

# Basic Rights of Special Education



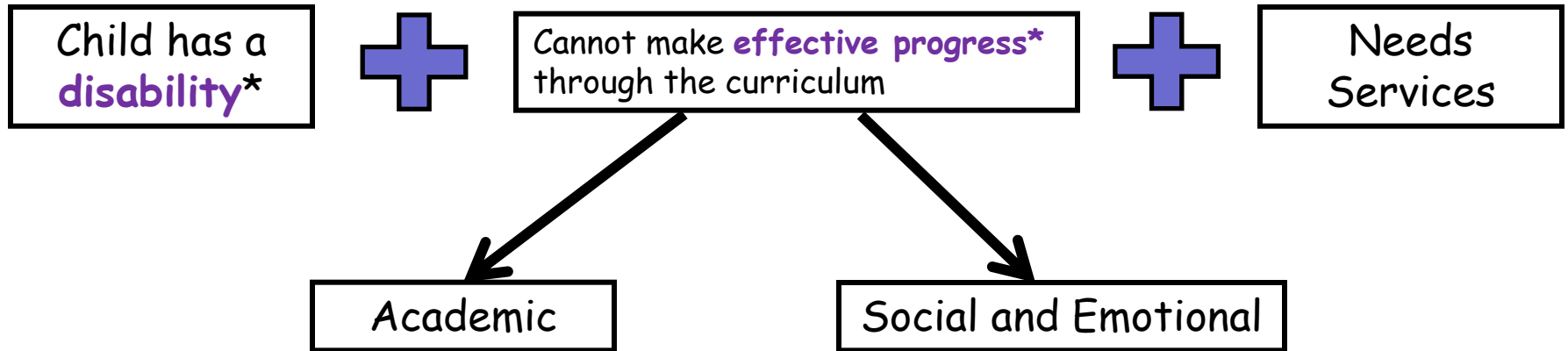
**Pamela J. Coveney**

**Hillary J. Dunn**

# Your Handouts

- A. Sample Request for Evaluation for SPED Services
- B. Evaluation Consent Form
- C. Denial of Eligibility Form
- D. Sample Request for an Independent Evaluation
- E. IEP Service Grid
- F. IEP Placement Consent Form
- G. IEP Signature Page
- H. Sample Letter for Non-Delivery of IEP Services
- I. Transition Planning Form
- J. Adolescent Autonomy Checklist
- K. Delegation of Educational Authority

# Who is eligible for special education services?



# Disabilities to Look For

Autism

Developmental Delay

Intellectual Impairment

Sensory Impairment

- Hearing Impairment or Deaf
- Vision Impairment or Blind
- Deafblind

Neurological Impairment

Emotional Impairment

Communication Impairment

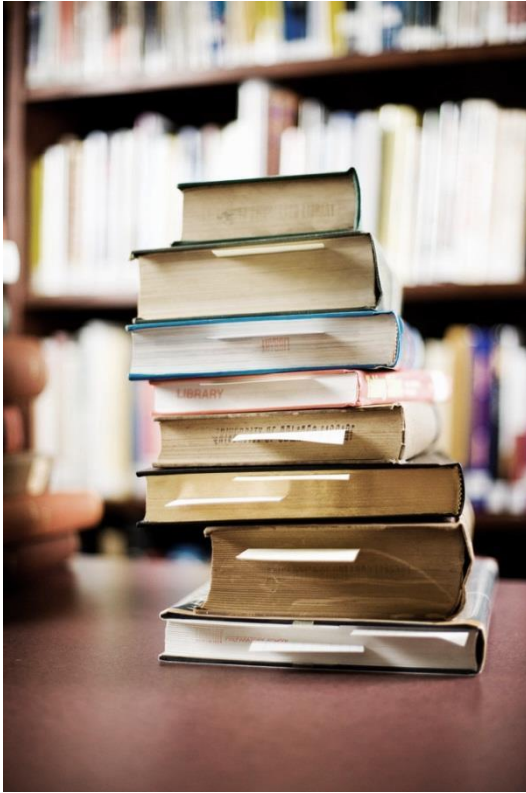
Physical Impairment

Health Impairment

Specific Learning

Disability

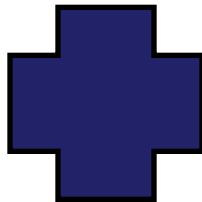
# “Effective Progress”



**ACADEMIC PROGRESS**



**SOCIAL AND EMOTIONAL**



# The First Step: Ask for an Evaluation

- *Always* ask in writing
- Use the Form
- Sign and date it
- Count!
- Follow up!

School District Name  
EVALUATION CONSENT FORM  
Attachment to N 1

# The Evaluation Consent Form

TYPE OF ASSESSMENTS: <i>A variety of assessment tools and strategies should be used to gather information that determines the educational needs of this student. [Check yes or no for each assessment.]</i>	RECOMMENDED	
	YES	NO
<b>Assessment in All Areas Related to the Suspected Disability(ies)</b> – describes the student’s performance in any area related to the child’s suspected disability(ies). List recommended assessment(s): _____ _____ _____		
<b>Educational Assessment</b> – includes the history of the student’s educational progress in the general curriculum and includes current information on the student’s performance.		
<b>Observation of the Student</b> – includes the student’s interaction in the student’s classroom environment or in a child’s natural environment or an early intervention program.		
<b>Health Assessment</b> – details any medical problems or constraints that may affect the student’s education.		
<b>Psychological Assessment</b> – describes the student’s learning capacity and learning style in relationship to social/emotional development and skills.		
<b>Home Assessment</b> – details any pertinent family history and home situations that may affect the student’s education and, with written consent, may include a home visit.		

Write in:  
Requested  
Evaluation

### PARENT RESPONSE SECTION

Please indicate your response by checking at least one (1) box and returning a signed copy to the school district. Please keep one copy for your records. Thank you.

I accept the proposed evaluation in full.  I reject the proposed evaluation in full.

I accept the proposed evaluation in part and request that only the listed assessments be completed:

I additionally request the following assessment(s):  assessment(s) listed above:  other assessments: (specify)

Sign and date

Signature of Parent, Guardian, Educational Surrogate Parent, Student 18 and Over\* Date  
*\*Required signature once a student reaches 18 unless there is a court appointed guardian.*

Send and Keep a Copy!

### PARENT INPUT

We strongly encourage you to share your knowledge of this student with us. If you choose, please provide a written statement (use back of form) or call the indicated contact person. Thank you.

# The Team Meeting

- Parent
- School district
- Special ed teacher
- Regular ed teacher
- Someone parent wants to bring who knows the student





# You Have a Right to Translation!

- *Write* to Team Leader to ask for a translator.
- *Reschedule* if no translator is available.
- *Write* to ask for documents in your language.

# If the Team Says 'No'

## *School District Letterhead*

To: *[Name of Parent, Guardian, Educational Surrogate Parent, Student 18 and over]*

Re: *[Name of Student and other identifying information (i.e. DOB, ID#)]*

Subject: **The school district does not intend to act:** *[Check all that apply.]*

- Finding of No Eligibility  
 Refusal of Requested Services  
 Other: \_\_\_\_\_  
*[Please specify.]*

Notice Date: *[Date notice is to be mailed.]*

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The school district has recently discussed this student with you. We now write to tell you of our intention not to act on a request. We have described our reasons for refusing on page two of this memo.

As you know, special education regulations provide protection to you and your child. You will find specific information about your legal rights in the *Interim Notice of Procedural Safeguards*, including sources that you may contact for help in understanding your rights. You should have received this brochure prior to the initial evaluation. If you would like another copy, please contact the school district staff. You should carefully review this brochure and the enclosed material.

The school district staff is available to speak to you or meet with you about your rights and the school district's refusal to act. We strongly encourage you to call us if you have any questions. Please contact us through the district contact person listed below. Thank you.

**District Contact Person:** *[Name and Role]*

**Contact Information:** *[Address, Telephone Number, Fax Number and Email Address (if not on letterhead)]*

Enclosures:

Other: *[specify]*

# What is an Independent Education Evaluation?

## IEE Basics

- Team has evaluated your child.
- You disagree with the result.
- You want the school to test again.
- You have a right to ask for another test.

## Example

- You think your child needs speech therapy.
- The IEP Team tests her.
- The Team's test concludes that your child does not need speech therapy.
- You disagree.

# Two Types of IEEs

## Type 1

- Free or reduced cost lunch
- Ward of the state
- Automatic right to an IEE
- Only in an area that Team has already tested
- *Ask in writing*
- Team must meet afterward to consider IEE

## Type 2

- Not "income-eligible"
- Can be in area that Team has *not* tested
- Team may object
- Must file a hearing request at the Bureau of Special Education Appeals

# Team Says "Yes": Student is Eligible

Special Education  
**Services**



Special Education  
**Placement**

# What You Need to Know about FAPE

- Free
- Appropriate
- Public
- Education



# Least Restrictive Environment "LRE"

- Teams should recommend the "least restrictive environment" appropriate for the child.
- Whenever possible, students with disabilities should be educated with students who do not have disabilities.
- Separate classrooms or schools are only appropriate when the student's disability is too severe for him/her to learn in a general education setting.

# What is on an IEP?

- How to Contact the Team
- Student Information
- Goals
- Benchmarks
- Services
- Placement



# Possible Services and Supports

a one-to-one  
aide

occupational  
therapy

parent counseling

assistive  
technology



speech therapy

transportation

physical  
therapy

support for students  
who are deaf or blind

# Where to Find the Suggested Services: the Service Grid

Individualized Education Program IEP Dates: from \_\_\_\_\_ to \_\_\_\_\_  
 Student Name: \_\_\_\_\_ DOB: \_\_\_\_\_ ID#: \_\_\_\_\_

## Service Delivery

What are the total service delivery needs of this student?

Include services, related services, program modifications and supports (including positive behavioral supports, school personnel and/or parent training/support). Services should assist the student in reaching IEP goals, to be involved and progress in the general curriculum, to participate in extracurricular/nonacademic activities and to allow the student to participate with nondisabled students while working towards IEP goals.

School District Cycle:  5 day cycle  6 day cycle  10 day cycle  other:

### A. Consultation (Indirect Services to School Personnel and Parents)

Focus on Goal #	Type of Service	Type of Personnel	Frequency and Duration/Per Cycle	Start Date	End Date

### B. Special Education and Related Services in General Education Classroom (Direct Service)

Focus on Goal #	Type of Service	Type of Personnel	Frequency and Duration/Per Cycle	Start Date	End Date

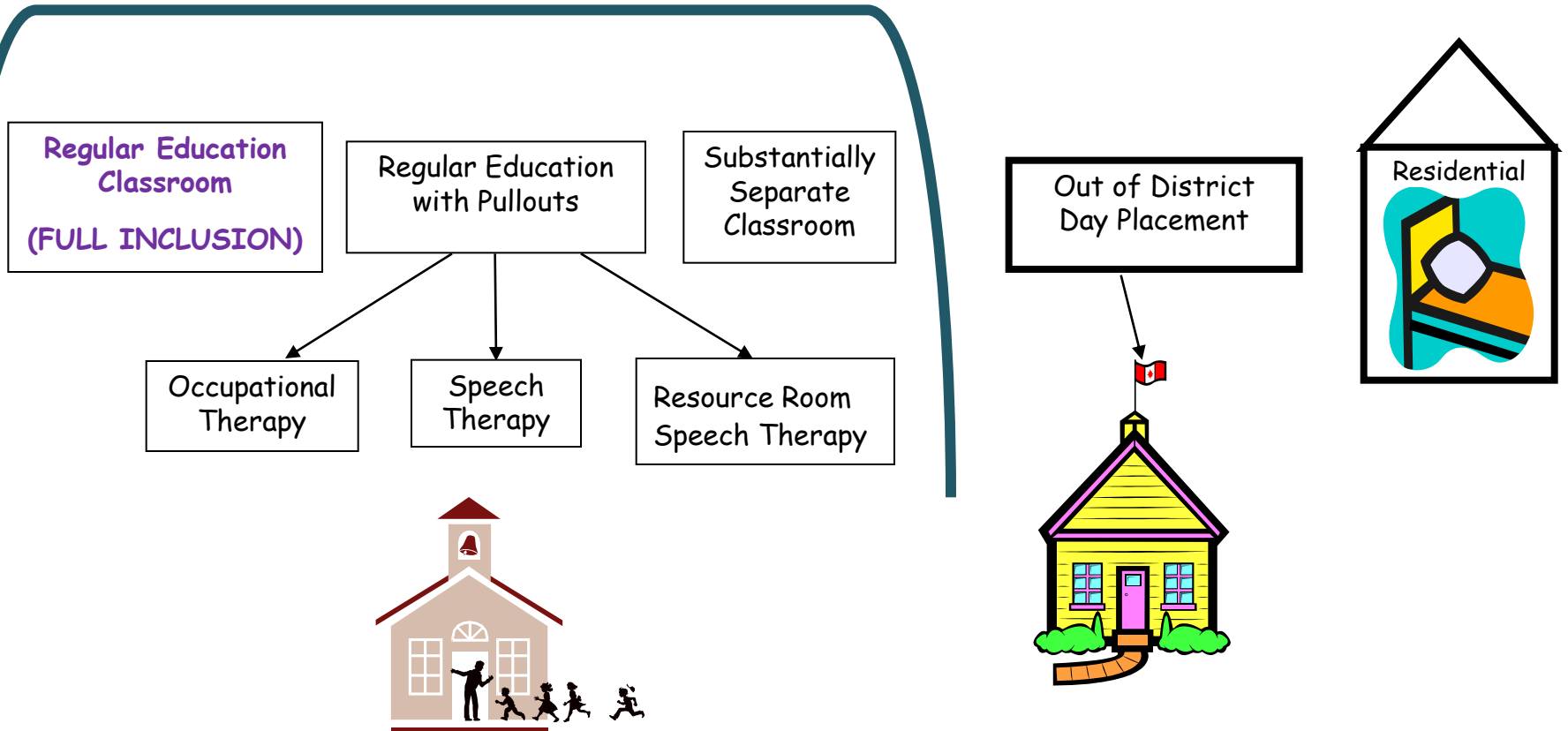
### C. Special Education and Related Services in Other Settings (Direct Service)

Focus on Goal #	Type of Service	Type of Personnel	Frequency and Duration/Per Cycle	Start Date	End Date

Use multiple copies of this form as needed.

IEP 5

# Types of Special Education Placements The "Continuum"



# Where to Find the Suggested Placement (Handout F)

School District Name: \_\_\_\_\_  
 School District Address: \_\_\_\_\_  
 School District Contact Person/Phone #: \_\_\_\_\_

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**Placement Consent Form – PL1: 6-21 year olds**

IEP Dates: from \_\_\_\_\_ to \_\_\_\_\_

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Student Name: \_\_\_\_\_ DOB: \_\_\_\_\_ SASID: \_\_\_\_\_

Team Recommended Educational Placements	Corresponding Placement
The Team identified that IEP services are provided outside the general education classroom less than 21% of the time (80% inclusion).	<input type="checkbox"/> Full Inclusion Program
The Team identified that IEP services are provided outside the general education classroom at least 21% of the time, but no more than 60% of the time.	<input type="checkbox"/> Partial Inclusion Program
The Team identified that IEP services are provided outside the general education classroom for more than 60% of the time.	<input type="checkbox"/> Substantially Separate Classroom
The Team identified that all IEP services should be provided outside the general education classroom and in a public or private separate school that only serves students with disabilities.	<input type="checkbox"/> Separate Day School <input type="checkbox"/> Public or <input type="checkbox"/> Private
The Team identified that IEP services require a 24-hour special education program.	<input type="checkbox"/> Residential School
The Team has identified a mix of IEP services that are not provided in primarily school-based settings but are in a neutral or community-based setting.	<input type="checkbox"/> Other:

---

**Other Authority Required Placements**  
 Note: These non-educational placements are not determined by the Team and therefore service delivery may be limited.

The placement has been made by a state agency to an institutionalized setting for non-educational reasons.	<input type="checkbox"/> The Department of Youth Services has placed the student in a facility for committed or detained youth.
	<input type="checkbox"/> The Department of Mental Health has placed the student in a hospital psychiatric unit or residential treatment program.
	<input type="checkbox"/> The Department of Public Health has placed the student in the Massachusetts Hospital School. <input type="checkbox"/> Day or <input type="checkbox"/> Residential
	<input type="checkbox"/> The student is incarcerated in the county house of corrections or in a department of corrections facility.
A doctor has determined that the student must be served in a home setting.	<input type="checkbox"/> Home-based Program
A doctor has determined that the student must be served in a hospital setting.	<input type="checkbox"/> Hospital-based Program

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**Placement Consent Form**

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Location(s) for Service Provision and Dates: \_\_\_\_\_

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**Parent Options / Responses**

It is important that the district knows your decision as soon as possible. Please indicate your response by checking at least one (1) box and returning a signed copy to the district along with your response to the IEP. Thank you.

I consent to the placement.  
 I refuse the placement.  
 I request a meeting to discuss the refused placement.

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Signature of Parent, Guardian, Educational Surrogate Parent, Student 18 and Over\* \_\_\_\_\_ Date \_\_\_\_\_  
 \*Required signature once a student reaches 18 unless there is a court appointed guardian.

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PL1 (6-21) Revised 08/07

# 3 Ways to Sign an IEP: Accept, Reject or In-Between



- Accept
- Completely Reject
- Accept in Part/Reject in Part

# The Parent Response Section

**Individualized Education Program** IEP Dates: from \_\_\_\_\_ to \_\_\_\_\_  
Student Name: \_\_\_\_\_ DOB: \_\_\_\_\_ ID#: \_\_\_\_\_

## Additional Information

- Include the following transition information: the anticipated graduation date; a statement of interagency responsibilities or needed linkages; the discussion of transfer of rights at least one year before age of majority; and a recommendation for Chapter 688 Referral.
- Document efforts to obtain participation if a parent and if student did not attend meeting or provide input.
- Record other relevant IEP information not previously stated.

## Response Section

### School Assurance

I certify that the goals in this IEP are those recommended by the Team and that the indicated services will be provided.

Signature and Role of LEA Representative \_\_\_\_\_ Date \_\_\_\_\_

### Parent Options / Responses

It is important that the district knows your decision as soon as possible. Please indicate your response by checking at least one (1) box and returning a signed copy to the district. Thank you.

- I accept the IEP as developed.  I reject the IEP as developed.
- I reject the following portions of the IEP with the understanding that any portion(s) that I do not reject will be considered accepted and implemented immediately. Rejected portions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- I request a meeting to discuss the rejected IEP or rejected portion(s).

Signature of Parent, Guardian, Educational Surrogate Parent, Student 18 and Over\* \_\_\_\_\_ Date \_\_\_\_\_

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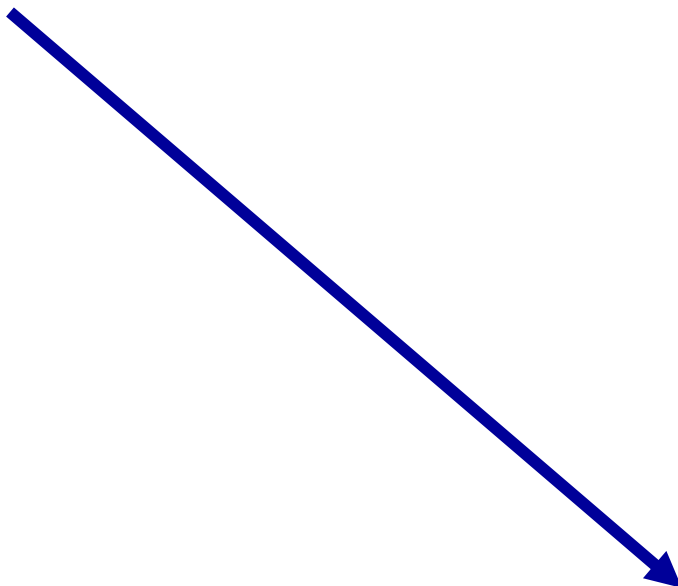
Parent Comment: I would like to make the following comment(s) but realize any comment(s) made that suggest changes to the proposed IEP will not be implemented unless the IEP is amended.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IEP 8

# Challenging Placement

- Sign *reject* box on Placement Consent Form



School District Name:  
School District Address:  
School District Contact Person/Phone #:

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---

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<input type="checkbox"/> A doctor has determined that the student must be served in a hospital setting.
<input type="checkbox"/> Home-based Program
<input type="checkbox"/> Hospital-based Program

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**Placement Consent Form**

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Location(s) for Service Provision and Dates:

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FL1 (6-21) Revised 08/07

# When the Team does not follow the IEP

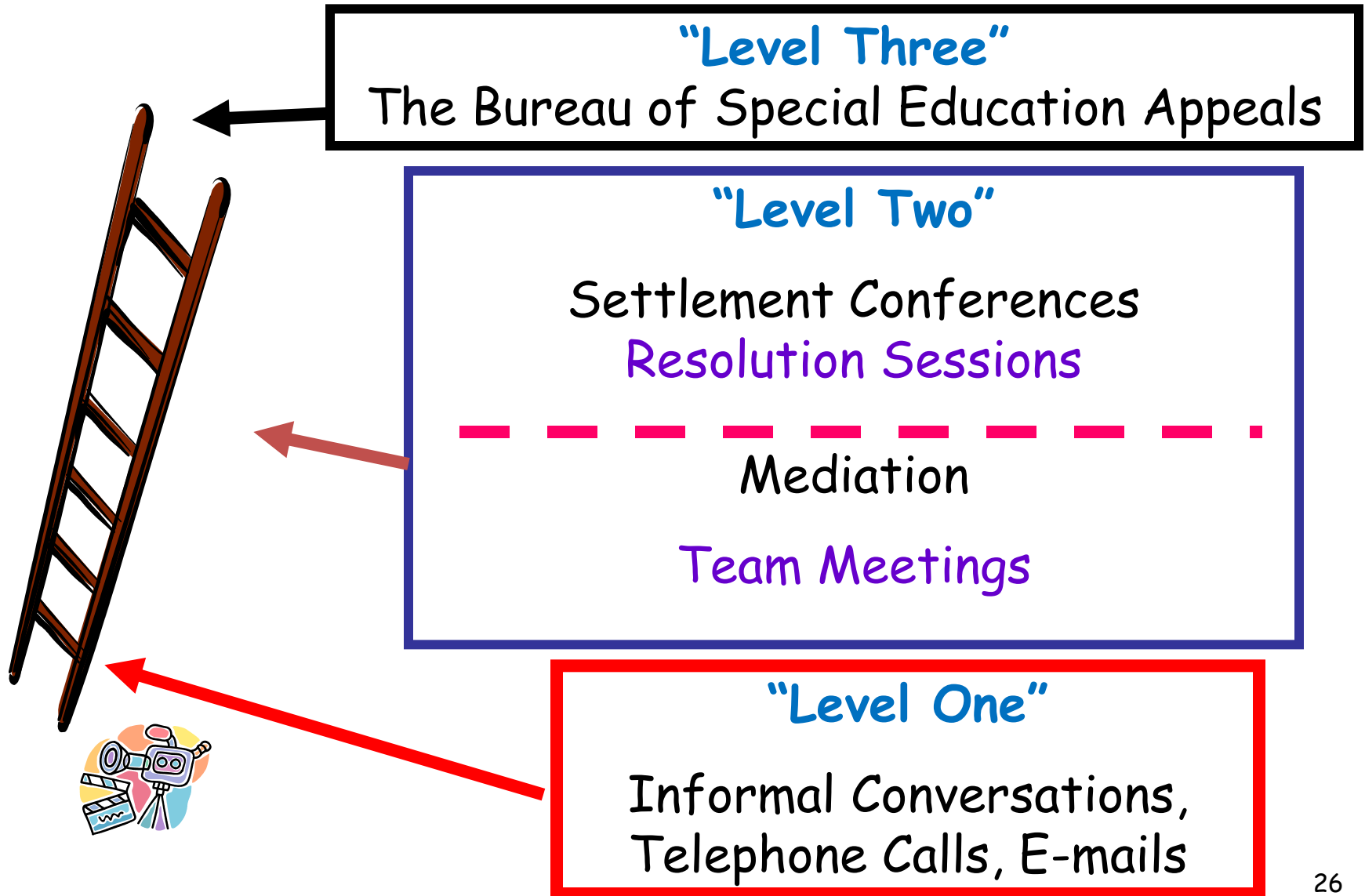
- Keep Records
- First Write to the Team Write Again
- Then Call Program Quality Assurance (PQA)



# Program Quality Assurance

- Boston Liaison: Sandra Hanig 781-338-3704
- "For people who do not write or speak English, or are not comfortable communicating in English, the Department will make appropriate arrangements."
- Web: <http://www.doe.mass.edu/pqa>

# When You Disagree with the Team



# Key Questions When the School Suspends Your Child

Is there a signed IEP or 504 Plan?

If not, did you ask the school *in writing* to evaluate your child for special education services?

How many *total* days of school has your child missed?

Why was your child suspended?

Did it involve drugs or weapons, or was anyone badly hurt?



# The New Massachusetts Discipline Law

- *No exclusion can last for more than 90 days*
- *Students now have the right to some education while suspended.*
- *The school must provide notice of the charges and the reason for the suspension in your primary language.*
- *You can request more time to appeal an exclusion, or to have a hearing before the superintendent.*

# More About Discipline

## Short Term Suspensions

- 10 days or fewer
- Opportunity to “make academic progress”
- Make up assignments, missed homework, quizzes, exams, and projects

## Long Term Suspensions

- Longer than 10 days
- Same opportunity to make up work the student has missed, *plus*
- The right to choose from a **school-wide education service plan**:
  - tutoring, alternative placement, Saturday school, online or distance learning

# Federal Law

## The "10-Day Rule:"



**Regular Ed  
student**

**State Law**



**Special Ed  
Student**

*Must get FAPE,  
an MDR, an FBA  
and a BIP*



**Student on 504  
Plan**

*Must get an MDR and  
FAPE if conduct and  
disability are related*

# The Manifestation Determination Review

- It is a *Meeting*.
- *Required* if school plans to exclude for 10+ days
- You *must* get invited.
- You may bring support.
- You should try to reschedule if necessary to prepare.



# The 3 Required MDR Questions

- Did student's disability cause the behavior?
- Did disability have a direct and substantial relationship to the behavior?
- Did behavior happen because school did not provide student's IEP services?



# Functional Behavior Assessments and Behavior Intervention Plans

- **FBA:** an observation of the student to explore the cause of behaviors you want to change. These are called **target behaviors**.
- **BIP:** This should result from the FBA. It is a series of strategies designed to keep the behavior from happening again.
- Required under **federal law**.
- *Only* to students on IEPs and, in some instances, on 504 plans.
- After exclusions of more than 10 days.

# Basic Transition Rights

- Begin at Age 14
- Use Transition Planning Form
- Use the Checklist
- Ask for Assessments
- Check the Suggested Graduation Date on the IEP
- Plan for student's 18<sup>th</sup> birthday
- Use DLC's online manual: [http://www.dlc-ma.org/\\_manual/LASE\\_manual.htm](http://www.dlc-ma.org/_manual/LASE_manual.htm)

# Chapter 688- the process

- Massachusetts "Turning 22 law"
- 2-year planning process
- School refers Student to the adult agency
- Develop Individualized Transition Plan (ITP)

# 688 does not

Continue Special Education

Determine Eligibility for adult services

Entitle someone to adult services

# What is a 688 Referral?



School



Student



MRC

DDS

DMH

MCDHH

MCB

BTP

# Bullying:

## What the *School* Must Do

- have a bullying prevention plan
- provide it to you
- investigate
- tell you what they have done to stop the bullying
- adjust your child's IEP when necessary

# What *You* Should Do

- **Report** right away
- In **writing**
- **Be specific:**
  - Who are the bullies?
  - When did it happen?
  - What did they do?
- Ask for a meeting to create a **safety plan**

# Basic Rights of Special Education



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