

# Overview of Special Education Rights and Procedures

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# Objectives

My hope is that this presentation will allow you to:

- Understand your child's rights under Special Education Law
- Allow you to be proactive in pursuing your child's best interest with respect to Special Education
- Develop a productive partnership with your child's IEP Team

# Guiding Legislation

- ▶ Federal Legislation: The Individuals with Disabilities Education Act (reauthorized in 2004)
- ▶ Massachusetts' Special Education Law: Chapter 766.
  - ▶ Massachusetts' law for the education of students with disabilities preceded federal legislation.
  - ▶ *Endrew F. vs Douglas County School District* (ruled in favor of a higher standard of education for students with disabilities- student's education should be "appropriately ambitious in light of his/her circumstances." However, Massachusetts already provides above minimum criteria.

# Related Legislation

- ▶ If your child is ineligible for Special Education, he or she may be eligible for alternative supports.
- ▶ The supports fall under the Americans with Disabilities Act and the Section 504 Rehabilitation Act.
- ▶ A student is eligible for a 504 Plan when a student has a disability that has a significantly limiting impact on a major life function- in our case, participating in schooling.
- ▶ A 504 Plan may consist of an array accommodations- which may involve mobility, behavior, academic performance- but do not alter curriculum standards.

# Special Education Referrals

- ▶ Parents have the right to request a Special Education evaluation at any time.
  - ▶ A district may not refuse a parent's request for an evaluation
    - ▶ District staff members may share ideas about alternatives to an evaluation, but the final decision is yours.
- ▶ The school district may also refer your child for a Special Education evaluation
  - ▶ Before doing so, the school will have trialed a series of interventions that are supervised by the school's Instructional Support Team/ Student Support Team
  - ▶ You have the right to reject the school district's proposal to evaluate your child.

# Special Education Eligibility

- ▶ Massachusetts has the second-highest special education eligibility rate in the country (behind Rhode Island): 17.1%. Many school districts in the state struggle with over-identification.
- ▶ To attain Special Education eligibility,
  - ▶ A student must meet the criteria for an Educational Disability
    - ▶ Educational Disabilities: Autism, Developmental Delay (before age 9), Sensory Impairment (Hearing), Sensory Impairment (Vision), Sensory Impairment (Deaf-blindness), Neurological Impairment, Emotional Impairment, Communication Impairment, Physical Impairment, Health Impairment, Specific Learning Disability
  - ▶ The student is not making progress as a result of the disability
  - ▶ The student requires *specialized instruction* in order to make effective progress.

# What is the timeline related to Special Education Eligibility?

- ▶ Upon receiving a request for an evaluation, the school district must issue an evaluation consent form within 5 School Working Days
- ▶ Upon receiving a signed evaluation consent form, the school must complete the assessments within 30 School Working Days
- ▶ The IEP Team must be convened to determine eligibility within 45 School Working Days
- ▶ Following the IEP meeting, the school district will issue a completed IEP and Placement Page.
- ▶ Services cannot begin until the parent provides signed consent to the proposed IEP and Placement (a parent may also elect to “partially reject” or “reject” the proposed IEP).

# What will Special Education entail?

- ▶ Special Education consists of *specially designed* instruction to meet the unique needs of an eligible student.
  - ▶ Modified Content
  - ▶ Modified Instructional Methodology/Delivery
  - ▶ Modified Performance Criteria
- ▶ Special Education will consist of ambitious annual goals that endeavor to move your child toward grade-level adaptation (academics, socialization, behavior, life skills) to promote independence.
- ▶ Special Education may also consist of Related Services that are necessary to access and make progress in the general curriculum.
  - ▶ Occupational Therapy
  - ▶ Physical Therapy
  - ▶ Speech-Language Therapy
  - ▶ Social-Emotional Support

# Governing Principles of Special Education Legislation

- ▶ There are six principles that occur in both state and federal special education law, which are incorporated to protect parent and students' rights.
- ▶ **Parent and Student Participation:**
  - ▶ Parents have the right to participate in all special education planning and decision-making.
  - ▶ Students are at the center of all Special Education decision-making, and they are expected to participate when they reach age 14.
  - ▶ The school district must make multiple efforts to obtain student and parent participation, and if unsuccessful, must document the efforts it undertook to obtain participation.
  - ▶ At age 18, students assume all the rights formerly held by parents for participation and decision-making (these rights may be shared or delegated to parents)
  - ▶ Parent/Student input is guaranteed: referral, evaluation, eligibility determination, IEP Development, MCAS participation, and Placement Decisions.

# Governing Principles of Special Education Legislation (Continued)

## ▶ Free and Appropriate Public Education (FAPE)

- ▶ Free = No cost to the parent
- ▶ Appropriate = Services that enable the student to progress in her or her education and advance toward achieving their IEP goals.
- ▶ Public = Provided by the public school district or under the direction of the public school district.
- ▶ Education = Preschool, elementary, and secondary education, including extra-curricular and non-academic school activities.

# Governing Principles of Special Education (continued)

## ▶ Appropriate Evaluation:

- ▶ Initial Evaluation
- ▶ Three year re-evaluation
- ▶ Individualized Assessments
- ▶ Non-discriminatory Assessments
- ▶ A variety of assessment tools, including input from parents.
- ▶ Parents have the right to review the proposed evaluation plan before testing proceeds.
- ▶ Parents have the right to an independent educational evaluation when parents disagree with the evaluations completed by the school district.

# Governing Principles of Special Education Legislation (continued)

## ▶ Individualized Education Program:

- ▶ Documents students' strengths and interests
- ▶ Documents parents' concerns
- ▶ Describes the impact of the disability on the student's learning and capacity to show his or her knowledge.
- ▶ The IEP identifies specific, ambitious, measureable goals that are expected to be reached in a year's time.
- ▶ A detailed description of the services to be provided to the student (How often? By whom?)
- ▶ A description of necessary accommodations that will allow the student to participate in state assessments (i.e.- MCAS)
- ▶ The parent (or student, if age 18) must consent to the IEP before services will begin
- ▶ The parent (or student, if age 18) may withdraw their consent for a particular program or service at any time.

# Governing Principles of Special Education (continued)

## ▶ Least Restrictive Environment:

- ▶ To the maximum extent appropriate, students with disabilities have the right to be educated in the general education environment and in the classroom they would have attended if they did not have an Educational Disability.
- ▶ The student cannot be removed from the general education classroom solely because of needed curriculum modifications.
- ▶ The removal from the general education curriculum occurs only if the nature and severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be satisfactorily achieved.

# Governing Principles of Special Education Legislation (continued)

## ▶ Procedural Safeguards:

- ▶ Right to written notice
- ▶ Right to consent/refuse
- ▶ Right to “stay put”
- ▶ Problem Resolution System
- ▶ Mediation and Due Process
- ▶ Timelines
- ▶ Confidential records
- ▶ Right to receive evaluations 2 days in advance of Team meeting, if requested

# Resolving Disputes with the Abington Public Schools

- ▶ If you believe that your rights or the rights of your child are not being appropriately provided, you may:
  - ▶ Discuss resolution with the school district (Special Education Liaison, Special Education Team Chair, Building Principal, Director of Student Services)
  - ▶ File a complaint with the Department of Education Problem Resolution System.
  - ▶ Seek mediation through the Department of Education
  - ▶ Seek resolution through the Bureau of Special Education Appeals (BSEA)

# Helpful Resources

- ▶ Staff members within the Special Education Department
- ▶ Members of the Abington SEPAC
- ▶ Massachusetts' Department of Elementary and Secondary Education
- ▶ The Federation for Children with Special Needs ([www.fcsn.org](http://www.fcsn.org))