations and extra services.	1. Review the *Bullying* overview. 2. If you have not already done so, put your bullying concerns in writing and submit to the principal. 3. <u>For youth with IEPs or 504 Plans</u>: Consider requesting an IEP or 504 Team meeting to implement extra supports to address bullying harms. 4. Refer to LANC if a complaint is needed to address a school's, IEP Team's, and/or 504 Team's failure to properly address reported patterns of bullying.	pp51-54 pp35-46 (IEP) pp26-31 (504)

How to Be Your Student's #1 Advocate at School

Tips for Parents and Guardians

What is the School-to-Prison Pipeline?

The system of laws, policies, and practices that pushes students out of schools and into the juvenile and criminal systems. This system can begin with academic failure and school suspensions.

While legal advocacy is an important part of dismantling the school-to-prison pipeline, ***there are also many simple things that you can do as a parent or guardian to be a well-informed advocate for your child at school.*** *Putting just a few of these tips into action can help make a big difference in your child's success at school.*

1. Building a Strong Relationship with Your Student's School

- ✓ You are your student's #1 advocate! In whatever way you are able, always be involved (i.e. in person, via phone, via email, via written notes, etc.) when decisions are being made about your child.
- ✓ Talk with the school staff regularly about your child's strengths as well as your concerns.
- ✓ Put your communications to the school (i.e. requests or notice of concerns) in writing and keep copies.
- ✓ Take detailed notes during meetings and phone calls. Bring someone with you to meetings who can help support you and help take notes (family member, friend, mental health provider, mentor, etc.).
- ✓ Ask questions if you don't understand things (i.e. acronyms or services that the school is proposing).
- ✓ If necessary, ask for an interpreter and/or translation of documents.
- ✓ Politely do not take "no" for an answer. Keep searching for a solution and asking to speak to more people who could help. If needed, reach out to your assigned board member if you're not getting help.
- ✓ Make sure the school is aware of any significant changes in your student's life (e.g., death of a family member, homelessness, diagnosis of a disability, etc.) and the extra support your student may need.
- ✓ Make sure all of your student's teachers have your most up-to-date contact information, including your phone number, email address, and mailing address.
- ✓ Attend school events, such as open houses, parent-teacher conferences, and school celebrations.
- ✓ Volunteer in the classroom or at the school. Join the parent-teacher association (PTA).

2. Understanding School Documents

- ✓ Carefully read all documents sent to you by the school.
- ✓ Call the school if you do not understand the information in the documents.
- ✓ If necessary, ask for translation of the documents into another language.
- ✓ Keep all of the documents (including emails) in a well-organized binder or in folders.
- ✓ Check your student's online records (if the school puts them online) regularly.
- ✓ Request copies of your student's full records so that you can review and understand what is in them.

3. Exercising Your Rights

- ✓ Know your rights and your responsibilities.
- ✓ Read the student-parent handbook, which can typically be found on the school district's website and/or at your student's school.
- ✓ Review "Know Your Rights" materials on the Right to Education Project's website (www.legalaidnc.org/REP).
- ✓ **Ask for help when you need it. Contact Legal Aid of NC at 1.866.219.5262**

Legal Aid of NC's Right to Education Project (REP)

For additional resources: **http://www.legalaidnc.org/rep** To apply for legal services: **1-866-219-5262**

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

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Re-entry and Finding School Success

Tips for Parents, Guardians, and Youth

It is important to know your legal rights when leaving out-of-home placement and re-entering your community and school. There are also many simple things that you can do as a parent, guardian, or youth to advocate for yourself or your child at school.

Before Leaving Out-of-Home Placement

- ✓ Participate in the school program in your out-of-home placement.
  - Ask if your courses follow the standard curriculum. Ask how credit transfer will work back to your home school. If interested, ask about vocational opportunities.
- ✓ Participate in any meetings – such as Child and Family Team meetings and school meetings – about your discharge from the out-of-home placement, including conversations about your return to school.
  - In whatever way you are able, always be "at the table" (i.e. in person, via phone, etc.) when decisions are being made about you or your child.
  - Ask how staff in your out-of-home placement or from the court will help your transition back to your home school district
- ✓ Ask if appropriate supports (ex. special education, LEP services) are being provided in the out-of-home placement.
- ✓ Speak up about what you want and need in your school transition. Speak up about your strengths.
- ✓ Take notes during meetings and phone calls.
- ✓ If necessary, ask for an interpreter and/or translation of documents.
- ✓ Ask questions if you do not understand something.

Immediately After Re-Entering Your Community

- ✓ Work with court counselors, as needed, to immediately re-enroll in your home school district. Advocate for appropriate credit transfer and enrollment.
- ✓ Carefully read all documents sent to you by the school. Call the school if you do not understand something. If necessary, ask for translation of the documents into another language.
- ✓ When asking something of the school, put it in writing and keep a copy.
- ✓ Request a meeting with the school if you believe the supports you need (ex. special education) are not being provided.

Moving Forward:

- ✓ Know your school rights.
- ✓ Read the student-parent handbook, which is usually found on the school district's website and/or at your student's school.
- ✓ Choose at least one trusted contact person at your new school who can be a support to you. Remember that re-entry is a process, and it is normal to need support.
- ✓ Ask teachers or community volunteers for free tutoring or resources.
- ✓ If possible, get involved with the school by joining a school organization or going to school events.
- ✓ Bring someone with you to any meetings who can help support you and help take notes (family member, friend, mental health provider, mentor, etc.).
- ✓ **Ask for legal help when you need it.**

Legal Aid of NC's Right to Education Project (REP)

For additional resources: **www.legalaidnc.org/rep** To apply for legal services: **1-866-219-5262**

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Common Education Acronyms, Abbreviations & Terms

Accommodation	Alterations designed to allow a child with a disability to access the general curriculum. Can be included as a part of an IEP or 504 plan. Some examples include preferential seating, additional test time, larger print, etc.
ADA	Americans with Disabilities Act- Federal law that prohibits discrimination based on a person's disability.
ADHD/ADD	Attention Deficit Hyperactivity Disorder- Medically diagnosed condition, consisting of hyperactivity and impulsivity, and/or inattention, at developmentally inappropriate levels. A child with ADHD may be eligible for special education under the Other Health Impairment category.
ALP	Alternative Learning Program- Services, provided outside of a regular class environment, for students who are at-risk of truancy, academic failure, behavior problems, and/or dropping out of school (e.g. alternative school). Long-term suspended students may also be served in an ALP during their suspension.
APE	Adapted Physical Education- Specialized physical education program for children with disabilities who may not safely or successfully participate in the regular physical education program.
AT	Assistive Technology- Any piece of equipment, product, or system that is used to increase, maintain, or improve the functional capabilities of a child with a disability (e.g. a communication device, FM unit, computer access.) An AT Service is any service that directly helps a child with a disability select, acquire or use an assistive technology device. AT should be listed in child's IEP.
AU	Autism- Disability category under the IDEA covering students whose education-impairing behaviors fall within the autism spectrum. Students within this category have impairments that significantly affect verbal and nonverbal communication, social interaction, and educational performance.
BIP	Behavioral Intervention Plan- Plan created by the IEP team to support the student in changing her behaviors. BIPs should be created based on information gathered via a FBA. BIPs include: what the team wants the student to do instead of the old behavior (the "replacement behavior"); what school staff will do differently/how the school staff will help the student practice the new behaviors; rewards/reinforcements for good behavior; and consequences for negative behaviors. Once a BIP is in place, it becomes an enforceable part of the IEP.
BOE	Board of Education- A group of elected or appointed officials to oversee a local or statewide school system. This body is typically the final decision-maker in suspension or grievance hearings.
BST	Behavior Support Teacher- The Behavior Support teacher provides direct instruction and additional supports to special education students whose behavioral, emotional or social needs are impacting their education. The BST provides support based on the student's individual needs as reflected in the student's IEP or BIP.
CA	Curriculum Assistance- Class designed to provide study skills and content support for students with disabilities who are enrolled in regular education classes.
CAP	Community Alternatives Program- Program that provides home and community based services to medically fragile children who, because of their medical needs, are at risk for institutionalization in a nursing home.
Court Counselor	An individual employed by the NC Administrative Office of Courts to work with juveniles in the justice system. Court counselors have two roles: (1) decide whether to accept or divert complaints and (2) supervise juveniles who become more involved in the court system. They are similar to probation officers.
CPS	Child Protective Services- Program within DSS that helps: (1) prevent further harm to children from intentional physical or mental injury, sexual abuse, exploitation or neglect by a person responsible for a child's health or welfare; and (2) protect children who have no parent, guardian or custodian to provide care and supervision and lacks an appropriate alternative child care arrangement.
CFT	Child and Family Team– Child and Family Teams are teams that are built around children involved in DSS or DJJ systems, and are comprised of the child, his family members and any community supports

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	who come together to create, implement and update the child's service plan. The associated plan is intended to build on the strengths of the child, youth, and family and address their needs and goals.
CTE	Career and Technical Education- CTE provides high school students the opportunity to take courses in eight program areas so that they can explore interests and careers while building and strengthening their career-specific knowledge and skills. The eight education program areas are: Agricultural; Business, Finance and Information Technology; Career Development; Family and Consumer Sciences; Health Science; Marketing and Entrepreneurship; Technology Engineering and Design; and Trade and Industrial.
DD	Developmental Disability- A disability category under the IDEA covering children between the ages of 3 through 7 whose development and/or behavior is delayed or atypical, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development or adaptive development, and who, by reason of the delay, needs special education and related services.
DHHS	Department of Health and Human Services- Agency in state government responsible for ensuring the health, safety, and well-being of North Carolinians, providing human service needs for special populations, including individuals who are deaf, blind, developmentally disabled and mentally ill, and helping poor North Carolinians achieve economic independence.
Diversion	A program through which a court counselor provides an opportunity for a juvenile to not be formally processed in the juvenile system and instead requires the juvenile to comply with terms outlined in a diversion plan. Common services included in diversion plans are substance abuse interventions, mentoring, or counseling programs.
DPI	Department of Public Instruction (NC DPI)- State agency that administers the policies adopted by the State Board of Education and offers instructional, financial, technological and personnel support to all public school systems in the state. DPI includes the Exceptional Children division, which is charged with overseeing the special education programming in North Carolina. In that role, DPI maintains and oversees policies that ensure NC schools are in compliance with the IDEA, investigates formal complaints filed by parents (State Complaints) regarding special education violations, and provides services for parents and IEP Teams including facilitated IEP meetings, mediations, and consultations. See https://www.dpi.nc.gov/
DSS	Department of Social Services- Division within DHHS that administers programs for families and children including Child Welfare, Family support, Work First, Child Support and Food and Nutrition Services. Each county has a DSS office handling child abuse and neglect cases, among other issues.
EC	Exceptional Children- Children who, because of mental, physical or emotional disabilities, require special education services and supports.
ECAC	Exceptional Children Assistance Center- Nonprofit organization that provides education and support to children with disabilities and their families. *See* http://www.ecac-parentcenter.org/
ELA	English Language Arts- Part of the Common Core curriculum in the NC Standard Course of Study, ELA refers to reading, literature, writing and speaking and listening.
EOC	End-of-Course (Exam) - End-of-Course tests designed to assess the competencies defined by the Standard Course of Study for Algebra I/Integrated I, English II and Biology. Tests are taken during the last two weeks of school for students on a traditional calendar and the last week of the course for students on a block schedule.
EOG	End-of-Grade (Exam) - End-of-Grade tests in reading and mathematics (grades 3-8) and science (grades 5 and 8) that are taken by students during the last three weeks of the school year.
ESL	English as a Second Language - A program model that delivers specialized instruction to students who are learning English as a new language.
ESY	Extended School Year- Free school services provided beyond the normal school year to students as part of their IEP. ESY services are available for students that will have substantial regression issues or who show emerging skills that would otherwise regress.

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FAPE	Free Appropriate Public Education– FAPE is the legal standard LEAs are held to when providing special education and related services needed to enable a child with a disability to make reasonable progress on the goals set out in his IEP and in the general curriculum. The determination of what constitutes a FAPE for a student must be based on an individualized assessment of the student's strengths and needs. Schools must provide the services required to ensure FAPE regardless of whether the school has them readily available and must be provided even if a student is suspended.
FBA	Functional Behavioral Assessment- The process of collecting data to try to understand and analyze the triggers behind a student's misbehavior so that it can be adequately addressed in a BIP. It must include the following steps: the identification and definition of the specific problem behavior; the collection of information regarding the occurrence of the behavior and possible triggers through observation and interviews; the identification of antecedent events to the behavior; and a hypothesis, based on this information, regarding the function or purpose of the behavior.
FERPA	Family Educational Rights and Privacy Act- Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.
FRL	Free and Reduced-Price Lunch- Children qualify, based upon parent or guardian financial status, to receive either free or reduced priced lunch based on federal poverty guidelines.
HI	Hearing Impairment- Disability category under the IDEA covering students with an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness under special education law.
IAES	Interim Alternative Educational Setting- Special education setting other than the student's current placement - typically used for disciplinary purposes – that enables the student to continue to receive special education services.
ICR	In-Class Resource- A regular education classroom setting in which a special education teacher collaborates with the regular education teacher to provide services to students with disabilities.
ID	Intellectual Disability- A disability category under the IDEA covering children who have significantly sub-average general intellectual functioning that adversely affects educational performance, as well as deficits in adaptive behavior.
IDEA	Individuals with Disabilities Education Act- A federal law, reauthorized in 2004, designed to ensure that all children with disabilities have available to them a free and appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living.
IEE	Independent Educational Evaluation- An evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of the child in question. An IEE can be requested by a parent/guardian anytime she disagrees with an evaluation conducted by the LEA.
IEP	Individualized Education Program (IEP)- The IEP is a written plan for a student with a disability that is developed, at least annually, by a team of professionals knowledgeable about the student and the parent. The plan describes the strengths of the child and the concerns of the parents for enhancing the education of their child, and when, where, and how often services will be provided. The IEP is required by federal law for all exceptional children and must include specific information about how the student will be served and what goals he or she should be meeting.
IHCP	Individualized Health Care Plan- A plan that outlines how to care for an individual child with special health needs (e.g. diabetes, severe allergies, feeding tube, etc.) at school.
ISS	In-School Suspension- a discipline measure that allows a student to attend school, but requires that the student spend the school day in a separate setting. Students who are placed in ISS without being provided access to the services in their IEPs are considered as being "suspended" for purposes of triggering procedural safeguards.
Juvenile	For purposes of prosecution in North Carolina, a juvenile is a person under age 16. Youth age 16 and older charged with a crime in North Carolina are automatically sent into the adult criminal system. A person who turns 16 while her case is pending in juvenile court stays in juvenile court until and through disposition.

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LEA	Local Education Agency- A local school system or a local school district, indicating that a public board of education or other public authority maintains administrative control of the public schools in a city or county.
LEP	Limited English Proficiency- A category including students whose first language is one other than English and who need language assistance in order to participate fully in the regular curriculum and the statewide assessment system.
LME	Local Management Entity- The organization or business responsible for managing, coordinating, facilitating and monitoring the public system of mental health, developmental disabilities and substance abuse services in the geographic area that they serve. LMEs review and approve or reject Medicaid-funded services.
LRE	Least Restrictive Environment- The school setting that maximizes opportunities for children with disabilities to be educated with their nondisabled peers. A "restrictive" environment is one that separates a student from her nondisabled peers (sometimes referred to as "regular education" peers). The setting (or "placement") is determined by the IEP Team and documented on the student's IEP. Educating a child in the LRE is prioritized under the IDEA and so, prior to moving a child to a more restrictive setting, the Team must explore whether problems in the less restrictive setting can be addressed by additional aids and services.
LTS	Long-Term Suspension- Disciplinary exclusion from school lasting more than 10 school days. Can extend until the end of the school year or, if the infraction occurs in the 4th quarter, until the end of 1st semester of the following year. An EC student is automatically entitled to an MDR if recommended for LTS.
MDR	Manifestation Determination Review- An IEP team meeting that must be held when a child with a disability is facing a disciplinary change in placement (i.e. an LTS or a pattern of STS totaling more than 10 days in a given school year). The IEP Team must determine whether the child's disability or the school's failure to implement the IEP were directly and substantially related the alleged misbehavior. If either are found, the school generally cannot remove the student..
MTSS	Multi-Tiered System of Support – NC's new model for systemic student support. It is being implemented county by county and should be in place statewide by 2020. It consists of three tiers of increasing support: Differentiated Core (general education), Supplemental Support (after school tutoring, etc), and Intensive Support (individualized plans, often special education). By 2020 the need for the Intensive Support tier may qualify a student in the SLD category. Detailed information is available at: http://tinyurl.com/gpq4wws
MU	Multiple Disabilities- A disability category under the IDEA covering children who have two or more disabilities occurring together (such as intellectual disability-blindness, intellectual disability-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.
NCDPI	North Carolina Department of Public Instruction. *See DPI*
NCEXTEND1	The North Carolina EXTEND1 is an alternate assessment designed to measure the performance of students with significant cognitive disabilities using alternate achievement standards. It is not appropriate for students pursuing a high school diploma (including OCS). Its use should be determined by an IEP team.
NCEXTEND2	The North Carolina EXTEND2 is an alternate assessment that is no longer used in NC.
OAH	Office of Administrative Hearings- The Court that hears special education claims raised via due process petitions. More information about due process petitions can be found here: https://www.dpi.nc.gov/districts-schools/classroom-resources/exceptional-children/parent-resources#due-process-hearings
OCR	Office for Civil Rights- A unit within the U.S. Department of Education that enforces federal nondiscrimination laws in schools that receive federal funding. Parents who believe their child has been discriminated against may file a complaint with the OCR challenging discriminatory acts that have occurred within the past 180 days.

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OCS	Occupational Course of Study- A transition-focused curriculum framework that includes extensive career preparation. Upon completion students will receive a diploma which qualifies them to attend a local community college, but will not qualify them for a four year institution.
ODD	Oppositional Defiant Disorder- A mental health diagnosis given to children who display a pattern of disobedient, hostile and defiant behavior toward authority figures. To fit this diagnosis, the pattern must last for at least six months and be more severe than normal childhood misbehavior.
OHI	Other Health Impairment- Disability category under the IDEA covering children with limited strength, vitality or alertness due to chronic or acute health problems that adversely affect a student's educational performance. OHI is often the category under which students with ADHD qualify for special education services.
OI	Orthopedic Impairment- Disability category under the IDEA covering children with impairments caused by a congenital anomaly, impairments caused by disease (e.g. poliomyelitis, bone tuberculosis, etc), and impairments from other causes (e.g. cerebral palsy, amputations, and fractures or burns that cause contractures, etc)
OSEP	Office of Special Education Programs- Program component of the Office of Special Education and Rehabilitative Services within the U.S. Department of Education that assists states and local districts in serving students with disabilities, OSEP develops and disseminates policy guidance, administers grant funding and evaluates.
OSS	Out-of-School Suspension- Exclusion of a student from school for disciplinary purposes. STS and LTS are types of OSS. Depending on length of suspension, an EC student may be entitled to an MDR.
OT	Occupational Therapy or Occupational Therapist: Services provided to assist a disabled individual develop skills for daily living activities. For example, using a pencil, toileting, and dressing. School-based OT is a related service, and is provided only as determined by an IEP team.
PBIS	Positive Behavioral Interventions and Supports- Positive Behavior Intervention and Support programs are a way to impact school learning environments by establishing and reinforcing clear behavioral expectations in order to support high student performance and to reduce behavioral problems. PBIS site schools work to integrate their Safe Schools Plans, character education efforts and strategies, and discipline efforts in order to make the schools caring and safe communities for learning.
Parent	In the special education context, "parent" includes a parent, guardian (but not the State), person acting in place of a parent, surrogate parent, and foster parent under certain circumstances.
PCP	Person-Centered Plan- Plan developed by a child and her family, friends and other supports to establish goals for the year, determine skills and knowledge necessary to work toward the desired outcomes and identify practical steps to achievement of the goals. PCPs are typically created for students receiving Medicaid-funded mental health services.
PEP	Personal Education Plan- An individualized plan designed to improve a student's performance to grade-level proficiency. PEPs are no longer required by law.
PT	Physical Therapy- Continuum of services provided by a licensed physical therapist or licensed and supervised PT assistant. School-based PT services are provided to develop and maintain performance levels, within an individual student's physical capabilities, for independent and safe access to educationally related activities. School-based PT is a related service, and is provided only as required to assist a child to benefit from special education.
PTSD	Post-Traumatic Stress Disorder- Mental health condition that is triggered by a terrifying event- either experiencing it or witnessing it. Symptoms may include flashbacks, nightmares and severe anxiety, as well as uncontrollable thoughts about the event. Students with PTSD may be eligible for an IEP under the category of SED.
Related Services	Related services include additional services beyond an academic curriculum that are required to allow a child to access special education. Common related services include occupational therapy, physical therapy, speech language therapy, counseling and transportation.
RtI	Response to Intervention- A model for systemic student support that has been implanted by some counties in NC. Requires the use of evidence based and strategies and progress tracking. Districts

	which use this qualify students with SLD after two interventions do not address a problem. This is being replaced by MTSS across the state and should no longer be in use by 2020.
SED	Serious Emotional Disability- A disability category under the IDEA covering children whose emotional or behavioral disabilities adversely affect their educational performance and necessitate special education supports.
SIP	School Improvement Plan. A plan that includes strategies for improving student performance, how and when improvements will be implemented, use of state funds, requests for waivers, etc. Plans are in effect for no more than three years.
SLD	Specific Learning Disability- Disability category under the IDEA, which includes disorders that affect a student's ability to understand or use spoken or written language; may manifest in difficulties with listening, thinking, speaking, reading, writing , reading fluency, spelling and doing mathematical calculations; and includes minimal brain dysfunction, dyslexia and development aphasia.
SLP	Speech-Language Pathologist- A professional who oversees: the identification of children with speech or language impairments; diagnosis and appraisal of specific speech or language impairments; referral for medical or other professional attention necessary for the habilitation of speech or language services for the habilitation of communication impairments, including form, content and function of language; and counseling and guidance of parents, children and teachers regarding speech and language impairments. Can be included as a related service provider in an IEP.
SLT	Speech-Language Therapy- A service aimed at providing treatment, support and care for children and adults who have difficulties with communication, or with eating, drinking and swallowing. Can be included as a related service in an IEP.
SPED	Special Education- Services that are specially designed and provided at no cost to the parent that adapts the curriculum, materials or instruction for students identified as having education or physical disabilities and tailored to each student's needs and learning style and provided in a general education or special education classroom, home, hospital, separate school or other setting.
SSDI	Social Security Disability Insurance- A monthly benefits program for workers who are no longer able to work due to a significant illness or impairment that is expected to last at least a year or to result in death within a year
SSI	Social Security Income- Federal income supplement program for disabled adults and children who have limited income and resources. It is designed to help aged, blind and disabled people who have little or no income. It provides cash to meet basic needs for food, clothing and shelter.
SST	Student Support Team- Collaborative, school-based, problem-solving team that is organized to address academic, medical, behavioral/emotional and/or other problems which may interfere with a student's ability to obtain an appropriate education. SSTs develop and implement action plans using classroom-, school-, family- and/or community- based strategies.
STEM	Science, Technology, Engineering and Mathematics- STEM curriculum emphasizes connections within and between the fields of mathematics and science; integrates technology; introduces and engages students in the engineering design process; cultivates creativity; and develops skills that drive innovation.
STS	Short-Term Suspension- Disciplinary exclusion from school lasting 10 school days or fewer. Depending on the cumulative total of any prior disciplinary removals, an EC student may be entitled to an MDR.
TA	Teacher's Assistant- individual who assists a teacher with instructional and classroom management responsibilities.
TBI	Traumatic Brain Injury- Disability category under the IDEA covering children who have suffered a complex injury to the brain with a broad spectrum of symptoms and disabilities.
VI	Visual Impairment- Disability category under the IDEA covering students suffering from an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

Date: _____

Re: Request for Student Records

Student Name: _____

School: _____

Dear Principal _____,

I am the parent/legal guardian of _____, a student at your school.
(Student Name)

I would like to review:

- my child's entire cumulative file, including but not limited to information related to their attendance, grades, testing, and any interventions;
- my child's confidential psychological file, including but not limited to documents related to any special education evaluations, plans, and progress monitoring.
- my child's complete discipline records, including but not limited to referral forms, notices of in-school or out-of-school suspensions, or records from disciplinary proceedings.

Please provide me with copies of the records in the following format: _____

_____
(Describe best way for school to get records to you, e.g. mail, hand-delivery, fax)

Thank you for your prompt attention to this matter. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

_____
(Parent/Guardian Name)

Hand-delivered to _____ on _____.
(Name of school staff) (Date)

Exercising Your Rights

What are the different ways I can take action to make sure my student is getting what they need?

You can informally share your concerns with decision-makers

In many cases, you can most quickly resolve your concerns by making sure the right people have been made aware of the problem and making specific requests for changes.

GOLD STAR TIPS

- ✓ Always put your concerns in writing. Email is a great way to do that.
- ✓ Request a meeting to discuss ways to fix your concerns. That meeting could include a parent-teacher conference, an IEP or 504 Team meeting, or other school-based team meeting.
- ✓ Be persistent and include people with decision-making power. For example:
  - Start with the Principal
  - Contact district-level specialists (e.g. EC Director if there is a special education issue)
  - Include the Superintendent (and/or Area superintendent if your district has one)
  - Include your Board of Education representative and/or the Board Chair
- ✓ You can share your story with others in the community to raise awareness about issues

You can file a formal complaint and/or appeal a decision you think was wrong

In some cases, a formal complaint will be needed to ensure your student's rights are protected and remedies are provided. Below are examples of some complaints and/or appeals that can be filed if needed.

Action	Issues Covered	Process Information	Attorney needed?
School-Based Grievance	Any violation of school board policy or state/federal law or policy. E.g. Enrollment denial; Unaddressed bullying; Failure to provide notice, informal hearing, and make-up work during short-term suspension; etc.	Each district has its own policy. In general, the process starts with a meeting with the principal followed by a written response. Grievances can then typically be appealed to the superintendent and Board of Education.	*No* In limited situations, LANC can assist.
Suspension Appeal	Long-term suspensions, expulsions, and disciplinary reassignments made as part of a long-term suspension.	Each district has its own policy. In general, the process starts with an appeal to a hearing officer or panel, with the ability to appeal to the Board of Education. Appeals can be made to Superior Court in some cases.	*Not required but is recommended.* LANC can assist in meritorious cases.
Complaint to Office of Civil Rights	Discrimination based on race, color, national origin, sex, disability, or religion.	U.S. Department of Education oversees process. Complaints are intended to be resolved within 60 days, but often take much longer. Mediation offered.	*Not required but is recommended.* LANC can assist in meritorious cases.
Formal State Complaint	Violations of special education rights. E.g. IEPs that aren't appropriate and/or aren't being implemented; Child Find issues; etc.	N.C. Department of Public Instruction oversees process. Complaint decisions made within 60 days. Mediation offered and encouraged.	*Not required but is recommended.* LANC can assist in meritorious cases.
Due Process Petition	Violations of special education rights. E.g. IEPs that aren't appropriate and/or aren't being implemented; Child Find issues; etc.	Office of Administrative Hearings oversees process. Complaints can take many months to resolve if hearing is required. Resolution meeting and/or mediation offered and encouraged.	*Yes. Pro se parents are rarely successful.* LANC can assist in meritorious cases.

You can request individualized remedies

Remedies should undo the harm caused by the violation. Common remedies include, but aren't limited to: compensatory education (e.g. tutoring); staff training; school record expungement; school/class transfer; etc.

Legal Aid of North Carolina's Right to Education Project

For additional resources: **www.legalaidnc.org/rep** To apply for legal services: **1-866-219-5262**

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

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Enrollment

(How do I get my child into a public school in North Carolina?)

What is the difference between enrollment and assignment?

- **Enrollment** defines the specific school *district* that is responsible for educating eligible students.
  - State law establishes who has the legal right to enroll in a particular school district.
- **Assignment** is how a district decides which specific *school* a child will be allowed to attend.
  - Local school districts have lots of authority to make decisions in this area.

Who can enroll in a North Carolina school?

- A child can enroll in a North Carolina school district if they:
  a) are between the ages of 5 and 21, and do not have a high school diploma;

  b) are living in the district boundaries;
     1. with a **parent or legal guardian who is *domiciled* in that district;**
        - "domicile" = residence + evidence of intent to remain (lease, utilities, mail, etc.)
     2. in a **group home, foster home, or licensed facility**; or
     3. with a **caregiver** because of specific crisis situations, including abandonment, death or incarceration of a parent, abuse or neglect, military deployment, or natural disaster;

     - ***NOTE:*** Children who do not live in the district boundaries for a particular school or district may still enroll if:
       1. They are **homeless, including living in a transitional situation** (e.g., living in shelters, in campgrounds or motels, or living with family/friends due to financial or other related hardship), and continuing to attend the school/district they were assigned to prior to becoming homeless is determined to be in their best interest.
          - The law that ensures this right is the McKinney-Vento Homeless Assistance Act. (*See more below for more information.*)
       2. A change in **foster care** placement (or initial placement in foster care) causes them to move away, and continued placement in the original school/district is determined to be in their best interest.
          - They are entitled to immediate enrollment in the school/district that is in their best interest and transportation to that school/district (even if not in the attendance zone for their current foster care placement).
          - The law that ensures this right is the Every Student Succeeds Act.

  c) have not been convicted of a felony in adult criminal court; and
     - Youth in *juvenile court* cannot be denied enrollment
     - Youth who have been *charged* but not *convicted* of a felony cannot be denied enrollment
     - School district *may* enroll children with felony convictions, but are not required to do so.
     - Students with IEPs cannot be denied access to education based on a felony conviction

  d) are not currently serving a long-term suspension (LTS) or expulsion
     - School district *may* enroll children with felony convictions, but are not required to do so.
     - Students with IEPs cannot be denied access to education based on an LTS or expulsion

What special rights does McKinney-Vento provide for homeless students?

- McKinney-Vento (M-V) provides protections to ensure that students who are forced to leave their homes and are living in temporary living situations do not experience disruptions to their education. M-V covers a broad range of transitional students, from those who are living in shelters to students who are living with friends/family because they've been kicked out or because their family can't afford rent.
- Children who are eligible under M-V must be allowed to **immediately enroll** in school, even without typically required records and documentation. A school may take steps to get records from a former school or to complete necessary immunization, but cannot delay enrollment to do so.

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What special rights does McKinney-Vento provide for homeless students? *(cont'd)*

- If remaining in their base school is in the best interest of a homeless student, **transportation** must be provided for them even if they are currently residing outside of the school's normal attendance zone. The district does not have to provide special transportation for extracurricular activities.
- If needed, the student's school must arrange for the student to receive any **supplies or uniforms** that are required for participation.
- Students who are homeless have a right to **participate in school just like any other student**. They cannot be placed into separate programs just because they are homeless. They also must receive the same services to which they were entitled in their previous school (e.g. special education services, free and reduced lunch, etc).
- Guardians/unaccompanied students can **appeal** M-V related decisions, including eligibility and school placement, to the local district M-V Coordinator and, as needed, to the State Coordinator. Students have the right to remain enrolled through *all* levels of the appeal process.

Red flags during the enrollment process

A district can require documentation to prove **age**, **residence**, and **immunization**, but cannot do so in a way that discriminates against non-citizen students.

A school district cannot:

- Only accept a birth certificate as proof of age
- Request documentation of immigration status
- Refuse to immediately enroll a homeless student because of lack of documentation
- Require documentation of anything other than what is required for enrollment under State law
- Unreasonably delay enrollment after being provided all of the required documentation
- Refuse to enroll a student who doesn't have appropriate immunization documentation, without giving the student/parent 30 days to obtain the necessary immunizations and/or documentation

GOLD STAR TIPS

If a child is denied enrollment because their parent/guardian/caregiver doesn't have the specific form of documentation of age or residency requested by the district (e.g. a birth certificate to establish age or a lease to establish residency), then you can provide other forms of proof of age (e.g. previous school records, an affidavit from the parent, medical records, etc.) or of residency (e.g. a current or recent bill in their name, a notarized statement from a landlord, etc.)

If a child is denied enrollment due to a felony conviction or LTS, **determine if the child has or needs an IEP.** Students with IEPs are entitled to appropriate education even if LTSed or convicted of a felony.

Children denied enrollment due to a felony conviction or LTS/expulsion can **request readmission**

If a child might qualify as "homeless," tell the school about the transitional nature of the youth's living situation and **request help from the district's McKinney-Vento Liaison**

A student cannot be denied enrollment for *any* reason other than those listed above

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If a student is denied enrollment, request (1) a written reason for the denial; and (2) information about the parent/guardian/caregiver's appeal rights

Legal Aid of NC's Right to Education Project (REP)

For additional resources: **www.legalaidnc.org/rep** To apply for legal services: **1-866-219-5262**

You may want to contact a lawyer if your child's enrollment is denied or unreasonably delayed.

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

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Court Involvement & School Enrollment

Tips for Parents and Guardians

**** It is important to know your legal rights related to school enrollment after your child has been referred to juvenile court or adult criminal court ****

What is the difference between a juvenile delinquency adjudication and a criminal conviction?

Juvenile delinquency adjudications and criminal convictions carry very different consequences, particularly related to school enrollment. Understanding the difference between the two court settings is important to help you know how best to advocate for your child if they are facing a denial of enrollment.

A ***juvenile delinquency adjudication*** occurs when a child between the ages of 6 and 17 makes an admission or has a trial in *juvenile court* at which the State proves that the child committed a delinquent act. The juvenile process begins with a complaint to the Division of Juvenile Justice (DJJ). If DJJ approves the case for juvenile court, a petition is filed.

A ***criminal conviction*** results from a finding in *adult criminal court* that a person is guilty of the crime they were accused of committing. In general, only individuals ages 18 and older can receive criminal convictions. In very limited situations, young people between the ages of 13 and 17 may be transferred to adult criminal court if accused of committing a serious or violent felony offense. The criminal process begins with an arrest or a summons and the filing of a criminal charge.

In what situations can my child's school unenroll and refuse to educate them because of their court involvement?

Some districts and charter schools may try to completely deny educational access based on a student's court involvement. In most cases, this is not legal under North Carolina enrollment law. Ask your defender or court counselor if you are unsure of where your child fits into the categories below.

☒ The following court-related actions do **NOT** give a school lawful basis to unenroll **any student.**

- A ***juvenile complaint or petition*** based on either a misdemeanor or a felony offense
- A ***juvenile delinquency adjudication*** based on either a misdemeanor or a felony offense
- A ***criminal arrest or charge*** based on either a misdemeanor or a felony offense
- A ***misdemeanor conviction in adult court***

☒ A ***felony conviction in adult court*** does **NOT** give a school lawful basis to unenroll **students with disabilities.**

- Students with disabilities who are eligible to receive special education services via an Individualized Education Program (IEP) have extra protections under the law and cannot be denied access to their education based on a criminal conviction. Districts and charter schools must continue to provide them educational services, even if they have been convicted of a felony.
- To learn more about the rights of students with disabilities, check out our special education overviews.

? A ***felony conviction in adult court*** **may** be used as a basis for a school district or charter school to refuse to educate **non-special education students.**

- While North Carolina enrollment law says that districts *may* deny enrollment for students "convicted of a felony in this or any other state," schools are ***not required to deny enrollment*** following a criminal conviction. Instead, districts and charter schools have the power to decide that they will continue educating a student who has been convicted of a felony.

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What rights are violated if my child's school district or charter school unlawfully unenrolls them?

All students in North Carolina have a constitutional right to access a sound basic education. If the school's refusal to educate your child is not allowed under North Carolina enrollment law, your child's constitutional rights may have been violated too.

If your child isn't receiving the special education services they need, their rights under the federal Individuals with Disabilities Education Act (IDEA) may have also been violated.

My child is being denied education because of their court involvement. What can I do?

- ✓ **In all situations, request that the school/district give you a copy of their decision in writing.**
- ✓ **If your child is in *juvenile court* and has been unenrolled from school**
  - Contact your court counselor for help making sure the school understands that enrollment cannot be denied based on a juvenile charge, petition, or adjudication.
  - If your court counselor can't fix the problem, you can also call Legal Aid of NC for help.
- ✓ **If your child is in *adult criminal court* and has been unenrolled from school**
  - *If they have been arrested or charged, but not yet convicted*
    - Inform your principal and/or superintendent that NC enrollment law does not allow students to be denied educational access based on arrests or charges, and request that your student be immediately reenrolled. This applies to misdemeanor and felony charges.
  - *If they have been convicted of a misdemeanor offense*
    - Inform your principal and/or superintendent that NC enrollment law does not permit students to be unenrolled based on misdemeanor convictions, and request your student be immediately reenrolled.
  - *If they have been convicted of a felony offense*
    - ***For students with disabilities who have an IEP***: inform your principal and/or superintendent that your student's rights under NC enrollment law and federal special education law require that they continue to receive educational services, and request that they be immediately reenrolled.
    - ***For students who do not have an IEP***:
      - Request an appeal of the school's decision.
        - Ask the school/district to use its discretion to educate the student.
        - If possible, bring letters of support and suggest alternative consequences.
      - Review our special education overviews if you believe your child may need special education services. You can request in writing that they be evaluated to determine eligibility for special education services, which could offer them extra protections.
- ✓ **If you need help appealing the school's final decision, you can contact Legal Aid of NC**

Why is it important to advocate for your court-involved student's right to education?

A high-quality education can have life-changing impacts on a student's career path and long-term stability. School is also where a young person has the greatest opportunity to form positive relationships with peers and adults, and learn the skills needed to thrive as an adult.

If a student's education is taken away, they are at a much higher risk of falling deeper into the juvenile and/or criminal justice system. They are also more likely to face poverty as an adult.

Legal Aid of NC's Right to Education Project

For more resources: **www.legalaidnc.org/rep** To apply for legal services: **1-866-219-5262** or **919-226-5921**

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

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General Education Interventions & Section 504 Plans

(How can I get help for a child who struggles with academics and/or behaviors, but doesn't qualify for special education?)

What help is a child entitled to if struggling in school?

- Regular education interventions target all struggling students. They are often implemented in a "tiered intervention" model, with interventions aimed at helping all students first, followed by interventions that begin to focus more specifically on the needs of individual students who are struggling.
  - Multi-Tiered System of Supports ("MTSS") is the name of the regular education intervention process used throughout North Carolina.
  - MTSS can be used to address both academic and behavior concerns.
- All students should also have access to high quality behavior intervention plans as needed to help therapeutically address school misbehavior. These can be part of the MTSS process or a separate intervention.

What is a Section 504 plan?

- **Section 504** of the Rehabilitation Act of 1973 is a disability anti-discrimination law that provides protections for students with disabilities to make sure they have equal access to the school environment.
  - A student qualifies for a Section 504 plan if they have a disability that "substantially limits one or more major life activity," including learning.
    - Section 504 also covers temporary disabilities.
  - A Section 504 plan puts into place "accommodations" that are needed to ensure that the student's disability doesn't make it more difficult for them to participate in the school environment and access the school curriculum than their non-disabled peers.
    - Accommodations can include physical accommodations like ramps to enable a student to access particular parts of the school, or can include academic accommodations such as giving a student with ADHD the opportunity to take a test in a separate room to minimize distractions or giving that student extra time to complete a test.
  - Students with 504 plans are entitled to Manifestation Determination Reviews ("MDRs") when facing a suspension that is longer than 10 days, or a shorter suspension that is related to previous patterns of behaviors and results in more than 10 *total* days of suspension that school year.
    - A student cannot be suspended if the behavior that led to the suspension was (1) closely related to their disability; or (2) caused by the school not implementing their 504 plan.
  - A Section 504 plan should be reviewed regularly.

GOLD STAR TIP: What is the difference between an *IEP* and a *Section 504 plan*?

Both an Individualized Education Program (IEP) and a Section 504 plan serve students with disabilities, and both provide needed accommodations.

Only students with IEPs receive specially designed instruction (e.g., in an inclusion, resource, or separate class setting). This specially designed instruction may include direct teaching in academics, social-emotional skills, organization/study skills, functional skills, communication skills, etc.

In general, an IEP offers more legal protections that a Section 504 plan.

Legal Aid of NC's Right to Education Project (REP)

For additional resources: **www.legalaidnc.org/rep** To apply for legal services: **1-866-219-5262**

You may want to contact a lawyer if your child is denied needed behavior interventions.

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

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Form: Request for Meeting to Review General Education Intervention Plan

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I request that my student's school-based support team (e.g. SST, MTSS, etc.) meet to review my student's progress, the interventions that are currently in place, and any new interventions that may need to be implemented to address the following concerns: (Check all that apply.)

____ My student is having **behavioral struggles** (*examples could include avoiding work, not staying organized, regularly getting into arguments or fights, etc*.)
____ My student is having **academic struggles** (*examples could include having a hard time keeping up in math, reading, writing, etc.)*
____ My student needs a **functional behavioral assessment** (FBA) and **behavior intervention plan** (BIP) to help address ongoing behavior needs
____ Other: _____

Additional information:

Please have someone contact me within 10 school days with a possible date, time, and location for a Team meeting.

Thank you,

_____ _____
Signature of Parent/Guardian Date Submitted to the Principal

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Form: Request for an Evaluation to Determine Eligibility for a 504 Plan

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I request that my student be evaluated to determine if they are eligible to receive accommodations under a 504 Plan. I believe my student may eligible because they:

Please contact me within 10 school days to schedule a time to meet with you to discuss the process and for me to sign any necessary paperwork so that my child's needs can be addressed as soon as possible. Also, please accept this request as written consent to evaluate my child.

Thank you.

_____ _____

Signature of Parent/Guardian Date Submitted to the Principal

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Request for a 504 Plan Team Meeting

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I would like to meet with my student's 504 Plan Team to discuss my student's: (Check all that apply.)

____ Behavioral issues
____ Academic issues
____ Area of eligibility/disability
____ Teacher(s)
____ Accommodations
____ Other: _____

Additional information:

Please have someone contact me within 10 school days with a possible date, time, and location for an 504 Plan Team meeting.

Thank you,

_____ _____
Signature of Parent/Guardian Date Submitted to the Principal

Behavior Interventions

(How can I get more formal help for a student struggling with behavior?)

What is a Functional Behavioral Assessment and a Behavior Intervention Plan?

- A Functional Behavioral Assessment (FBA) is a process used to determine the cause (and function) of behaviors that interfere with learning.
  - The FBA incorporates data that should include: interviews (student, teacher, and parent), rating scales, direct observations, and a review of student records.
- A Behavior Intervention Plan (BIP) is then developed using the information collected during the FBA.

Both general education students and special education students may need and be eligible for an FBA and BIP

Creating a strong FBA

- ✓ As a team, identify and define the 1-2 behaviors that are having the greatest impact on the student's education
- ✓ Collect information about the behavior(s):
  a. what happens before the child's problem behavior
  b. what specific behaviors are displayed
  c. what happens afterward
- ✓ As a team, analyze the information gathered, identify patterns, and come to an agreement about the purpose of the problem behavior
- ✓ Develop a statement that explains why and when the team thinks the child uses the problem behavior

What's in a BIP?

- A BIP includes strategies to:
  a. Eliminate triggers that were identified in the FBA
  b. Teach and reinforce positive replacement behaviors
  c. Therapeutically deescalate the student when behaviors arise
- The BIP should be focused on what the *adults in the school environment* are going to do to more creatively support students with challenging behaviors

When should an FBA be conducted and a BIP created?

- It is *best practice* to conduct an FBA and develop a BIP when *any student* demonstrates behaviors that impede his/her learning or that of others, exhibits a pattern of challenging behavior, is at risk for suspensions or has accumulated suspension days.
- For students who have IEPs, an FBA/BIP may be *required* and more behavior instruction/services available if the student is getting frequently suspended for disability-related behaviors.

Who should conduct an FBA and develop a BIP?

- Anyone who knows the student and is invested in their success can participate in the FBA/BIP process. This includes but is not limited to: teachers, administrators, counselors, parents, the student, school or district-level behavior specialists, psychologists, social workers, community members, etc..
  - If you disagree with the school's FBA for a student with an IEP and/or don't think the BIP is helping, you can request a free "Independent Education Evaluation" (IEE) FBA, which will trigger the school's duty to contract with a private specialist to complete an independent FBA.

GOLD STAR TIP

If a child has experienced trauma – such as abuse or neglect, you can advocate that the FBA and BIP consider and respond to the impact of trauma on the child's behavior through trauma-informed behavior interventions (e.g. relaxation strategies, utilizing pre-arranged signals, redirecting behaviors through offering reasonable choices, using calm tone of voice and/or nonverbal cues, etc.)

For more information about trauma-informed interventions, conduct an Internet search using terms such as "trauma-informed classrooms" or "trauma-informed schools."

Legal Aid of NC's Right to Education Project (REP)

For additional resources: **www.legalaidnc.org/rep** To apply for legal services: **1-866-219-5262**

You may want to contact a lawyer if your child is denied needed behavior interventions.

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

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Form: Request for a Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP)

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I request that my student's school-based support team (circle one: IEP, 504, SST, MTSS, or other: _____) meet to conduct a functional behavioral assessment (FBA) and then create a behavior intervention plan (BIP). I believe my student needs an FBA and BIP because they have received: (Check all that apply)

____ Multiple write-ups and/or office referrals
____ Multiple detentions
____ Multiple placements in in-school suspension (ISS)
____ Multiple bus suspensions
____ Multiple short-term suspensions
____ A long-term suspension or 365-day suspension
____ Multiple unexcused absences related to skipping class and/or school
____ Other: _____

Additional information:

Please have someone contact me within 10 school days with a possible date, time, and location for a Team meeting.

Thank you,

_____ _____
Signature of Parent/Guardian Date Submitted to the Principal

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Special Education Eligibility

(Does my student qualify for special education services?)

Who is eligible for special education services?

Children may be eligible for special education services if they have a physical or mental disability that falls into one of the categories below:

- Autism
- Deafness
- Developmental delay
- Emotional disability
- Hearing impairment
- Intellectual disability
- Multiple disabilities
- Orthopedic impairment
- Other health impairment (such as ADHD)
- Specific learning disability
- Speech or language impairment
- Traumatic brain injury
- Visual impairment

To be eligible for special education services, the student must:

- be between the ages of 3 through 21;
- have a disability that fits into one of the categories above;
- struggle within the school environment as a result of the disability; and
- require specially designed instruction to address any disability-related struggles.

How does a child become eligible to receive special education services?

- **School districts** are required to be on the lookout for children who may need special education services. If teachers or administrators become concerned that a child might be in need of special education services, they must speak to the parent about their concerns and about beginning the special education evaluation process.
  - If a school staff member believes your student may have a disability, the school **must** get your permission before conducting an evaluation.

- A **parent/guardian** can also start the special education process at any time by submitting a written request to the principal that: 1) describes your concerns and 2) asks that your child be evaluated for special education services.
  - The request can be in any format (email, letter, note, etc.) as long as it is written.

Could my student be in need of special education services?

If you notice any or some of these red flags with your child, you may want to request an evaluation.

- ✓ Chronically failing grades or test scores
- ✓ Trouble reading, writing, or doing math
- ✓ Repeated behavior problems in school; many suspensions for similar behaviors
- ✓ Trouble concentrating or paying attention in school
- ✓ Trouble listening to others or expressing themselves
- ✓ Difficulty with basic life skills
- ✓ Mental health or emotional issues that impact school performance

GOLD STAR TIPS!

When you have concerns or requests that you want to share with the school, always **put them in writing** and **make a copy for yourself with the date submitted.**

When you request an evaluation, be sure to **share with the school anything you are concerned about** – struggles with academics, behaviors, study skills, etc.

If English is not your first language, you can **submit the request in your native language**

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What happens after an evaluation is requested?

- ***Referral Meeting:*** Once your child is identified as possibly needing special education services, the school must hold a meeting to determine next steps in the evaluation process. At that meeting, the team can determine eligibility based on information they already have or can refer the student for additional testing to gather more information. Generally, unless the school has already done a formal evaluation or you have provided the school with the results of one, it is not appropriate to decide a child is eligible or ineligible without conducting a full evaluation.

  RED FLAG: Sometimes, if the school thinks your student has a disability, it may first try some general education intervention strategies in the classroom to see if those help. This is often called a "multi-tiered system of support" (MTSS) approach. These interventions can be useful to avoid unnecessarily identifying a student as needing special education, BUT:

  - Schools **cannot** refuse to evaluate a child simply because they haven't completed MTSS
  - If a parent/guardian provides evidence that the child may be in need of special education services and requests an evaluation, the school **must** move forward with conducting an evaluation, even if MTSS is conducted at the same time as the formal evaluation

- ***Evaluation:*** The evaluation **must** assess the student in all areas related to your child's suspected disability. This could include academic functioning, behavior and social/emotional functioning, ability to pay attention, communication skills, and daily living skills. An evaluation may include: 1-1 testing by a psychologist, filling out parent rating scales, and providing information on your child's development.

- ***Eligibility Meeting:*** After the evaluation is completed, the parent/guardian will meet with a group of school professionals, which must include someone qualified to interpret and explain the testing results, to decide whether the student is eligible for special education services.

  - To be eligible, your student must be "a child with a disability," meaning: 1) the child's disability meets the requirements of a listed category, 2) the child's disability has a negative impact on his/her educational performance; **and** 3) the child must need specially designed instruction.
  - A student can have more than one area of eligibility.

Evaluation Timelines

The school has **90 calendar days** from the date you submitted your written request for an evaluation to:

- complete the evaluation,
- determine your student's eligibility for services, and
- if the student qualifies for services, create an IEP and begin providing services.

****** The 90-day timeline does not stop for holidays, including summer vacation******

GOLD STAR TIPS!

You should **ask to receive a copy of the evaluation report at least 48 hours** before the eligibility meeting. You may also request a meeting with the school or district psychologist to review results and ask questions before the team meeting

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If your student has **community-based supports**, including mentors or medical or mental health providers, you can ask that they can attend the eligibility meeting to share additional information about your child

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If you disagree with the evaluation results, you have a **right to a second opinion through a free independent educational evaluation (IEE). You can ask the school for IEE resources.**

If your child is not eligible for an IEP, request that their **eligibility be reviewed for a 504 plan,** a less intensive support plan for students with disabilities.

Legal Aid of NC's Right to Education Project (REP)

For additional resources: www.legalaidnc.org/rep To apply for legal services: **1-866-219-5262**

You may want to contact a lawyer if the school refuses to evaluate your child, refuses your request for an IEE, misses important timelines, or if you believe the school should have evaluated your student much earlier but failed to do so.

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

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Form: Request for an Evaluation to Determine Eligibility for Special Education Services

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I request that my student be evaluated to determine if they are eligible for special education services. I believe my student may eligible because they are struggling a lot at school in the following area(s): (Check all that apply)

____ Reading/Writing/Language Arts
____ Mathematics
____ Behavior/Social Interactions
____ Physical/Mental Health
____ Communication/Speech Skills
____ Motor Skills *(e.g. walking, jumping, climbing, writing, picking up objects, etc.)*
____ Study/Work Skills *(e.g. paying attention, staying organized, completing tasks, taking notes, etc.)*
____ Daily Living Skills *(e.g. using the bathroom, eating and drinking independently, staying safe, etc.)*
____ Other: _____

Additional information:

Please contact me within 10 school days to schedule a time to meet with you to discuss the process and for me to sign any necessary paperwork so that my child's needs can be addressed as soon as possible. Also, please accept this request as written consent to evaluate my child.

Thank you.

_____ _____
Signature of Parent/Guardian Date Submitted to the Principal

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Special Education and Service Delivery

(What special education services should my student be getting?)

What services is a child entitled to receive if eligible for special education?

- Students must have an **Individualized Education Program (IEP)** that meets their unique needs.
  - An IEP is a written plan that **must** describe in detail:
    - what the student's current strengths, weaknesses, and needs are;
    - ambitious and measurable goals for the student to achieve during one year;
    - the accommodations, related services (*see below*), and special education instruction services needed to help the student reach their goals; and
    - how and where those services will be provided (e.g., in the general classroom, in a special education classroom for part or all of the day, in a special education school).

- A student whose behaviors interfere with their classmates' ability to learn ***must*** be receiving appropriate, therapeutic **behavioral interventions** to address those behaviors. Those supports may include a functional behavioral assessment (FBA) and behavior intervention plan (BIP).

- A student's IEP is created and monitored by an **IEP team**. At a minimum, an IEP team **must** include: the parent/guardian, the student (if appropriate and/or if the child is 18 or older), a school district representative (usually the principal or assistant principal), a special education teacher, and a general education teacher. If evaluations are being reviewed, the school psychologist should also attend.
  - An IEP team ***should*** also include related services providers and anyone either in the school or in the community who has important knowledge about the student's strengths or needs.

- **Timelines for IEP and Reevaluation Reviews**
  - *Every year:* The IEP **must** be reviewed and updated at least yearly, but it can and ***should*** be reviewed and updated with additional supports more frequently if concerns arise.
  - *Every three years:* A student **must** receive updated testing at least once every three years, unless the team decides new information isn't needed to ensure the student's needs are being fully met. A parent/guardian ***can*** request a reevaluation before the three-year deadline if there are concerns.

***More info*: Classroom Accommodations**

Classroom accommodations help students better access the general education curriculum by changing their environment or the materials with which they are taught. Accommodations include, but aren't limited to:

- Preferential seating in the classroom
- Repeated directions
- Frequent breaks
- Chunked or shortened assignments
- Extra set of books for home
- Copies of teacher's notes
- Enlarged print materials
- Test read aloud
- Small testing environment

***More info*: Related Services**

Related services help students better access the general education curriculum by providing extra support in related areas of non-academic, disability-related need. Related services include but aren't limited to:

- Physical therapy
- Speech therapy
- Occupational therapy
- Counseling
- Social work services
- Paraprofessional support
- Transportation
- Health or nursing services
- Parent counseling and training

GOLD STAR TIP: Don't rely on pre-set options for deciding what classroom accommodations or related services a child needs. Ask for whatever you think may help, even if not listed on IEP forms. A district is not allowed to deny your child a service because they do not currently provide it.

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What are the key legal rights for students who are eligible for special education?

- A child who is eligible for special education services is entitled to a **Free and Appropriate Public Education (FAPE)** in the **Least Restrictive Environment (LRE).**
    - In order to provide your student with access to a **free and appropriate public education**, a school must ensure that their IEP includes services that:
        - ✓ are provided at no cost to you
        - ✓ will enable your child to make progress from year to year on their IEP goals
        - ✓ will enable your child to make progress towards graduation and post-high school goals
        - ✓ are provided if your child is suspended for more than ten total days in a schools (*Note: a school can provide these services to a suspended child in a different setting than what is in their IEP)*
    - A child's IEP must also ensure that the child is being educated in the **least restrictive environment** appropriate.
        - ➢ This means your child should be educated in the same classroom and school as their peers without disabilities to the greatest extent possible.
        - ➢ Generally, your child should **not** be placed in special classes or a special school, placed on homebound, or placed on a modified schedule *unless* he or she cannot succeed in a less restrictive environment with appropriate interventions (including new classroom accommodations, related services, and behavioral interventions).

Special Education Red flags

You may want to request an IEP meeting if you notice any of these issues:

- The IEP does not appropriately reflect your concerns or your student's individual needs and strengths.
- The IEP does not clearly state what your student can and cannot do in each area of need, or there is no data to back up what the IEP says.
- The IEP does not have goals for all areas in which your student is struggling (ex: math, reading, organizational skills, and peer interaction).
- The IEP does not have all the accommodations and assistive technology (ex: access to a laptop) your student needs to do well in school.
- The goals and services are unclear; a teacher who wasn't at the IEP meeting would be confused about how to help your student.
- The IEP is missing related services that are needed to help your child.
- The IEP goals did not meaningfully change at the yearly review.
- Your student is not spending enough time with their peers without disabilities, and could be successful in a less restrictive setting with added supports (ex: more accommodations, related services, etc.).
- The IEP does not include Extended School Year (ESY) services (instruction over school breaks), and your student needs these services.
- Your student has not been reevaluated within the last three years.
- Your student is not making meaningful progress on their IEP goals.
- Your student is struggling to pass their classes and/or their end-of-grade/end-of-course tests.
- Your student is frequently getting suspended.

GOLD STAR TIPS

Don't wait until the yearly review to bring up concerns or request changes to the IEP

Prepare for IEP meetings – Request an agenda & drafts, and share concerns or requests with the team ahead of time

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Bring community partners to IEP meetings with you for support and to provide additional information about your child

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Make sure the IEP focuses and builds on your **child's strengths**

Get copies of everything **in writing**

Legal Aid of NC's Right to Education Project (REP)

For additional resources: **www.legalaidnc.org/rep** To apply for legal services: **1-866-219-5262**

You can request an IEP meeting, in writing, at any time to make changes to or review the IEP. You may want to speak to a lawyer if required services aren't being provided, your child has not been making progress under the IEP, or if you believe your child's placement is unnecessarily restrictive and IEP meetings have not resolved the issue.

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

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Form: Request for an Individualized Education Program (IEP) Team Meeting

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I would like to meet with my student's Individualized Education Program (IEP) Team to discuss my student's: (Check all that apply.)

____ Behavioral issues
____ Academic issues
____ Area of eligibility/disability
____ Teacher(s)
____ Special education services
____ Related services
____ Accommodations
____ Other: _____

Additional information:

Please have someone contact me within 10 school days with a possible date, time, and location for an IEP Team meeting.

Thank you,

_____ _____
Signature of Parent/Guardian Date Submitted to the Principal

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Form: Request for a Reevaluation

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I request that my student's IEP Team meet to begin the reevaluation for my child. I believe my student needs to be reevaluated in order to:

____ Determine whether they still qualify for special education services;
____ Make sure that my student's ongoing academic needs (math, reading, writing, etc.) and developmental needs (motor skills, behavioral/emotional skills, etc.) have all been identified;
____ Determine whether changes need to be made to the special education services that my student is receiving in order to make sure that they have the support needed to make progress on their IEP goals and participate in the general school curriculum.

Additional information:

Please contact me within 10 school days to schedule a time for the IEP Team to meet to discuss the process and for me to sign any necessary paperwork so that my child's needs can be addressed as soon as possible. Also, please accept this request as written consent to evaluate my child.

Thank you.

_____ _____
Signature of Parent/Guardian Date Submitted to the Principal

Form: Request for an Independent Educational Evaluation at Public Expense

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I write to inform you that I do not agree with the most recent evaluation that the school conducted of my student, and so am requesting that the school pay for me to get a second evaluation of my student (independent educational evaluation). Please provide me information about where I can get another evaluation, as well as any requirements regarding who can conduct an evaluation of my child and what the evaluation must cover.

Additional information:

Please have someone contact me within 10 school days with the requested information regarding my request for an independent educational evaluation at public expense.

Thank you.

_____ _____

Signature of Parent/Guardian Date Submitted to the Principal

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Special Education and School Discipline

(What rights does my student with a disability have when facing a suspension?)

How should schools respond when students with IEPs have behavior struggles?

Many children with disabilities experience behavior challenges in school. If your student's education – or that of others – is affected by your student's behavior, the following interventions ***should*** be implemented.

- A **Functional Behavioral Assessment (FBA)** is used to help the IEP team figure out ***why*** the student's behaviors are happening and what supports will best address the behaviors. The FBA should identify a target behavior, and then include a review of observations, interviews, and other information, such as previous discipline referrals and teacher behavior logs related to that behavior.
  - A parent/guardian may request a FBA at any time.
  - If a behavior is found to be related to a child's disability following a manifestation determination review (MDR) (*see below)*, the school **must** conduct or review a FBA.

More info*: *Functional Behavioral Assessments

- Target behaviors can include externalizing behaviors (e.g. disruptiveness, aggression, talking back, leaving the classroom), internalizing behaviors (e.g. sleeping, daydreaming), or other behaviors (e.g. tardiness).
- Aim of FBA: The FBA should answer the following questions:
  - In what settings does the behavior occur?
  - Are there any settings where the behavior does not occur?
  - Who is present when the behavior occurs?
  - What activities or interactions (triggers) take place just prior to the behavior?
  - What usually happens immediately after the behavior?
  - Is the student trying to gain attention or approval of a classmate, avoid instruction/difficult assignments, or achieve some other goal?

- A **Behavior Intervention Plan (BIP)** is a tool to assist parents, teachers, and the student in dealing with a child's behavior in a therapeutic and beneficial way. The BIP is created using the information obtained in the FBA.
  - Creation of a BIP, or revision of the BIP, can be requested by the parent/guardian at any time. If the school has not already done so, they should complete an FBA prior to a BIP.
  - If a behavior is found to be related to a child's disability following an MDR (*see below)*, the school **must** conduct or review a BIP.
  - Once created, the BIP becomes an enforceable part of the student's IEP.

More info*: *Behavior Intervention Plans

Effective BIPs are not punishment; instead, they should:

- be preventative and strengths-based;
- include multiple interventions or support strategies;
- make changes to the child's school environment to prevent the behavior;
- teach the child coping strategies and self-management skills;
- identify supports or strategies that will improve behavior;
- be developed with input from the student;
- establish constructive steps to be taken when misconduct happens;
- establish when and how the plan will be reviewed to determine its effectiveness;
- establish when and how information will be shared between home and school; and
- determine how the student's behavior will be handled should it reach a crisis, particularly without the use of seclusion, restraints, or law enforcement involvement.

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When are special protections triggered during the discipline of students with IEPs?

- Once a student with an IEP has been suspended for more than 10 days in a school year, special protections (*see below*) must be provided to that student. The following "suspensions" can trigger protections:
    - A long-term suspension (LTS) (e.g. a suspension lasting more than 10 days)
    - A series of short-term suspensions (STS) that involve similar types of behaviors
    - A series of in-school suspensions (ISS) that involve similar types of behaviors if the student doesn't receive all services in their IEP or spends less time with non-special education peers while removed
    - A series of removals in which a parent/guardian is told to come pick their child up before the end of the school day and, as a result, the child misses required services under their IEP
    - A disciplinary transfer to an alternative program
    - An expulsion

What special protections must students with IEPs receive when facing a suspension?

- Once a suspension that falls into one of the categories above occurs, the following protections are triggered:
    a. Beginning no later than the 11th total day of suspension and continuing throughout any resulting suspension, the student must be provided **uninterrupted access to an appropriate education.**
        - This includes any educational and related services needed to help the student make progress on their IEP goals and in the general curriculum
        - These services may be provided in a different environment.

    b. The student's IEP team must meet as soon as possible (but no later than 10 days after the suspension) to hold a **Manifestation Determination Review (MDR)**
        - The purpose of the MDR is to answer two questions:
            1) Was the student's conduct caused by, or did it have a direct and substantial relationship to, the student's disability?; or
            2) Was the student's conduct the direct result of the school's failure to follow the IEP?
        - If the answer to either of the questions above is yes, then the student may not be suspended.
            - **EXCEPTION:** If conduct involved a weapon, drugs, or serious bodily injury, the student can still be removed to a different environment for up to 45 school days.

    c. Creation or review of a **FBA and BIP** *(see above)* to prevent future incidents
        - If the behavior is found to be a manifestation, an FBA/BIP is *required*
        - If the behavior is not found to be a manifestation, and FBA/BIP is *strongly recommended*

Red Flag: Students who need but don't yet have an IEP

If a student does not have an IEP, these protections must still be provided ***IF*** the school had reason to know the student needed an IEP **before** the incident occurred:

a. Parent/guardian requested an evaluation, or put in writing concerns about child's need for an IEP
b. A teacher or other staff member expressed specific concerns about the child to an administrator; or
c. The child's behavior and educational performance clearly showed the need for special education.

If an evaluation is requested during a suspension, it must be completed **faster than the 90-day timeline**

GOLD STAR TIPS

Be proactive – don't wait for a suspension to request an FBA/BIP or other changes to your child's IEP.

At the MDR, **be prepared** to discuss why the behavior is related to the student's disability. If possible, **bring your child's therapist, mentor, or physician** with you.

If the MDR does not end the suspension, **use the district's general appeal process** to challenge the LTS.

Legal Aid of NC's Right to Education Project (REP)

For additional resources: **www.legalaidnc.org/rep** To apply for legal services: **1-866-219-5262**

You can request a FBA/BIP creation/revision at any time. If helpful, you can use the attached sample form. You may want to contact a lawyer if your child has missed a lot of school due to disciplinary incidents, or if your child is facing LTS or expulsion.

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

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Form: Request for a Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP)

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I request that my student's IEP Team meet to conduct a functional behavioral assessment (FBA) and then create a behavior intervention plan (BIP). I believe my student needs an FBA and BIP because they have received: (Check all that apply)

____ Multiple write-ups and/or office referrals
____ Multiple detentions
____ Multiple placements in in-school suspension (ISS)
____ Multiple bus suspensions
____ Multiple short-term suspensions
____ A long-term suspension or 365-day suspension
____ Multiple unexcused absences related to skipping class and/or school
____ Other: _____

Additional information:

Please have someone contact me within 10 school days with a possible date, time, and location for a Team meeting.

Thank you,

_____ _____
Signature of Parent/Guardian Date Submitted to the Principal

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IEP Checklist: *Prepare and Participate*

Your involvement...

in developing an effective and appropriate **I**ndividualized **E**ducation **P**rogram *or* **IEP** for your child is essential to your child's success.

While IEPs typically cover a 12-month period, they help to create the foundation for your child's future. Think of the adult your child will become. When planning, think well beyond just one year.

Get ready early, actively participate and stay connected throughout the year!

STEP ONE: Before The IEP Meeting:

Review! The Individuals with Disabilities Education Improvement Act of 2004 (IDEA) requires schools to give parents of students with disabilities adequate notice to participate in the IEP meeting. This notice is called ***Invitation to Conference/Prior Notice.*** The NC Department of Public Instruction considers "adequate" notice to be 7-10 calendar days. The notice must be given to you in writing and in your native language.

Carefully review the invitation/notice and consider the following:

- ❒ Is the *purpose* of the meeting clearly stated?
- ❒ Is my child 14 years old or turning 14 during the next 12 months? If so, did he/she receive their own written invitation to the IEP meeting as required when planning for their transition to adulthood?
- ❒ Who is attending? What are their roles in the meeting?
- ❒ Are there any team member excusal requests attached to invitation?
- ❒ Is the Date/Time/Location convenient for your schedule?

Respond! Read, sign and return the Invitation to Conference/Prior Notice as soon as possible and keep a copy for your records. Include in writing any of the following that apply:

- ❒ Suggestions for alternative meeting dates or times, if necessary
- ❒ A request to participate by conference call or other way if you are unable to participate in person
- ❒ A list of whom you are inviting, if anyone
  - consider inviting a friend, relative, outside professional or note taker
- ❒ A list of concerns or issues that you wish to discuss: this is your ***agenda***
- ❒ A request for a copy of any proposed IEP draft, well in advance of the meeting
- ❒ Your approval or disapproval of any team member excusal request
- ❒ A note, if you plan to audio record the meeting

Be sure enough time has been scheduled for the meeting to discuss:

- **Items listed on the Invitation to Conference**
- **Concerns or issues on your agenda**

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Organize!

Carefully organize your child's records/files in an order that works well for you. If you notice that you are missing an important document, ask your child's school for a copy.

Your child's records/files should include *(as appropriate for your child)*:

- ❒ Current and past IEPs
- ❒ Report cards
- ❒ Work samples
- ❒ Evaluation/assessment results
- ❒ Progress reports on academics and IEP goals
- ❒ Notes/email/phone call logs of communication about your child
- ❒ Functional Behavior Assessments (FBA)
- ❒ Behavior Intervention Plans (BIP)
- ❒ Other documents, such as Person-Centered Plan, tutor reports, behavior logs/reports, discipline referrals, medical records, therapy/ treatment reports, etc.

Prepare!

As you prepare for the IEP meeting, review your child's records/files and consider the following:

1. ***What has been accomplished?***
2. ***What has worked well?***
3. ***What needs more work?***
4. ***What are my concerns? What are my child's concerns?***

- ❒ Visit ECAC's web site, **www.ecac-parentcenter.org**, to download or review the following tools:
  - Positive Student Profile
  - Blank IEP documents and other worksheets or forms
  - NC Policies Governing Services for Children with Disabilities
  - NC Procedural Safeguards: Handbook on Parents' Rights
  - Select the **YouTube** icon and watch ECAC's IEP videos
- ❒ Write down and prioritize a list of any questions, concerns or requests that you have.
- ❒ Create a vision statement for your child's life both now and for the future.
- ❒ Make copies or ask the school to make copies of your agenda (*those topics or issues that you want to discuss and address)*.
- ❒ Gather supporting documents such as private evaluations, therapist notes, research-based fact sheets, records of past trials, etc.
- ❒ Ask your child about how things are going. What is working or not working?
- ❒ Prepare your child to participate in the meeting, if they are attending.
- ❒ Consider bringing pictures or a short video of your child to the meeting.
- ❒ Give or send a reminder note to anyone you have invited to the meeting.
- ❒ Ask the teacher(s) about your child's progress and any specific concerns or ideas they have for the upcoming year.

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STEP TWO: The IEP Meeting:

Participate! It is important for every member of the IEP Team, including you, to be prepared to work together. The Team must consider and use a wide variety of data and other information, including the information you share, to create an IEP that is appropriate for your child.

The following steps will help you to effectively participate in the IEP meeting:

- ❒ Remember to bring your notes, records and any other information you need for the meeting. Don't forget a pencil/pen/paper and remember to bring your child's pictures or video if desired.
- ❒ Arrive 10-15 minutes before the meeting's start time.
- ❒ Connect with any person(s) that you invited before entering meeting.
- ❒ Request introductions, if necessary, and clarify everyone's role at the meeting.
- ❒ Ask who is responsible for taking the meeting notes or minutes. *Review notes periodically during the meeting to ensure that they are clear, accurate and have adequate detail.*
- ❒ Review the IEP meeting agenda.
- ❒ Give copies of your agenda *(if you made one)* to each team member.
- ❒ Share your ideas, opinions and feelings throughout the meeting.
- ❒ Listen carefully to what is being said.
- ❒ If something is not clear, ask questions as needed to be sure you fully understand before moving forward.
- ❒ Request a brief break if you need one.

Remember that YOU are the expert on your child!

Fifteen minutes before the meeting ends:

- ❒ Review the meeting minutes and the Prior Written Notice for accuracy. (form DEC 5)
- ❒ Check to see if all your concerns have been addressed.
- ❒ Make sure that the wording throughout the IEP is clear and specific enough to be understood by anyone – even if they were not present at the meeting!!
- ❒ Schedule another IEP meeting if there is an unresolved issue or if you ran out of time.
- ❒ Identify who is responsible for each part of the IEP and any follow-up activity.
- ❒ Sign the IEP. Your signature documents your ***attendance and participation*** in developing the IEP.
- ❒ If you disagree with any part of the IEP, state your concern(s) in writing on the IEP form next to your signature or in the margin.
- ❒ Thank the other team members for their participation, efforts and ideas for your child.

IMPORTANT NOTE: You are entitled to a copy of your child's completed IEP. If it is not offered to you, ask for a copy before leaving. Be sure to take it with you even if a cleaned-up copy will be sent.

You may also receive copies of other special education related documents at the end of the meeting. Once home and while the meeting is still fresh in your memory, take time to review everything. Contact the school in writing if any clarifications or corrections are needed. As always, keep these documents with your child's other records!

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STEP THREE: After The IEP Meeting:

Follow Up!

Congratulations, you have completed an important step in your child's education. This is a great time to reflect on your IEP meeting experience and to make some notes about how to improve this process for the next meeting.

- ❒ Write ***"Thank You"*** notes or letters to those you invited and other team members.
- ❒ Write letters of clarification to address any concerns, questions, overlooked areas, etc., if needed.
- ❒ Consider sharing a copy of the IEP with other professionals working with your child.
- ❒ Ensure ALL of your child's teachers are aware that the IEP has been updated.

Remember...

the end of the IEP meeting is the beginning of an appropriate education for your child. Stay connected throughout the year:

- ❒ ***MONITOR*** your child's education to ensure proper implementation of the IEP and to ensure that your child is making adequate progress.
- ❒ ***COMMUNICATE*** with your child's teachers and others. Share successes and address any issues as they arise.
- ❒ ***MAKE TIME*** to review the IEP periodically and request an IEP meeting to discuss changes if needed.
- ❒ ***CONTACT ecac at 1-800-962-6817*** or visit **www.ecac-parentcenter.org**

ecac exceptional children's assistance center

Empowering Families ☆ Improving Lives

ecac is home to North Carolina's Statewide Parent Training and Information Center (PTI)

All services are provided at no cost to parents, students and families.

1-800-962-6817 | www.ecac-parentcenter.org

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Revised January 2013

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School Discipline

(What are my student's rights when facing a suspension or expulsion?)

Is suspension the only option for school discipline?

NO! Schools ***should*** be focused on constructively addressing student misbehavior and preventing future incidents. This can be done through the use of parent/student conferences, peer mediation, behavior contracts, conflict resolution, community service, loss of privileges, and other interventions that do not take away a child's education.

What rights does my student have when facing a suspension?

It depends on the kind of suspension. Short-term removals like bus suspensions, in-school suspensions, and short-term suspensions have fewer rights than long-term suspensions or expulsions.

- **Bus Suspension**
  - Definition: A student can go to school, but cannot ride the bus to get there.
  - Rights: There is no formal right to appeal (challenge) a bus suspension.

GOLD STAR TIP: If a student has an Individualized Education Program (IEP), a parent/guardian can request that special transportation be added to the child's IEP if the misbehavior leading to the bus suspension is related to the student's disability.

- **In-School Suspension (ISS)**
  - Definition: A student can go to school, but is sent to a separate classroom in the school.
  - Rights: There is no formal right to appeal an ISS.

GOLD STAR TIP: If a student has an IEP, they must continue to receive all services in their IEP while placed in ISS. If these services aren't provided, there can be extra protections under the law.

- **Short-Term Suspension (STS)**
  - Definition: A student cannot go to school for 10 days or fewer.
  - Rights: There is no formal right to appeal an STS. All students facing STS have the right to:
    1. An explanation of why they're being suspended (i.e. what school rule they broke and what evidence the school has);
    2. Tell their side of the story, which can be a very informal conversation between a student and administrator; and
    3. Take books home, get homework, and make up tests missed during the suspension.
       - *Note*: Someone else must pick up work for the student. Without given permission by an administrator, a student is not allowed on school grounds while suspended.

GOLD STAR TIP: If a student has an IEP and has been STSed for 11+ days *total* in a school year, they have extra rights, such as continued access to educational services and not to be suspended for disability-related conduct.

What Can I Do for Bus Suspensions, ISS, and STS?

Even though there is no formal right to appeal these suspensions, parents/guardians can take steps to reduce the harms of suspensions and prevent future issues:

- Request a meeting to ask for a different consequence and/or create a plan to prevent future issues.
- If your child has an IEP, request a functional behavioral assessment (FBA) and behavior intervention plan (BIP) as needed to prevent future issues.
- If your child does not have an IEP and the behaviors appear to be disability-related, request an evaluation to determine eligibility
- If school policies weren't followed or rights were violated, file a formal grievance.

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❖ Long-Term Suspension (LTS)

- Definition: Student is not allowed to attend school for **more than 10 consecutive school days**
  1. If an incident happens in 1st, 2nd, or 3rd quarters, LTS can last until the end of the school year
  2. If the incident occurs in 4th quarter, LTS can last through 1st semester of the *next* school year
  3. If a student possesses a gun on campus, the LTS can last up to 365 days
- Rights: *All students* facing LTS have the right to:
  1. Take books home, get homework, and make up tests during first 10 days;
  2. Receive written notice of the charges against them;
  3. Review and get copies of any evidence the school has about the incident;
  4. Have a hearing before an impartial decision-maker where they can bring an advocate or attorney, present evidence (including character witnesses), question witnesses, evidence, or statements used against them, and receive a decision based on substantial evidence;
  5. Appeal the hearing decision, as needed, to the Board of Education and Superior Court; and
  6. Receive alternative education services while suspended, unless the school provides an important reason for refusing to provide those services. *Note*: A school's refusal to provide alternative education can be appealed. Students with IEPs cannot be denied education.
  7. *Students serving 365-day suspensions* can also request readmission after 180 days.

Red Flag: School districts are increasingly labeling LTS removals as Disciplinary Reassignments to Alternative Schools. Reassigned students must still be provided due process.

❖ Expulsion

- Definition: Student is never allowed to return to school
- Rights: All students facing expulsion have the right to:
  1. The same protections given to students facing LTS, except:
     - the school must ***also*** show that allowing the student to attend *any* school or program in the district would threaten the safety of others
     - The Board of Education must hold a hearing to approve the expulsion
     - Expelled students do not have a right to alternative education (though the school may choose to offer those services to expelled students)
  2. Request readmission after 180 days have passed by providing information sufficient to demonstrate that their return to school would not pose a threat to school safety.

What Can I Do for LTS and Expulsions?

A student should always appeal, either to argue:

1. **Innocence** if they are accused of an offense they didn't commit; OR
   - The *school* has the burden of providing reasonable evidence that proves the student committed the offense they are accused of.
2. That the length of the **suspension is longer than needed and is unnecessarily harmful.**

In a hearing, a student can:

1. Bring up defenses (e.g. self-defense, bullying)
2. Offer positive information that contradicts the school's negative description of them (e.g., good grades, 1st offense, cooperation with investigation)
3. Provide letters of support from family, teachers, etc.
4. Tell how LTS will harm them (academically, etc)
5. Offer suggestions of more appropriate alternatives.

GOLD STAR TIPS

Request an appeal as soon as possible. You can still request and should be able to appeal even if the school's deadline has passed.

Students with disabilities who are facing LTS, expulsion, or disciplinary reassignment have many additional protections including the right to an MDR and the right to ongoing access to appropriate educational services. Review the *Special Education and School Discipline* overview for more information.

If ***juvenile or criminal charges*** have been filed for the same incident, speak with the student's defense attorney about the suspension hearing.

Legal Aid of North Carolina's Right to Education Project

For additional resources: **www.legalaidnc.org/rep** To apply for legal services: **1-866-219-5262**

You may want to contact a lawyer if your child has missed a lot of days of school due to disciplinary incidents, or if they are facing long-term suspension, disciplinary reassignment, or expulsion.

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

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SUSPENSION GRIEVANCE

Parent/Guardian

Name	
Phone	
Email	
Address	

Student

Name	
Grade	
School	

My child's school violated the state school discipline statute (G.S. § 115C-Article 27) and local school board policies for the following reason(s). (Check all that apply.)

	My child's conduct did not violate a school board policy that authorizes a short-term suspension.
	My child's conduct was not willful.
	My child was not provided an opportunity to make statements in defense or mitigation of the school's accusations.
	I was not provided proper notice of my child's suspension.
	My child was denied the opportunity to take her textbooks home, receive missed assignments and instructions, and/or make up tests and quizzes.
	Other:

Additional Details (Describe why you checked the box(es) above.)

_____ _____

Signature Date

** Parents/Guardians: After you complete this form, make and save a copy for your records. Read your school district's grievance policy to determine whether to submit the grievance to the principal or superintendent.*

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SUSPENSION GRIEVANCE APPEAL

Parent/Guardian

Name	
Phone	
Email	
Address	

Student

Name	
Grade	
School	

My child's school violated the state school discipline statute (G.S. § 115C-Article 27) and local school board policies as outlined in my initial grievance. (Initial grievance enclosed)

The response to my grievance was not adequate for the following reason(s).

_____ _____

Signature Date

** Parents/Guardians: After you complete this form, make and save a copy for your records. Then, attach a copy of the "Suspension Grievance" form above, and submit both forms to either the superintendent or the Board of Education. Read your school district's grievance policy to determine which is the next step in the process.*

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Bullying

(How can I protect my student from bullying?)

What is bullying?

- Under the law, bullying is different from the typical disagreements or conflicts that occur between friends or classmates in the school setting. Bullying is often part of a pattern of repeated, targeted, aggressive actions that make a student feel afraid and/or isolate the student from the school environment.
- Under North Carolina law, bullying only results in legal protections if:
  a) It makes the student afraid that they or their property will be harmed ***or*** creates a hostile environment that substantially harms the student's ability to participate in and benefit from school; ***and***
  b) The fear or negative impact is reasonable under the circumstances.
- Bullying may also result in protections under federal law if:
  a) It is based on a student's race, color, national origin, sex, disability or religion; ***or***
  b) It significantly interferes with the ability of a student with a disability who has an IEP or 504 plan to make meaningful progress in school.

What are my rights related to bullying?

- Students have a right to be free from bullying while at school, on the bus, or at a school-sponsored event (such as a sporting event or dance).
- Students who report bullying have a right to be free from retaliation or revenge.
- A school employee who has witnessed or has reliable information that a student has been bullied **must** report the incident to the appropriate school official (such as the principal).
- Every district **must** have and follow a written procedure for quick investigation of bullying reports.
- If a student with an IEP or 504 plan is being bullied for any reason, and the impact interferes with their ability to make meaningful progress in school, the student's IEP or 504 team **must** meet and update the student's IEP or 504 plan as needed to address the negative impacts of bullying.

GOLD STAR TIPS

Know the policy: Review your local school board policies (online or at the district office) regarding bullying.

Report, report, report: Always report bullying in writing to administrators at your child's school. Schools are only responsible for addressing bullying that they know is occurring.

Submit a **formal grievance** if a school is not taking proper steps to address known bullying

---

If a bullied student is suspended for defending themselves, share information about past bullying when challenging the suspension.

Ideas to Suggest for the School to Address Bullying

Individual solutions

- Separation of bully and victim (note: the victim should not be the one moved from their classes/school unless that is what they want.)
- Closer supervision/monitoring by staff
- Counseling or other mental health services
- Tutoring (if victim missed class time due to bullying)

School-wide solutions

- Bullying prevention programs
- Class or school wide discussions about bullying
- School-wide surveys to determine extent of bullying
- Staff training on how to recognize and address bullying
- Revisions to bullying policy (if necessary)

Legal Aid of NC's Right to Education Project (REP)

For additional resources: **www.legalaidnc.org/rep** To apply for legal services: **1-866-219-5262**

Reporting bullying to an administrator is generally the most important first step. You may want to contact a lawyer if your student is being bullied based on his race, color, national origin, sex, disability or religion, or if the bullying is significantly interfering with your student's ability to make progress in school and the school has not taken steps to address it.

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

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BULLYING REPORT

Victim/Person Bullied

Name	
Grade	
School	

Bully/Bullies

	Bully 1	Bully 2	Bully 3	Bully 4
Name				
Grade				
School				

Description of Bullying (Include all relevant facts, such as dates, times, locations, what happened, witnesses, and the impact on the victim. Attach additional pages if necessary.)

Requested Remedies (i.e., what you want the school to do about the bullying)

Information of Person Filing This Report

Name	
Relationship to Victim	
Phone	
Email	
Mailing Address	

_____ _____

Signature Date

** Parents/Guardians: After you complete this form, make and save a copy for your records, and then give the form to the principal at your student's school.*

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BULLYING GRIEVANCE

Parent/Guardian

Name	
Phone	
Email	
Address	

Student

Name	
Grade	
School	

My child was a victim of bullying at school. (See the attached "Bullying Report" form.)

My child's school violated the state bullying statute (G.S. § 115C-407.15) and the local bullying policy for the following reason(s). (Check all that apply.)

	The school did not take adequate steps to investigate the bullying.
	The school did not take adequate steps to prevent the bullying from continuing.
	The school did not take adequate steps to remedy the effects of the bullying.
	The school retaliated against me/my student for reporting the bullying.

Additional Details (Describe why you checked the box(es) above.)

_____ _____

Signature Date

** Parents/Guardians: After you complete this form, make and save a copy for your records. Then, attach a copy of the "Bullying Report" form above and submit both forms. Read your school district's grievance policy to determine whether to file the grievance with the principal or superintendent.*

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BULLYING GRIEVANCE APPEAL

Parent/Guardian

Name	
Phone	
Email	
Address	

Student

Name	
Grade	
School	

My child was a victim of bullying at school. (See the attached "Bullying Report" form.)

My child's school violated the state bullying statute (G.S. § 115C-407.15) and the local bullying policy. (See the attached "Grievance" form.)

The response to my grievance was not adequate for the following reason(s).

_____ _____

Signature Date

** Parents/Guardians: After you complete this form, make and save a copy for your records. Then, attach a copy of the "Bullying Report" form and a copy of the "Grievance" form above, and submit all three forms to the Board of Education. Read your school district's grievance policy to determine whether to file the grievance with the principal or superintendent.*

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