

# Special Education Law: Children with Autism Spectrum Disorder

Rights and Procedures Reflecting the Potential of Children  
with Autism Spectrum Disorder

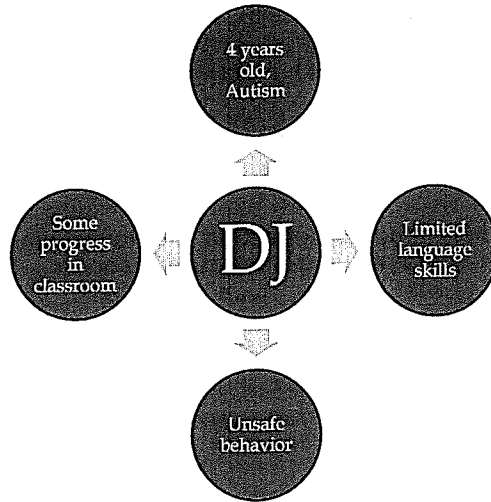
*This product was produced in part with grants funded by the Nancy Lurie Marks Family Foundation, the Edwin Phillips Foundation, the Doug Flutie, Jr. Foundation, the DLA Piper Foundation, Foundation M, the Mass. Bar Foundation and the Boston Bar Foundation*

## Objectives

Participants will:

- ▣ Understand key components of the law.
- ▣ Understand how to use provisions of the law to advocate for your child.
- ▣ Understand the role of independent evaluations and assessments.

## Case study: DJ



## Case study: DJ



## Case study: DJ



The issues to be decided in this case are the following:

Is the IEP providing student with FAPE?

Yes  no

If not, can the IEP be changed to provide FAPE in the LRE?

Yes  no

If not – Out of district placement?

Yes  no

## ELIGIBILITY

The Team must answer three questions

1. Does the student have a disability?
2. Is the student unable to progress effectively in regular education due to the disability?
3. Does the student require special education services?

## ELIGIBILITY

Disability means one or more of the following impairments:

- ☐ **Autism**
- ☐ **Developmental delay**
- ☐ Intellectual impairment
- ☐ Sensory impairment- hearing, vision, deaf-blind
- ☐ **Neurological impairment**
- ☐ Emotional impairment
- ☐ Communication impairment
- ☐ Physical impairment
- ☐ **Health impairment**
- ☐ Specific learning impairment

## FAPE

School districts must write an IEP and provide the special education (**FAPE**--free and appropriate public education) necessary to:

**meet your child's unique needs that result from autism spectrum disorder (academic & social/emotional needs)**

The IEP Team must consider  
the *academic, developmental, and*  
*functional needs* of the child in  
developing the IEP

2015C-00164(0)(A)(1)(3) CFR 300.324(a)(1)(E)

## Least Restrictive Environment

*All* children with disabilities must be educated  
with nondisabled peers to the maximum  
extent appropriate (LRE)

CFR 300.114 (a) (1)(2)

# Potential

School districts must design IEPs to develop the students **individual educational potential**

MGL ch71B sec. 1; 603 CMR 28.01(3); 603 CMR 28.02(17); Ed Reform Law,  
MGL Ch.69 sec.1

# Progress

A student with a disability must have an education that permits them to **make meaningful and effective educational progress.**

Mass DOE Administrative Advisory SPED 2002-1

# Progress

Effective Progress:

Documented growth of knowledge and skills, including social/emotional development, according to:

- › chronological age and developmental expectations
- › Individual educational potential
- › state and local learning standards

603 CMR 28.02(17)

**School districts must ensure access to the general curriculum so that children with disabilities can meet the educational standards that apply to all children.**

3 CFR 300.39(b)(3)(ii)

## Examples from Curriculum Frameworks English Language Arts

### Writing Standard Pre-Kindergartners

- Students will dictate words to express a preference or opinion about a topic (e.g. "I would like to go to the fire station to see the truck and meet the fireman.").

### Language Standards Pre-Kindergartners

- Ask and answer questions about the meanings of new words and phrases introduced through books, activities, and play.

## Independent Evaluations



# Evaluations

## Assessments to consider for students with suspected Autism Spectrum Disorder

- psychological assessment
- neuropsychological assessment
- occupational therapy/sensory integration
- speech and language assessment
- Functional behavior assessment
- Assistive technology/augmentative communication
- Physical therapy assessment
- Medical assessment
- Educational
- Home Assessment
- Vocational assessment
- Independent living assessment
- Audiological/Central auditory processing
- Transition Assessment

# Evaluations

Parent requests independent evaluation

### OPTION 1

Student is eligible for free or reduced lunch

NO

YES

Family agrees to share financial information

School must pay 100%

District pays for its share of the evaluation costs using sliding fee scale

### OPTION 2

Parent chooses not to provide financial information

Within 5 days the district must either:

• Agree to pay for the evaluation

or

• Initiate a hearing with the BSEA

Note: under option 1 the school cannot initiate a hearing with the BSEA

# Evaluations

## How to select independent evaluators for children with ASD

- ✓ Contact your local autism support center for referrals
- ✓ Major hospitals
- ✓ Talk to other parents for referrals
- ✓ Make sure the evaluator has experience with children with ASD (and with the kind of programs you are exploring for your child)

NOTE: There is often a long wait for appointments

# DECISION



The issues to be decided in this case are the following:

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Yes  no

If not, can the IEP be changed to provide FAPE in the LRE?

Yes  no

If not – Out of district placement?

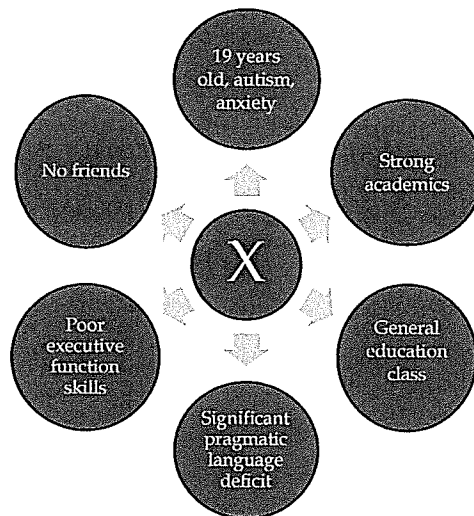
Yes  no

## Assistive Technology and Devices

The IEP Team must consider assistive technology devices and services needs

The school district must ensure that assistive technology services and/or devices are made available if required

## Case study: Xavier



## Case study: Xavier



One of the issues to be decided in this case:

Were appropriate transition planning and services provided?

Yes  no

*"The purpose of special education is to prepare students with disabilities for further education, employment, and independent living..."*

IDEA 20 U.S.C. 1400(d)

# Transition

Transition services must be based youth's individual needs

**taking into account the youth's strengths, preferences, and interests**

CFR 300.43 (a)(2)

# Transition

Transition assessment -- starting at age 14

Assessment identifies strengths, needs, preferences, and interests

CFR 300.320(b)(1)

# Transition

Transition planning - services prepare youth to succeed as adults:

## Employment

- Including supported employment

## Further Education

- Other education
- Training

## Independent Living

- Self-advocacy
- Transportation
- Community participation

# Transition

The IEP must include measurable **post-secondary and annual transition goals and objectives** related to:

- Training
- Education
- Employment, and
- Independent living if appropriate

Based upon age appropriate transition assessments

20 USC sec. 14141(d)(1)(A)(i)(VIII); 34 CFR, 300.320(b)

# Transition

What are transition services and supports?

- Instruction
- Related services
- Community experiences
- Development of employment objectives
- Development of other post-school adult living objectives
- Acquisition of daily living skills

20 U.S.C. 1401(34)

# DECISION



One of the issues to be decided in this case:

Were appropriate transition planning and services provided

Yes  No

# Autism IEP Act

State law mandates that IEP Teams of all children with ASD “shall consider and shall specifically address” the following needs:

- ☐ verbal and nonverbal communication
- ☐ social interaction skills and proficiencies
  - > including the skills needed to avoid and respond to **bullying, harassment or teasing**
- ☐ unusual responses to sensory experiences
- ☐ change in daily routines and/or environment
- ☐ repetitive activities and stereotyped movements
- ☐ positive behavioral interventions and supports to address any behavioral difficulties
- ☐ other needs, including social and emotional development.


MA DESE Special Education Technical Assistance Advisory SPED 2007-1: Autism Spectrum Disorder


# Autism Omnibus Law

Chapter 226 of the Acts of 2014, An Act Relative to Assisting Individuals with Autism and other Intellectual of Developmental Disabilities

 MassHealth

- cover medically necessary treatments for children with autism

 Autism endorsement

 Department of Developmental Services (DDS)

- Eligibility criteria



# Autism Omnibus Law

Chapter 226 of the Acts of 2014, An Act Relative to Assisting Individuals with Autism and other Intellectual of Developmental Disabilities

## Tax-free saving accounts

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- ABLÉ accounts

## Dept. of Mental Health & DDS

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- develop plan for adults with mental illness & developmental disabilities

## Permanent Autism Commission

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### Extended school year services (summer programs)

- ☐ FAPE -- based on child's unique needs, and cannot unilaterally limit the type or amount of services
- ☐ Can not be limited to children with particular categories of disabilities
- ☐ Demonstrated or likely to demonstrate substantial regression in learning skills and/or substantial difficulty in relearning such skills

34 CFR 300.309

603 CMR 28.05 (4)(d)

### Extended day

- ☐ FAPE --extended day services based on the unique needs of your child

603 CMR 28.05 (4)(d)

## PROCEDURAL SAFEGUARDS

- ☐ Mediation
  - ☐ Voluntary
  - ☐ Scheduled within 30 days of request
  - ☐ If agreement, set forth in writing
  - ☐ All discussions confidential
- ☐ Bureau of Special Education Appeals (BSEA)
  - ☐ Problem resolution session
  - ☐ 45 days
- ☐ Program Quality Assurance (PQA) (complaint with Massachusetts DESE)  
DESE must resolve complaint within 60 days
- ☐ Complaint with the federal Office of Civil Rights (U.S. DOE)

## COMMONWEALTH OF MASSACHUSETTS BUREAU OF SPECIAL EDUCATION APPEALS

**BSEA # 05-5383 - Fall River Public Schools**

**BSEA # 08-5330 - Dracut Public Schools**

# Curriculum Frameworks

<http://www.doe.mass.edu/frameworks/ela/0311.pdf>

<http://www.doe.mass.edu/frameworks/math/0111.pdf>

<http://www.doe.mass.edu/frameworks/scitech/1006.pdf>

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## For More Information

**Program Quality Assurance at DESE** 781-338-3700  
To report school violations of laws protecting students or of IEP's not being implemented

**Bureau of Special Education Appeals** 781-338-6400  
For when the Team cannot reach consensus about Eligibility, IEP Development, Placement or Hearings surrounding IEE's

### Legal & Technical Resources

If you think your child's rights are being violated, or you need basic rights information, you can call the organizations below:

**Massachusetts Advocates for Children** 617-357- 8431  
[www.massadvocates.org](http://www.massadvocates.org)

**The Federation for Children with Special Needs** 800-331-0688  
[www.fcsn.org](http://www.fcsn.org) (Western MA) 877-388-8180

**The Disability Law Center** 617-723-8455  
[www.dlc-ma.org](http://www.dlc-ma.org)

**The Children's Law Center** 781-581-1977  
[www.clcm.org](http://www.clcm.org)

**The Federal IDEA Regulations (34 CFR 300)**  
[http://www.massadvocates.org/special\\_education](http://www.massadvocates.org/special_education)

**Massachusetts Special Education Regulations (603 CMR 28)**  
[http://www.massadvocates.org/special\\_education](http://www.massadvocates.org/special_education)

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