

SPECIAL EDUCATION

Explaining the process and how parents can be involved

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for **ADVOCATES**[®]
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About Advocates for Children of New Jersey (ACNJ)

ACNJ's work over 40 years as an independent non-profit organization has resulted in better laws and policies, more effective funding and stronger services for children and families, giving more children a chance to grow up safe, healthy and educated. We work closely with state and federal lawmakers and policymakers to bolster their understanding and response to the needs of children and families.

Kidlaw Resource Center provides information and assistance to parents and those working with families about laws and legal processes affecting children, including education and child welfare issues.

You can learn more at www.acnj.org



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This presentation is intended for informational purposes only. It does not constitute legal advice. For assistance with a particular education issue, you may contact Nina Peckman at ACNJ.



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New Jersey State Bar Foundation and made possible
through funding from the IOLTA Fund of the
Bar of New Jersey.

For additional information about the Foundation's other
law-related activities, please call 1-800-FREE-LAW or
visit the Foundation at njsbf.org.





What laws govern education rights?

Federal Laws:

- Individuals with Disabilities Education Act (IDEA) governs special education.
- Section 504 of the Rehabilitation Act and Americans with Disabilities Act are federal disability anti-discrimination laws.

State Laws:

- New Jersey Statute Title 18A
- New Jersey Administrative Code N.J.A.C. 6A



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Which children can be eligible for special education services?

- Children from the date of their third birthday through age 21 may be eligible.
- Must have a disability that affects learning in school and requires special education services.



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Parent participation rights in education decisions - who is the “parent”?

- A birth/adoptive parent (unless court order states otherwise)
- Person acting like a parent such as a legal guardian or relative
- Resource parent
- Surrogate parent - should be appointed if no parent is available
- Adult student

Note, state agency representatives are not a “parent”.



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Who can address parent concerns in school (aside from teachers)?

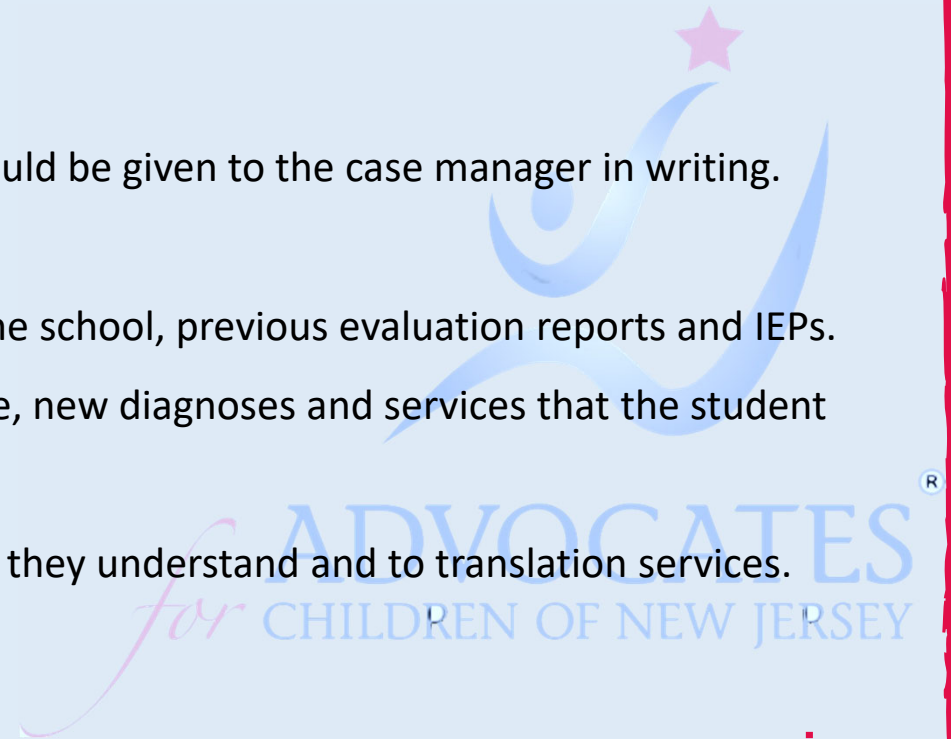
- **Special Education**: The case manager of the Child Study Team (CST), the Supervisor of Special Education, the Director of Student Services or the County Supervisor of the CST.
- **Discipline**: The vice principal, principal, superintendent, Board of Education and CST.
- **Harassment, Intimidation & Bullying (HIB)**: The district anti-bullying coordinator and CST.



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Communications and collaboration with school staff

- Communicate concerns verbally.
- Receive written confirmation of conversations.
- Requests for evaluations, CST and IEP meetings should be given to the case manager in writing.
- Date and sign all written communications.
- Keep copies of all letters and notices to and from the school, previous evaluation reports and IEPs.
- Inform staff about medications, new issues at home, new diagnoses and services that the student is receiving outside of school.
- Parents are entitled to school notices in a language they understand and to translation services.



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SAMPLE LETTER REQUESTING IEP MEETING

Date _____

CST Case Manager _____

School Name and Address _____

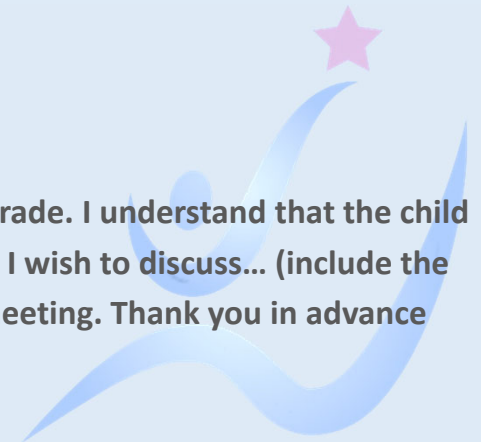
Dear _____:

I am requesting an IEP meeting concerning my child, (name of student), who is in the _____ grade. I understand that the child study team will schedule an IEP meeting within 20 calendar days of your receipt of this letter. I wish to discuss... (include the main concerns you wish to discuss). Please contact me to propose the time and date of the meeting. Thank you in advance for your consideration.

Sincerely,

Parent to print name and sign. Include mailing address, email address and phone number.

State if you will need a translator, who you will be bringing to the meeting and if you will record the meeting.



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Aside from school staff and parent, who can be involved in education meetings?

- Specialists who evaluated the student
- The student's treating physician
- Community providers
- The student, if appropriate
- A parent advocate
- Other individuals suggested by school staff and/or parent



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How can a child be considered for special education services?

- Anyone can **refer** a child for CST evaluations.
 - **Refer** means a written request for evaluations to the school's CST or district's director of student services.
- May but does not have to include a relevant doctor's report/diagnosis.
- School districts are obligated to **identify** children.
 - **Identify** means to evaluate in all areas of suspected disabilities.



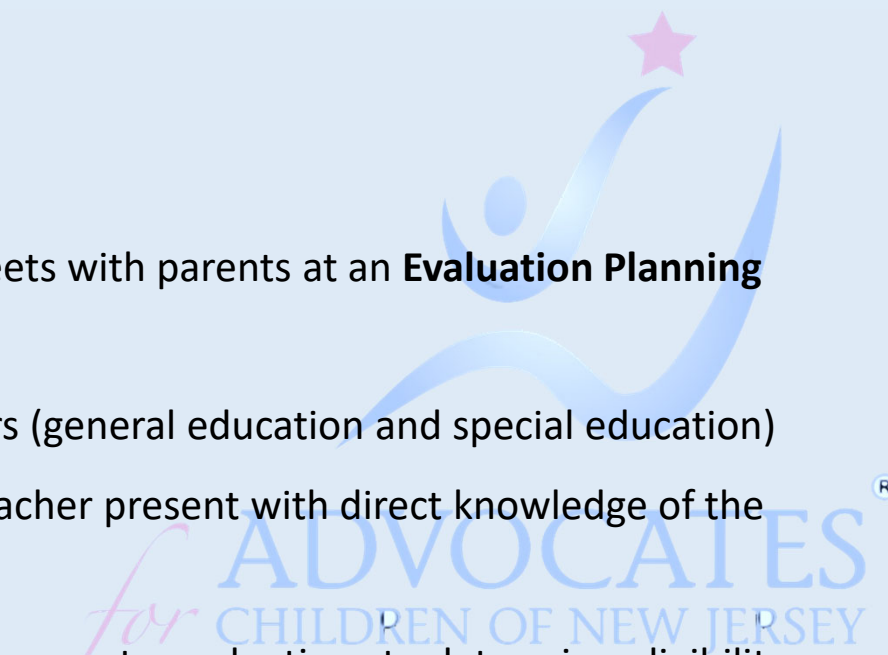
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Time frames to evaluate, develop and implement an Individualized Education Plan (IEP)

- Maximum 20 calendar days from the referral - CST meets with parents at an **Evaluation Planning Meeting** to discuss potential evaluations.
 - This meeting is attend by the CST, parent, teachers (general education and special education) and related service providers. There must be a teacher present with direct knowledge of the student.
- Maximum 90 calendar days from the date of written consent - evaluations to determine eligibility at an **Eligibility Meeting** and if eligible, develop an IEP at an **IEP Development Meeting**.

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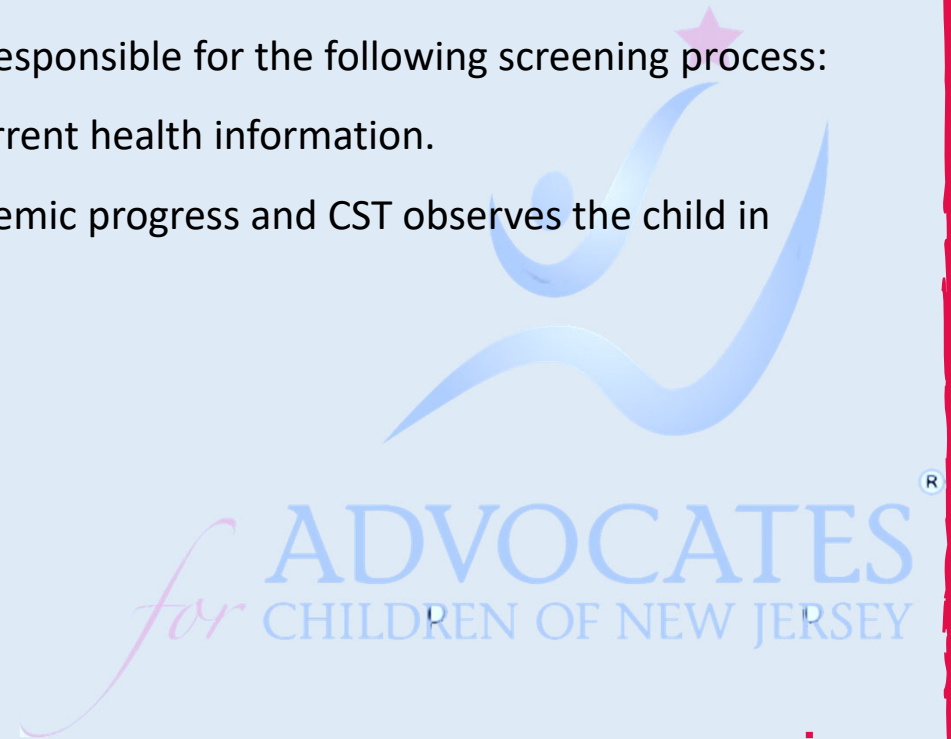
What is the Individualized Education Plan (IEP)?

- A written agreement between the district and the parents regarding the education plan
 - In effect for one year unless the parties agree in writing to an IEP amendment
- What does the IEP contain?
 - Description of why the student needs special education services
 - Objective data, including a summary of formal evaluation results that support education plan
 - Teacher observations
 - All the supports, accommodations, modifications and special programs
 - All the related services
 - Special considerations, transportation, aide, health services, transition and assistive technology
 - The placement
 - How progress will be measured through short term detailed objective goals
 - A statement of why the placement is the least restrictive environment



Screening process

- Within 20 calendar days of the referral, the CST is responsible for the following screening process:
 - CST confers with the school nurse to obtain current health information.
 - Teacher is consulted regarding the child's academic progress and CST observes the child in the classroom.



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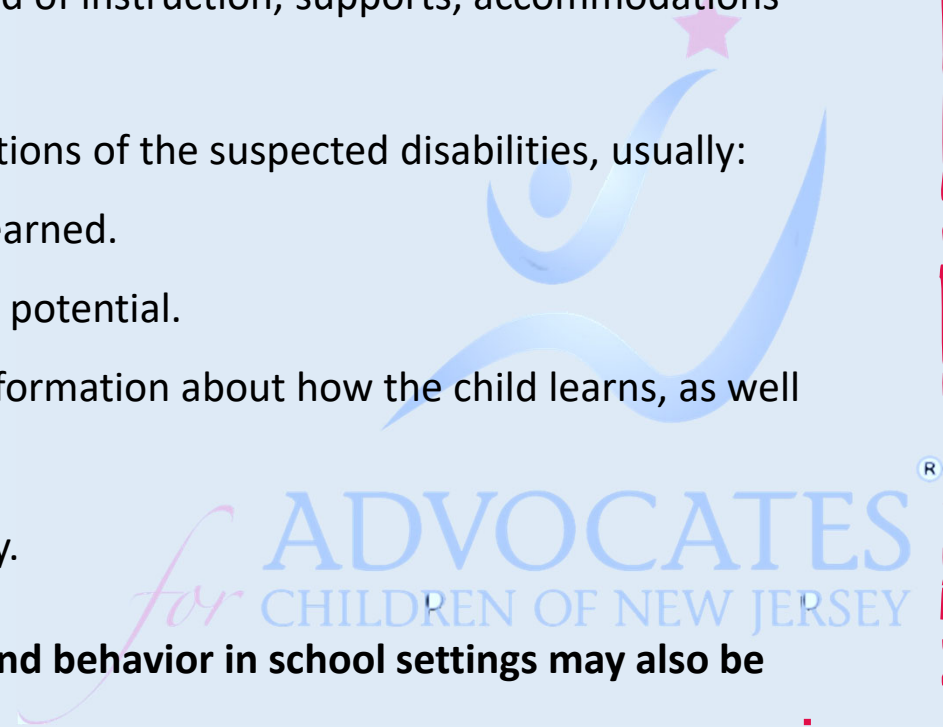
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Evaluation planning meeting

The purpose of the evaluations is to fully understand a child's learning abilities, including any behavior issues in school, and to understand what kind of instruction, supports, accommodations and setting the child may need.

- **Multi-disciplinary evaluations** - at least two evaluations of the suspected disabilities, usually:
 - **educational** – assesses what the student has learned.
 - **psychological** – assesses the student's learning potential.
 - Together, these evaluations give a lot of information about how the child learns, as well as the child's strengths and weaknesses.
 - **social work** – relevant health and family history.

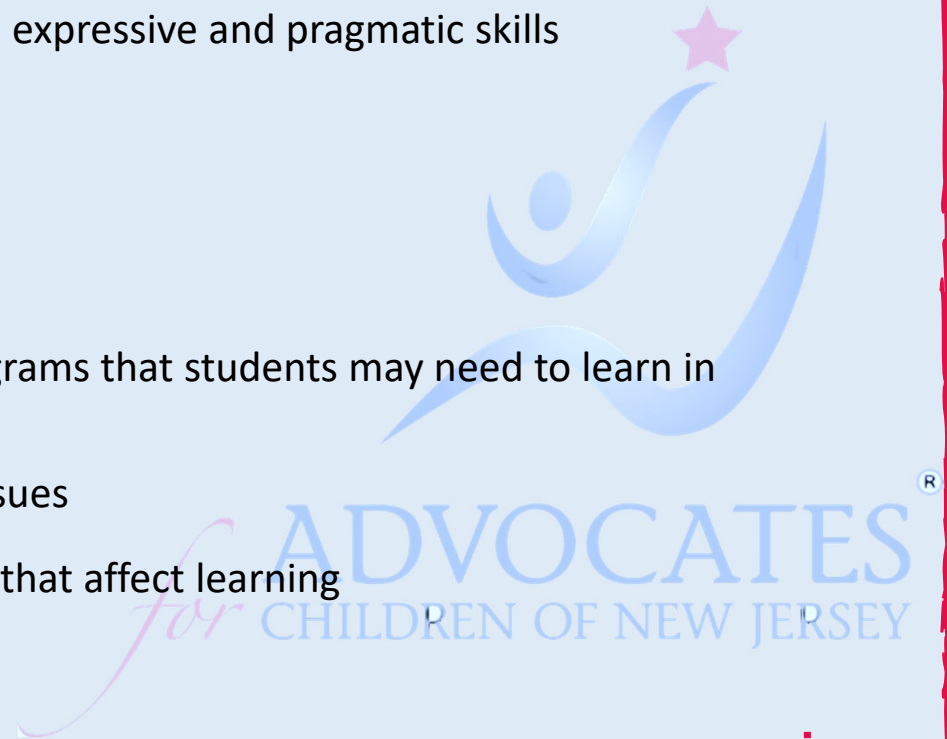
A functional assessment of academic performance and behavior in school settings may also be conducted.



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Examples of other possible evaluations

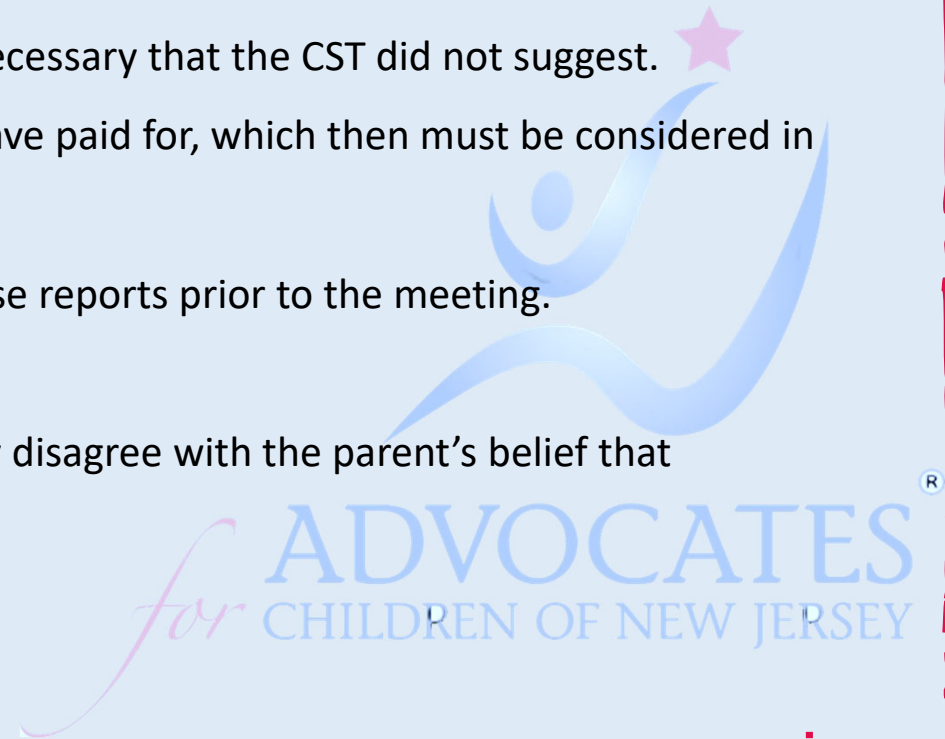
- **speech and language** - for articulation or receptive, expressive and pragmatic skills
- **physical therapy** - gross motor issues
- **occupational** - fine motor, sensory issues
- **reading** - for a suspected reading disability
- **assistive technology** - devices, equipment and programs that students may need to learn in school
- **psychiatric** - for suspected emotional/behavioral issues
- **neurological** - for suspected neurological disorders that affect learning



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Evaluation planning meeting

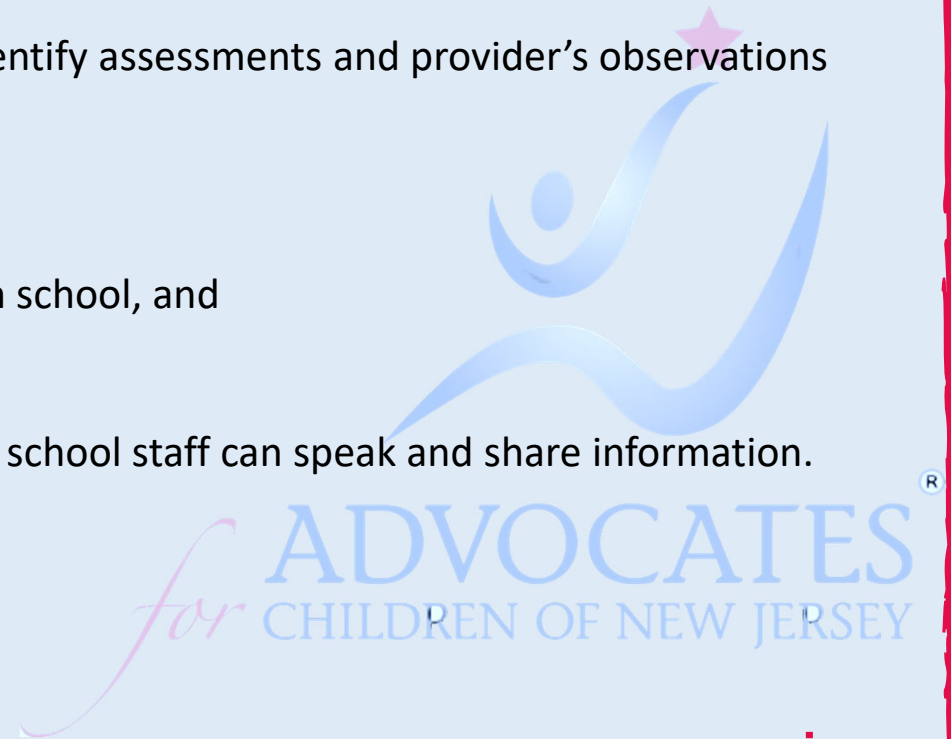
- Parents can request evaluations they believe are necessary that the CST did not suggest.
- Parents can provide evaluation reports that they have paid for, which then must be considered in developing an IEP.
 - It is helpful for planning purposes to share these reports prior to the meeting.
- **Parental written consent is required.**
 - The CST could try to compel evaluations if they disagree with the parent's belief that evaluations are not necessary.



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Tips regarding evaluation reports obtained privately

- Reports from qualified professionals should identify assessments and provider's observations that lead to a clear statement of:
 - the diagnosis,
 - how the disability will affect the student in school, and
 - specific recommendations.
- Parent may sign a release so the evaluator and school staff can speak and share information.

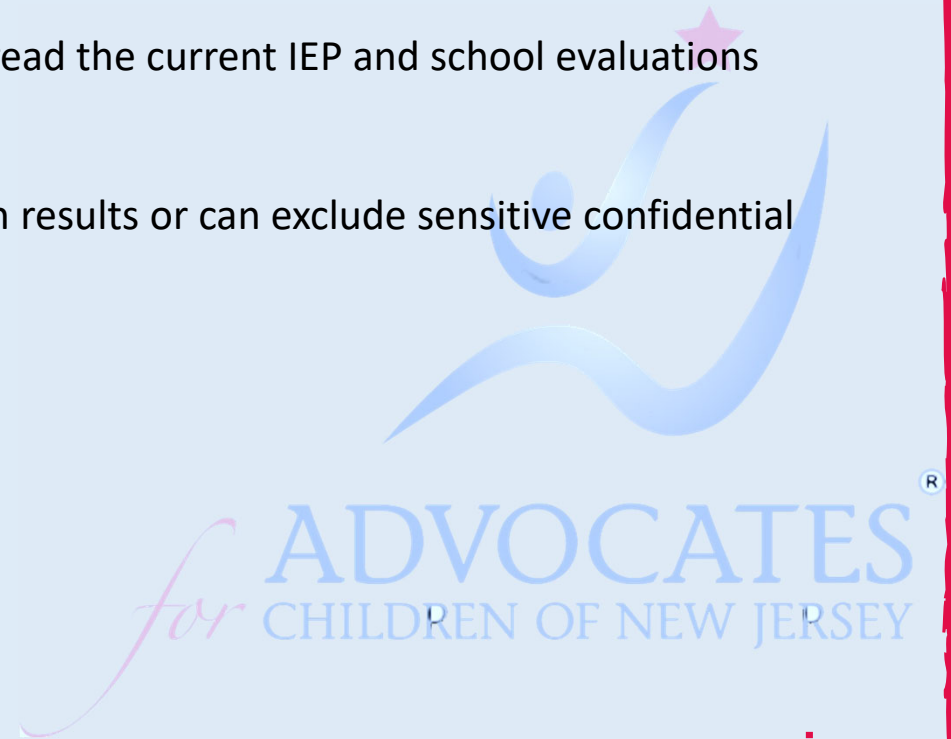


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Tips regarding evaluation reports obtained privately

- It may be helpful for the private evaluators to read the current IEP and school evaluations prior to making recommendations.
- Parents do not have to share private evaluation results or can exclude sensitive confidential information.



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Preparing for an Eligibility/IEP meeting

- The parent's schedule should be considered. They can participate via alternate means, such as by phone or virtually.
- If parents plans on making specific requests, they should consider informing CST in advance.
- Parents should bring a written list of any questions and concerns.
- Parents can write to the CST in advance if:
 - They wish to record the meeting
 - They need a translator
 - They plan to bring a lawyer/advocate or other professional



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Eligibility meeting

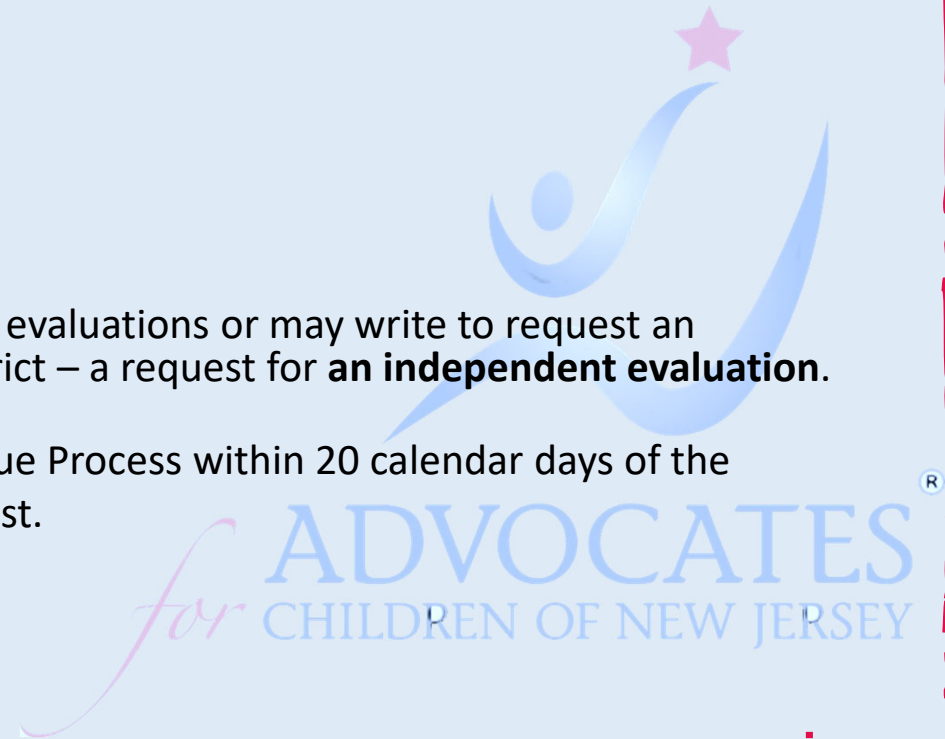
- At least ten days before eligibility and IEP meetings (which usually occur on the same day), parents should receive copies of the CST reports.
- The CST will explain the evaluation results and discuss evaluations the parent provided.
- The CST will propose what they believe is the primary basis (classification) for special education services **or** explain why they believe the child is ineligible.
- The CST will provide parent with an **Eligibility Statement** that explains the CST's rationale for their decision.



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What if the parent disagrees with evaluation results?

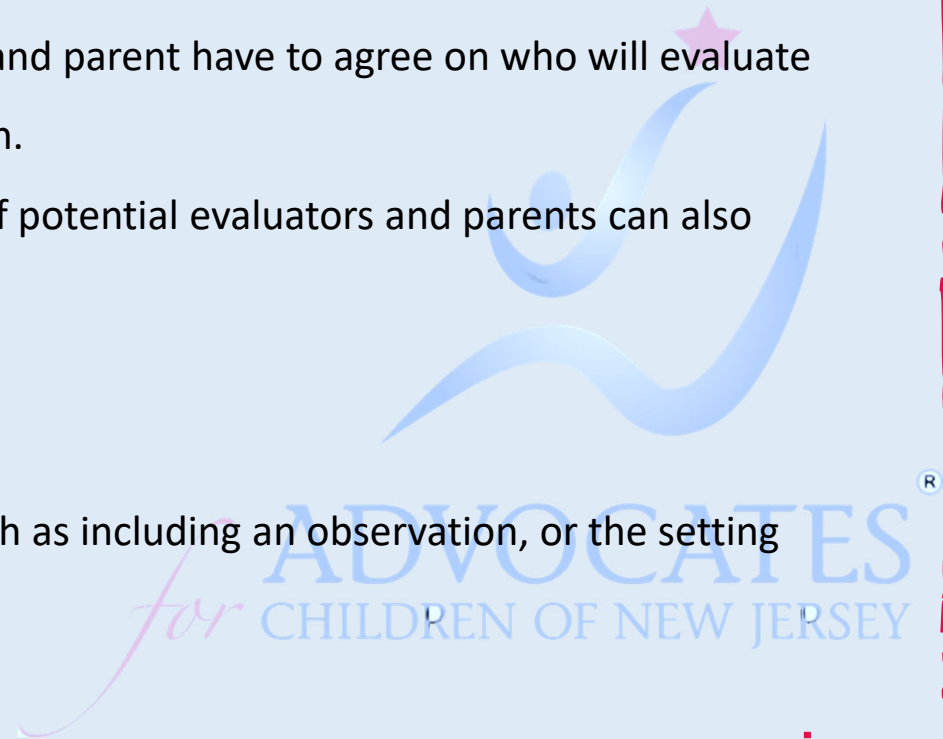
- Parents may disagree with:
 - how the evaluation was conducted
 - the validity of the report
 - the accuracy or thoroughness of the report
 - the conclusions or recommendations.
- Parents may write to the CST to request additional evaluations or may write to request an evaluation by a specialist not employed by the district – a request for **an independent evaluation**.
 - If the CST disagrees, the district must file for Due Process within 20 calendar days of the parent's written request, or agree to the request.



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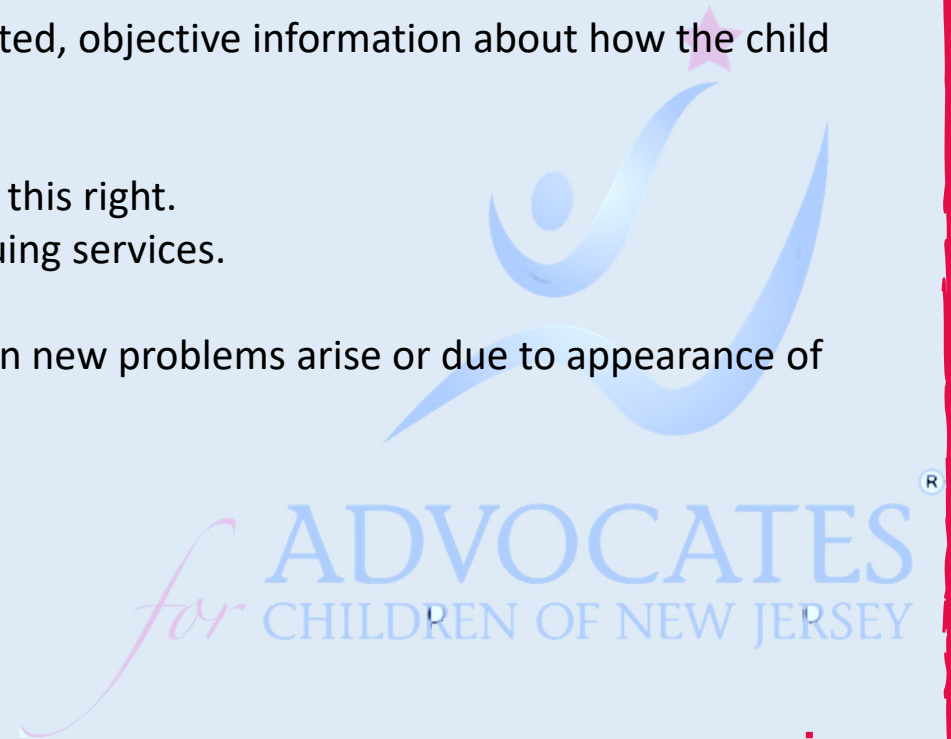
Independent evaluations

- To obtain an independent evaluation, the CST and parent have to agree on who will evaluate the child. The district will pay for the evaluation.
- The CST should provide the parent with a list of potential evaluators and parents can also suggest evaluators. Agreements can include:
 - specific assessments that will be done,
 - qualifications of the evaluator, and
 - how evaluations should be conducted, such as including an observation, or the setting for the evaluation.



CST re-evaluations

- At least one re-evaluation every three years – updated, objective information about how the child is progressing.
 - Parents may but do not have to agree to waive this right.
 - Re-evaluations should occur prior to discontinuing services.
- Re-evaluations can occur sooner. For example, when new problems arise or due to appearance of insufficient progress.



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Eligibility for special education services

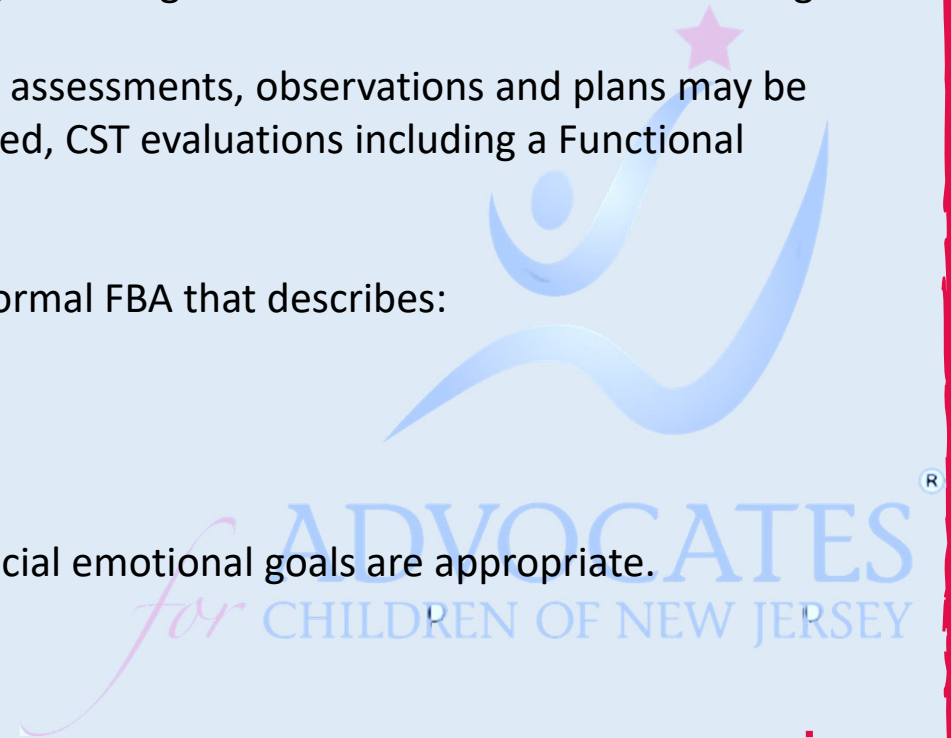
- Auditory impairment
- Autism
- Intellectual disability
- Communication impaired (mild, moderate, severe)
- Emotional regulation impairment
- Multiple disabilities
- Blindness
- Orthopedic impaired
- Other health impaired/chronically ill
- Preschool disability (3-5-year-olds)
- Social maladjustment
- Specific learning disability
- Traumatic brain injury (TBI)
- Visually impaired



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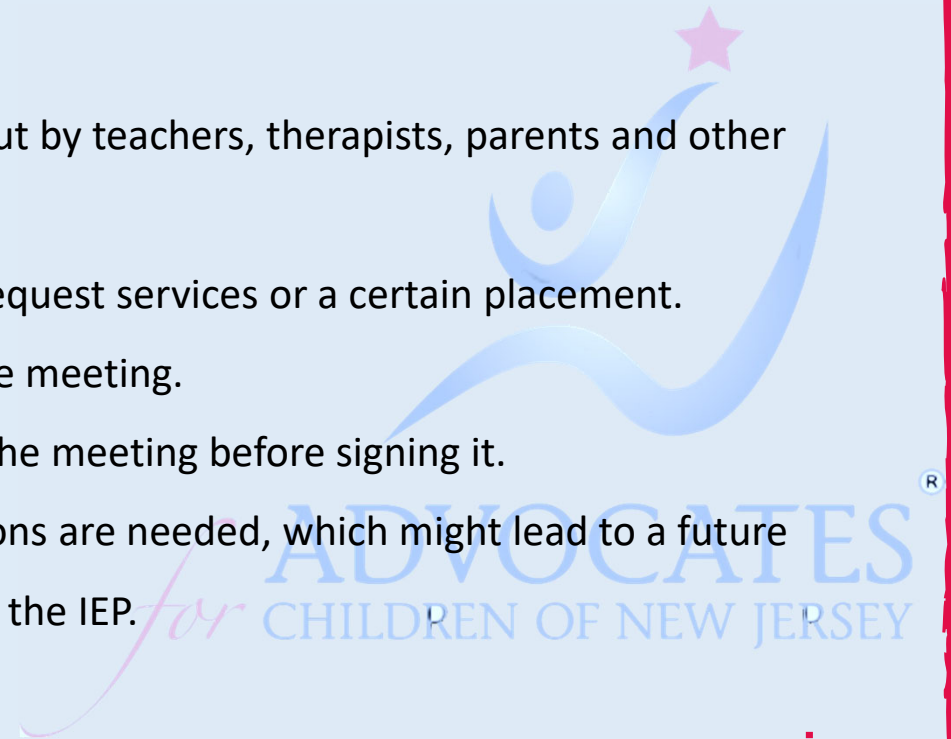
Eligibility based on behavior-based disabilities

- IEPs can be for students with average/above average learning abilities if behaviors affect learning.
- While behavior strategies based on informal school assessments, observations and plans may be sufficient, for serious issues that are not being helped, CST evaluations including a Functional Behavior Assessment (FBA) may be necessary.
- The IEP can include a behavior plan based upon a formal FBA that describes:
 - targeted behavior
 - triggers
 - modifications and positive supports
- If counseling is provided, specific counseling and social emotional goals are appropriate.



The IEP development meeting

- All participants will sign an attendance sheet.
- The CST will discuss the proposed IEP following input by teachers, therapists, parents and other participants.
- Parents can ask questions, as well as suggest and request services or a certain placement.
- Parents may receive the IEP draft at or following the meeting.
- Parents should carefully review the IEP draft after the meeting before signing it.
- The IEP can be implemented even if other evaluations are needed, which might lead to a future IEP amendment or if parents dispute some parts of the IEP.



Least Restrictive Environment: the setting(s) that will meet the child's individual needs

After discussion of the evaluations, the child's needs and required services, **the appropriate placement** is determined:

- **General education class** - with supports and possibly inclusion classroom with regular and special education teacher.
- **Resource classroom** - a smaller class size taught by a special education teacher.
- **Self-contained classroom** - for serious disabilities that require much more structure and smaller class size.
- **Out-of-District** - only if school district cannot meet child's needs in-district.

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Transition services

- Services to prepare the student for life after high school.
- At age 14 or in 8th grade, the CST must begin to plan - child should be invited to transition part of meetings to provide input, as appropriate.
- Students should be interviewed or assessed to determine interests, strengths and weaknesses to help develop the individualized transition plan.



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Transition services

- At age 16, the transition plan must be implemented.
- Vocational school applications are best submitted in the fall of 8th grade – there are four-year, two-year and part-time programs.
- Services include:
 - specialized instruction
 - related services
 - community experiences
 - post-school living and employment goals
 - life skills and vocational evaluations



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Graduation rights

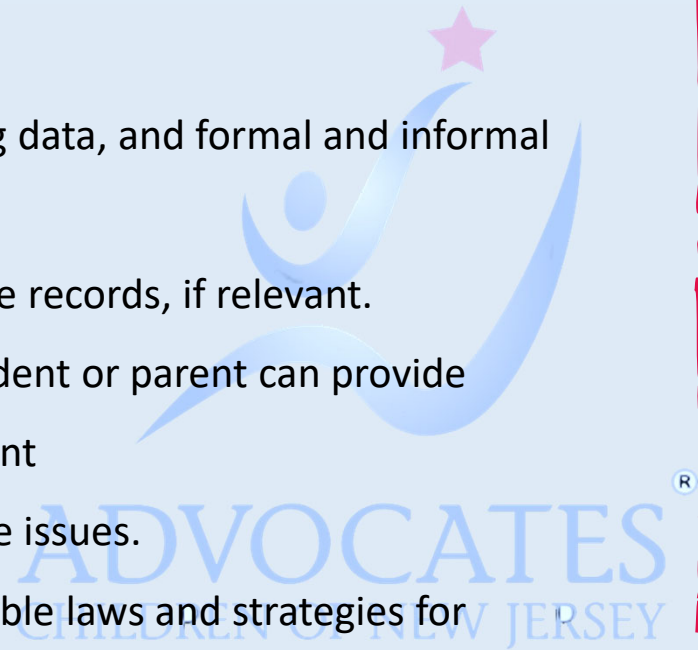
- Right to statewide curriculum including 120 minimum high school credit requirement, and to achieve high school credits through alternative means.
 - IEP team may agree student should be excused from certain graduation requirements.
- Proficiency in PARCC assessment unless IEP or 504 Plan establishes alternative requirements.
- Students continuing beyond year 12 can “walk” at the graduation ceremony and receive their diploma when they are ready to graduate.
- Right to enrollment through age 21 depends upon achieving transition goals, not simply completing high school credit requirements.
 - For students who turn 21 this or next school year, a new law related to the pandemic may make the student eligible for up to one additional year – parents should discuss this option at an IEP meeting prior to June 2022 or June 2023, if applicable.

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Advocacy steps when there is a disagreement

- First step is to consider the relevant information:
 - Write to the CST for copies of progress reports, including data, and formal and informal assessment results.
 - Write to the principal for behavior incident and discipline records, if relevant.
 - Assess whether a community provider working with student or parent can provide additional information to the CST help solve disagreement
- Speak to teachers and ask for an IEP meeting to try to resolve issues.
- Talk to advocate such as ACNJ or SPAN to understand applicable laws and strategies for resolving issues– pro bono services are available.





Mediation

- Requested through NJDOE website or by mail.
- A trained, impartial mediator meets with parents and school staff usually at Board of Education.
- Mediator can not force an agreement – it is voluntary.
- Nothing said in mediation sessions can be used against the other party in court.
- If an agreement is reached, the mediator writes it up, the parties sign and it is enforceable.
- Mediation that fails can be immediately converted to Due Process.



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Due Process

- Due Process petitions are decided by Administrative Law Judges.
- Petitions are filed electronically/mailed to NJDOE.
- **Read and follow instructions carefully** for both Due Process and Mediation to avoid the petition being returned and delaying this process.
- Parent has an option for Due Process with a Mediation first.
- The first notice from the Office of Administrative Law will be to schedule a settlement conference before a judge who is only assigned to try to settle the case.
- **Stay-Put** – must file Due Process to stop a proposed change pending an Administrative Law Judge’s decision or a resolution by the parties.



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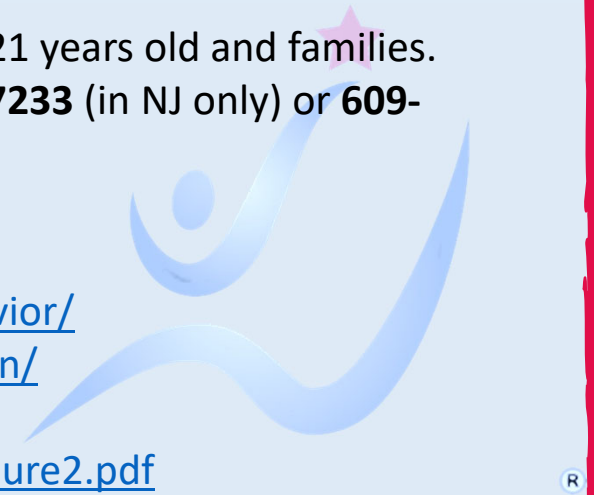
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Helpful Resources

- **New Jersey Department of Children and Families, Children's System of Care (CSOC)**
www.nj.gov/dcf/about/divisions/dcsc/ 24-hour access: **877-652-7624**
For children with emotional and behavioral disabilities younger than 21 years old and families.
- **Disability Rights New Jersey** <https://disabilityrightsnj.org/> or **800-922-7233** (in NJ only) or **609-292-9742** (voice).
- **The Arc of New Jersey** <https://www.arcnj.org/> or call **732-828-2022**.

NJDOE website information includes:

- Student Behavior <https://www.nj.gov/education/students/safety/behavior/>
- Transition Resources <https://www.nj.gov/education/specialed/transition/>
- Guardianship and Alternatives
<https://www.nj.gov/education/specialed/transition/GuardianshipBrochure2.pdf>
- Information about 504 plans and rights
<https://www.state.nj.us/education/students/safety/behavior/504/#faq>
- Due Process/Mediation <https://www.nj.gov/education/specialed/ue/>
- NJ Education Regulations and Statutes <https://www.nj.gov/education/code/>



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ACNJ Resources

ACNJ's website includes blogs regarding current education issues and information resources such as:

- Discipline: https://acnj.org/downloads/2014_06_01_njstudentdisciplinerulesfactsheet.pdf
- Transition: https://acnj.org/downloads/2016_12_06_helping_you_transition_to_adulthood.pdf
- Harassment, Intimidation and Bullying:
https://acnj.org/downloads/2017_07_26_kidlaw_hib_fact_sheet.pdf



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THANK YOU FOR ATTENDING!

For more information, you may contact:

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