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Statewide Parent Advocacy Network, Inc.

Tips for Families with Young Children Transitioning from Early Intervention to Preschool

Remember: The decisions you make today for your preschooler with disabilities will set the stage for their future education and development. So make them wisely!

What do you say if you are told...

- “All our children go to our preschool special education program?”

You say, *“Preschoolers with disabilities have the right to a free, appropriate public education in the least restrictive environment. My child has the right to be educated with his/her non-disabled peers in a setting where preschoolers are typically found, such as a general education preschool program or child care center. You cannot remove my child from such a setting unless her/his IEP cannot be satisfactorily implemented in that setting.”*

- “If your child just needs speech services then they aren’t eligible for special education?”

You say, *“Before we discuss the services my child needs, let’s discuss his/her eligibility. Let’s review the criteria for eligibility for preschool special education services. Once we have agreed that my child is eligible for services, then let’s talk about his/her strengths and needs, and annual goals and short-term objectives. Once we have agreed on that, we can talk about the services s/he needs. Speech services can be special education. For example, if my child needs speech therapy and also needs to have the speech teacher consult with the general education/child care teacher so that my child can work on his/her speech goals throughout the day/week, that is special education, not just related services.”*

- “We don’t provide that service for our preschoolers?”

You say, *“The Individuals with Disabilities Education Act and NJ Special Education Code require that each local district provide a free appropriate public education to every eligible preschooler. If my child needs a particular service to achieve his/her annual goals and short-term objectives, then the district must provide it.”*

- “We’ll let you know whether or not we are going to evaluate your child?”

You say, *“NJ’s special education code requires that you provide my child with special education and related services pursuant to an IEP by their third birthday, if my child is eligible for special education and related services. The special education code and federal law make me part of the team that decides whether or not my child will be evaluated. You must hold a meeting within 20 days of when I request an evaluation for us to discuss whether or not my child will be evaluated.”*

- “You have to visit our preschool special education program before you reject it?”

You say, *“There is no legal requirement for me to visit the preschool special education program before I reject it. We shouldn’t even be discussing this setting unless we have already seriously considered a typical setting and determined that such a setting cannot meet my child’s needs.”*

- “The special services school district is less restrictive than the regular childcare center because it’s a public school program, and a public school program is always less restrictive than a private school?”

You say, *“For preschoolers, the least restrictive environment is where my child can be included in a setting where typical preschoolers would be found, and where they can interact with their non-disabled peers. The Third Circuit Court of Appeals, which covers NJ, has determined that the least restrictive environment for preschoolers is a typical preschool or child care program with a few preschoolers with disabilities included. Even a preschool class with 50% children with disabilities and 50% children without disabilities is not the **least** restrictive environment.”*

- “Let’s talk about placement first?”

You say, *“Instead, let’s follow the law and develop the IEP first. We should start off with determining my child’s eligibility, then discussion strengths and needs, goals and objectives, and services. Placement should be the last thing we talk about. And when we do talk about placement, the issue is: Is there any reason why this IEP can’t be implemented in an inclusive setting with non-disabled peers?”*

- “We might provide related services but won’t help pay for tuition of the typical childcare program?”

You say, *“The law requires that you pay for the tuition for the amount of time it takes to implement my child’s IEP. And of course, New Jersey requires at least 10 hours of service for all preschoolers with disabilities, so you will pay at least for 10 hours of tuition at the typical child care program.”*

- “The child care center must be accredited before we can place a child there?”

You say, *“The law does not require that the child care center be accredited before my child can be placed there. If you disagree, please show me the specific place in the law where you see that requirement.”*

- “If you do not agree with our recommendation for services or placement, the pendency placement for your child is our recommendation. If you refuse to take advantage of that recommendation, your child will not receive any services until we resolve our disagreement.”

You say, *“There is a Third Circuit Court of Appeals decision that says that, if we do not agree on my child’s IEP and placement, the pendency placement for my child is the set of services that s/he was receiving in her/his IFSP. Therefore, if we can’t reach agreement, please be prepared to pay for the continuation of the services on my child’s IFSP while we work through our differences.”*

- “We never provide ESY services for preschoolers because we can’t measure regression & recoupment of knowledge & skills. Your child’s services will start in September.”

You say, *“You can’t have a policy of not offering ESY services to preschoolers. We need to talk at the IEP meeting about his/her experience in early intervention & what I observe about how quickly my child loses knowledge or skills and how long it takes for her/him to relearn the knowledge or skills. We also have to consider whether children with my child’s disability generally experience regression & difficulty in recoupment, as well as my child’s emerging skills. If my child needs ESY services, then her/his services must start no later than her/his 3rd birthday even if her/his birthday falls in the summer.”*

- “Our special ed preschool program is better for your child because they will receive more intensive instruction in a smaller class size.”

You say, *“Research shows that most preschoolers do better both academically and socially/behaviorally in a setting with typically developing peers. Under IDEA, my child’s IEP must incorporate research-based practices, so unless you can show me research to the contrary, my child’s IEP should reflect inclusion.”*

Courtesy SPAN

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Purpose of IDEA

- To ensure that children with disabilities learn the knowledge and skills of their non-disabled peers
- To provide the services and supports needed for each child with disabilities to become an independent, productive adult.



Family's Role

- Equal partners in decision-making
- Participate in every decision-making meeting
- Include their concerns for enhancing their child's education



Child Study Team

- Learning Disabilities
Teacher Consultant
- Social Worker
- Psychologist
- Speech-language
specialist (for all
preschoolers)



Transition to Preschool Process

- School District Responsibility
 - Written request for evaluation 120 days before 3rd birthday
 - Evaluation planning meeting within 20 days
 - Evaluation, IEP meeting, and services by 3rd birthday



What to say if parent is told...

- “We’ll let you know whether or not we are going to evaluate your child.”
- *“IDEA & NJ code make me a part of the team that decides whether or not my child will be evaluated. You must hold a meeting within 20 days of my request for us to discuss whether or not my child will be evaluated.”*





Special Education Evaluation

- Reviews how the child is performing compared to age and grade appropriate peers
- Identifies the child's strengths as well as needs
- Ensures the child is not identified as having a disability due to lack of instruction, limited English proficiency, cultural differences
- Uses validated tests for purpose used
- Can't use tests with discriminatory impact



Special Education Evaluation

- Must evaluate in every area of suspected disability
- Initial evaluation must include at least two of the following areas conducted by at least 2 members of the Child Study Team:
 - Health
 - Psychological
 - Educational
 - Social
- Functional Assessments:
 - One structured observation in non-testing setting
 - Interview with parents; teacher/s
 - Review of pupil's developmental/educational history
 - Review of interventions used in previous or current educational settings



Helpful Evaluation Tools

- Positive Student Profile
- Multiple Intelligences Assessment
- Hopes, Dreams, Expectations



Independent Evaluation

- Parent has the right to an independent evaluation, at no expense, should there be a disagreement with the evaluation provided by the district
- Make the request in writing
- State which evaluations are being requested

Determination of Eligibility

- When evaluation is completed, meeting is held to review evaluation data with the parent and determine eligibility.
- No single test can be used to determine eligibility.
- If student is determined eligible, the team can begin developing the IEP or wait to convene another meeting to begin the IEP development



Eligibility for Special Education

- **Preschool Special Education:** Eligibility based on identifiable disability and/or a measurable developmental impairment occurring between the ages of 3-5 that requires special education and related services



What to say if parent is told...

- “If your child just needs speech then they aren’t eligible for special education.”
- *“Before we discuss services, let’s discuss eligibility. Let’s review the criteria for preschool special education services. Once we’ve agreed that my child is eligible, then we can discuss strengths & needs, annual goals & short-term objectives, services, & finally placement.”*



The IEP Team (Special Ed)

- Case Manager
- Parent
- General Education Teacher
- Special Education Teacher or supervisor
- Other specialists, as needed

*Note: Under State Code, Case Manager must be a Child Study Team member and must participate on IEP Team



The IEP Team

- Someone who can interpret evaluation results
- Someone who can make commitments on behalf of the district



What to say if parent is told...

- “We want to excuse the participation of an IEP team member from the meeting.”
- *“Under NJ Code, you must request my permission to excuse the team member when you send me the notice of the meeting and you must enclose the information they would have shared at the meeting with that notice. Since that didn’t happen, I can’t consent to their excusal.”*



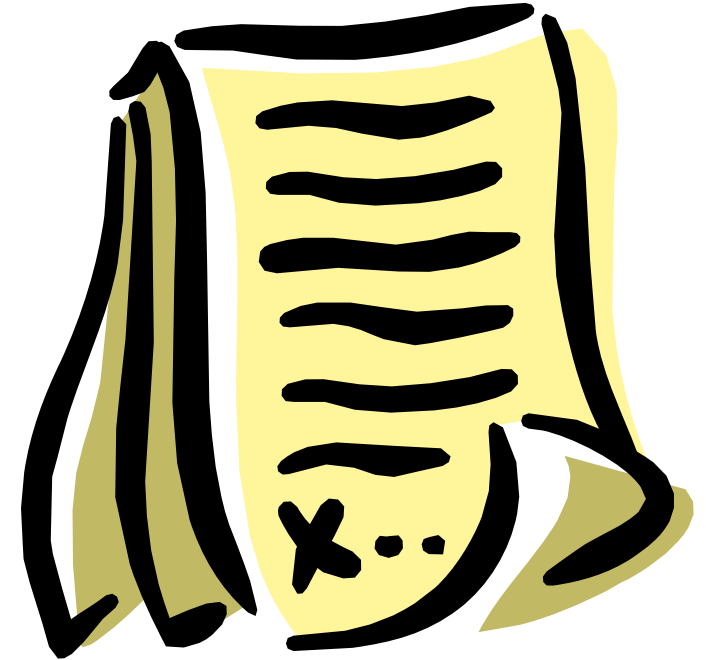
What to say if parent is told...

- “We have to check with the Director of Special Education (or superintendent, or anyone not at the meeting) about that request.”
- *“IDEA & NJ Code require that you have someone at my IEP meeting who can commit the district’s resources. If you like, we can adjourn the meeting and reconvene with additional team members whose presence is required for decision-making. Of course, you still must meet your timelines.”*



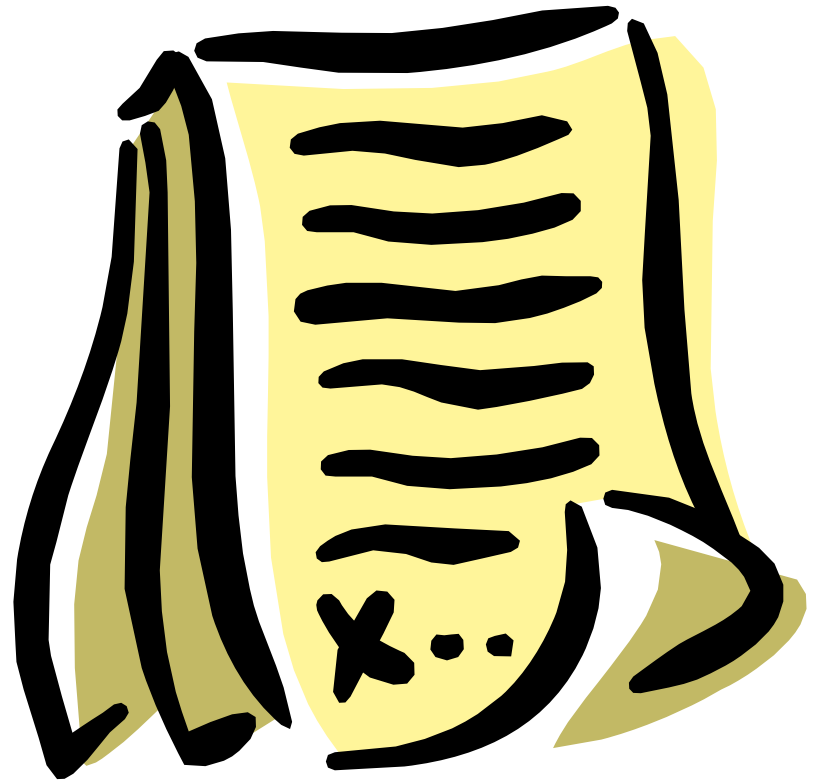
The IEP

- Present levels of performance
- Measurable annual goals & short-term objectives/benchmarks tied to what “typical” preschoolers learn
- Special Education & Related services



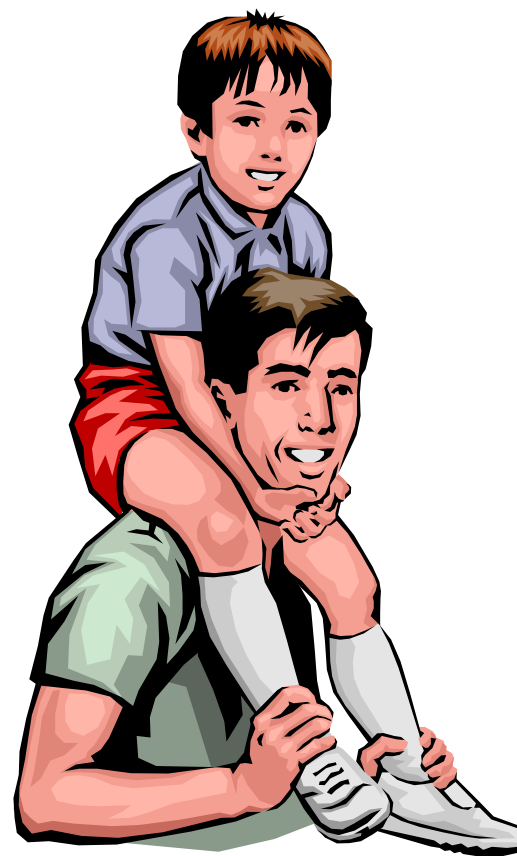
The IEP

- Placement
- Responsibility for implementation
- Monitoring of progress
- How family will be informed of their child's progress



Academic & Functional Performance

- How does the child's disability affect academics, social & emotional development, behavior, functional life skills, self-awareness, ability to communicate?



Goals & Objectives

- At least one set of Goals & Objectives for each identified need
- Goals must be measurable and related to what “typical” preschoolers are learning (See NJ Preschool Outcomes)
- The objectives/ benchmarks must lead to achievement of the goal within one year
- Don't forget social skills & friendships! The purpose: preparation for life!



Services

- Special education:
 - Specially designed instruction
 - Supplementary aids and services for the child, the child's teachers, or other children in the child's class or program



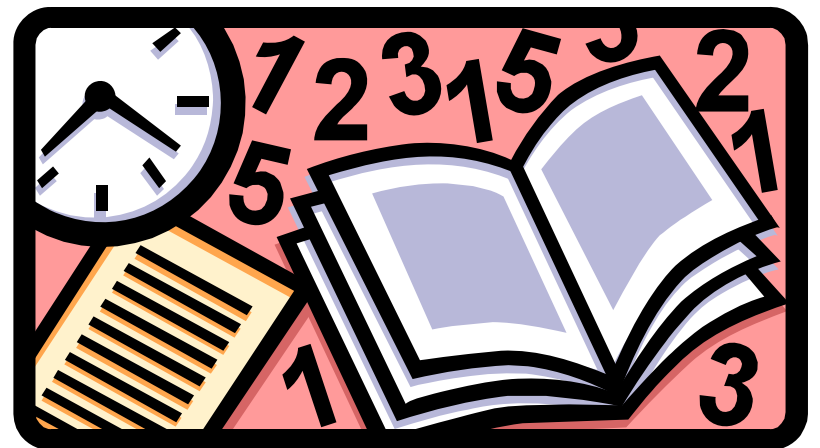
Services

- Related services:
 - Speech therapy
 - Occupational therapy
 - Physical therapy
 - Counseling
 - Psychological or psychiatric services
 - Transportation
 - Orientation & mobility training
 - Parent counseling



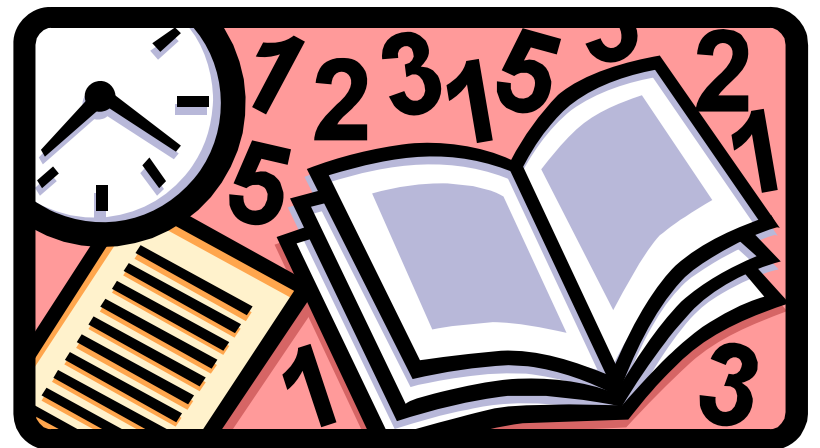
Services

- Statement specifying projected date for beginning of services and modifications including frequency, duration and location of services



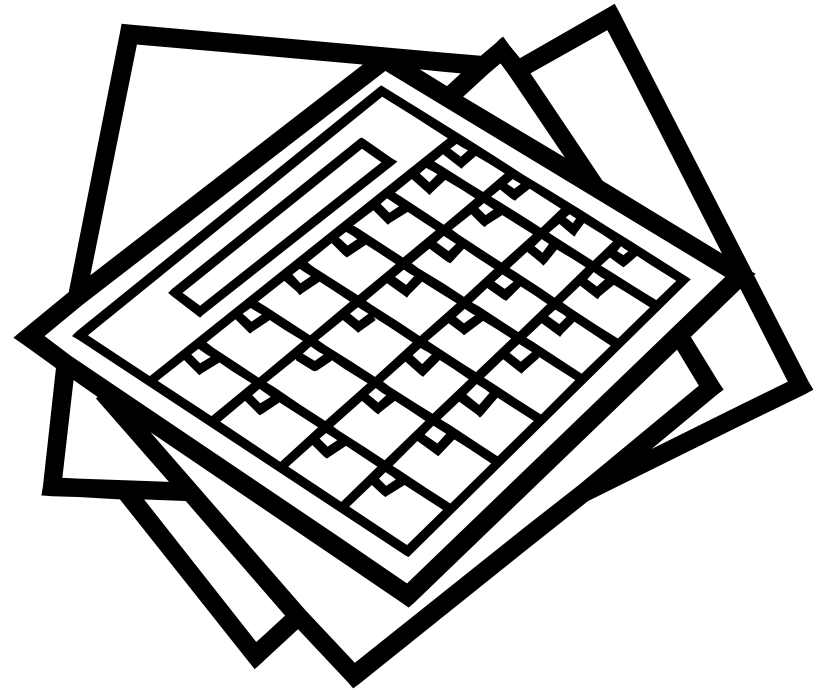
What to say if parent is told...

- “We don’t provide that service for our preschoolers.”
- *“IDEA & NJ code require that you provide a free, appropriate public education to my child, and if my child needs a particular service to achieve his/her goals and objectives, then the district must provide it.”*



Preschool Special Education

- **Special Education:**
Services are for the school year unless the child needs extended school year services





Extended School Year

- Special Education and related services:
 - Beyond the normal school year
 - In accordance with the IEP
 - At no cost to parents
- Must be provided if services are necessary to insure provision of FAPE
- Services meet State standards
- Not limited to categories of disabilities or automatically limited in duration



What to say if parent is told...

- “We never provide ESY services for preschoolers because we can’t measure regression & recoupment of knowledge & skills. Your child’s services will start in September.”
- *“You can’t have a policy of not offering ESY services to preschoolers. We need to talk at the IEP meeting about his/her experience in early intervention & what I observe about how quickly my child loses knowledge or skills and how long it takes for her/him to relearn the knowledge or skills. We also have to consider whether children with my child’s disability generally experience regression & difficulty in recoupment, as well as my child’s emerging skills. If my child needs ESY services, then her/his services must start no later than her/his 3rd birthday even if her/his birthday falls in the summer.”*

Comprehensive System of Personnel Development

- All educators and service providers must be qualified and knowledgeable about effective practices and how to use them



Equal Program Access

- Access to the same variety of educational and support services available to children without disabilities
- Equal opportunity to participate in extra-curricular and non-academic activities





IEP Team Shall Consider:

- Strengths of student & concerns of parents
- Results of initial and most recent evaluations
- Need for functional behavior assessment and positive behavior support plan
- Language needs for students with limited English proficiency
- Instruction in Braille for visually impaired students
- Communication needs, including special needs of students who are deaf or hard of hearing
- Need for assistive technology
- Need for extended school year services

Placement

- Educated with non-disabled peers to maximum extent appropriate
- Only educated in segregated setting if IEP can't be implemented in inclusive setting even with supplementary aids, services, supports & modifications
- Exclusion from typical setting must be justified in writing



Preschool Placement Options

- Services delivered in a child care center, Head Start, or preschool/early childhood program serving children without disabilities
- District must pay tuition for the time it takes to deliver IEP services



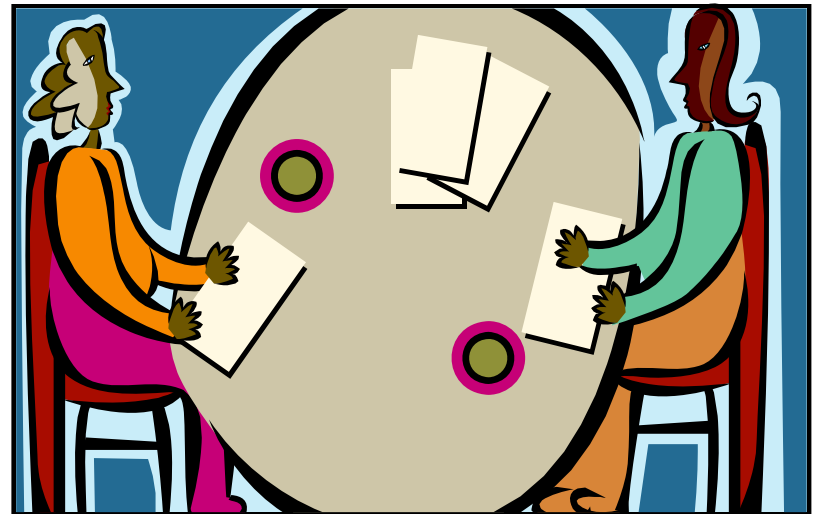
Inclusive Preschool Services

- Special educator, speech-language specialist, Occupational or physical therapist, etc., can deliver services directly to the child at the inclusive setting



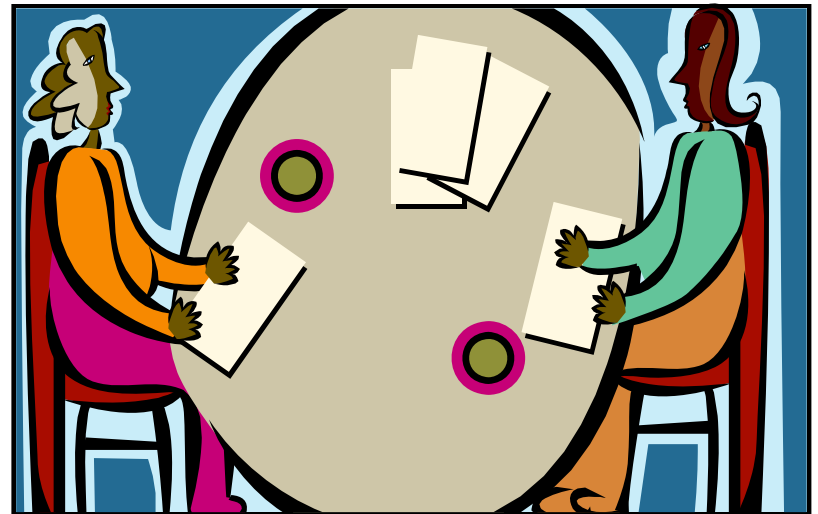
Inclusive Preschool Services

- Special education professional may also consult with teacher in typical setting to ensure the child is working on goals at all times, not just when the special educator is present.



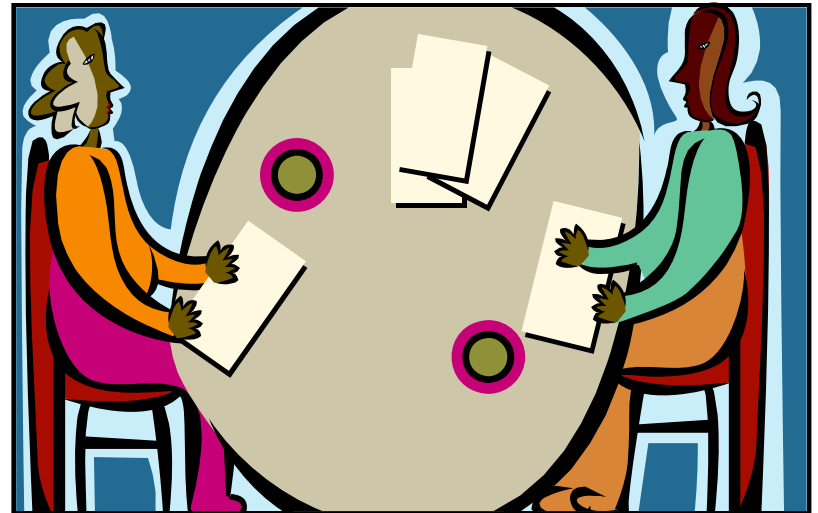
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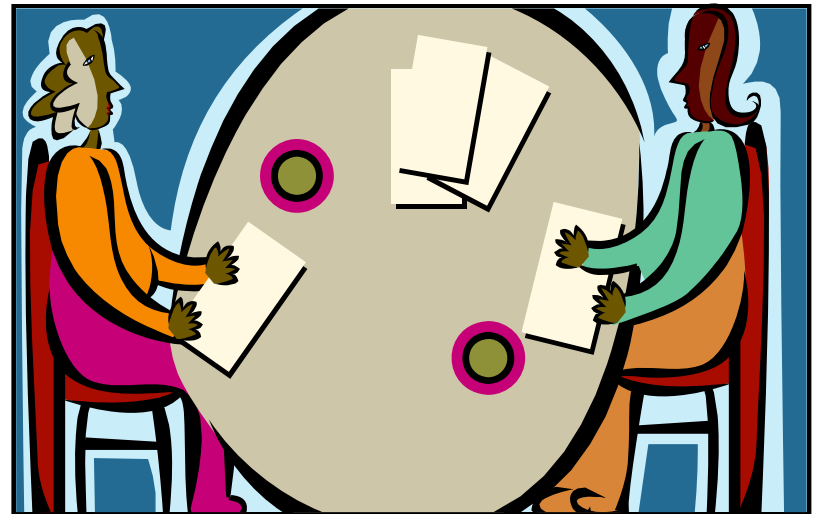
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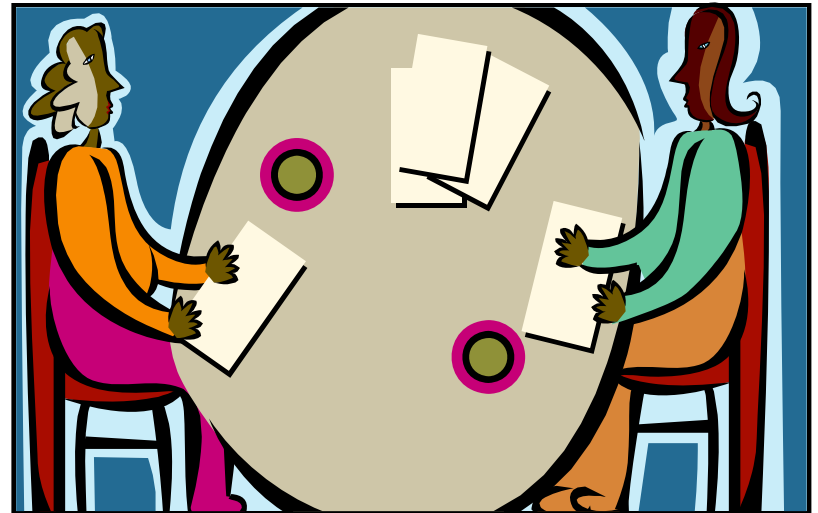
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- *“The law does not require that the child care center be accredited before my child can be placed there. If you disagree with me, please show me the specific place in the law where you have found that requirement.”*



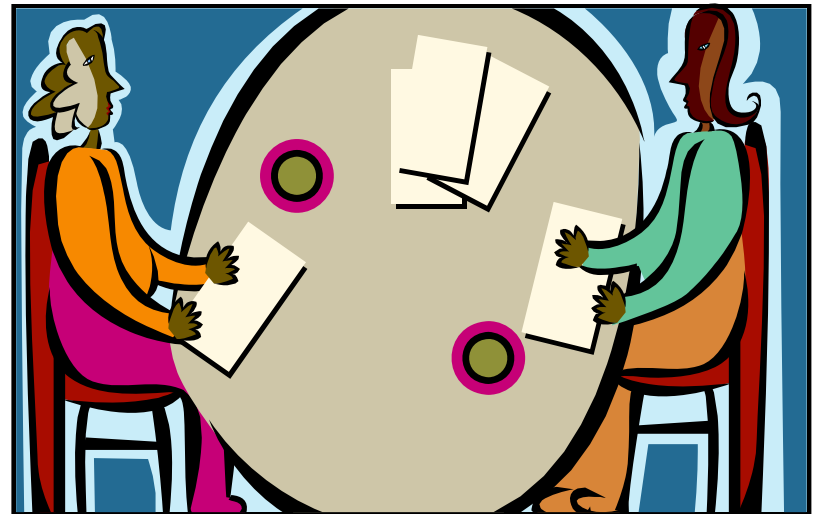
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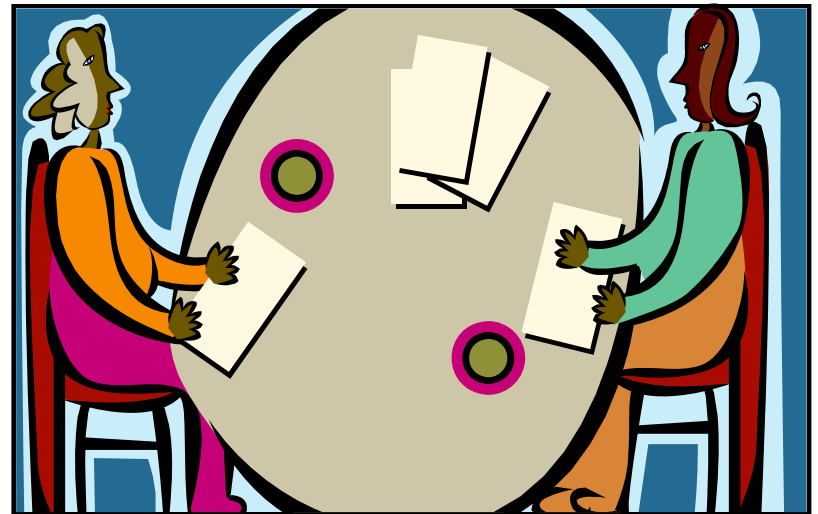
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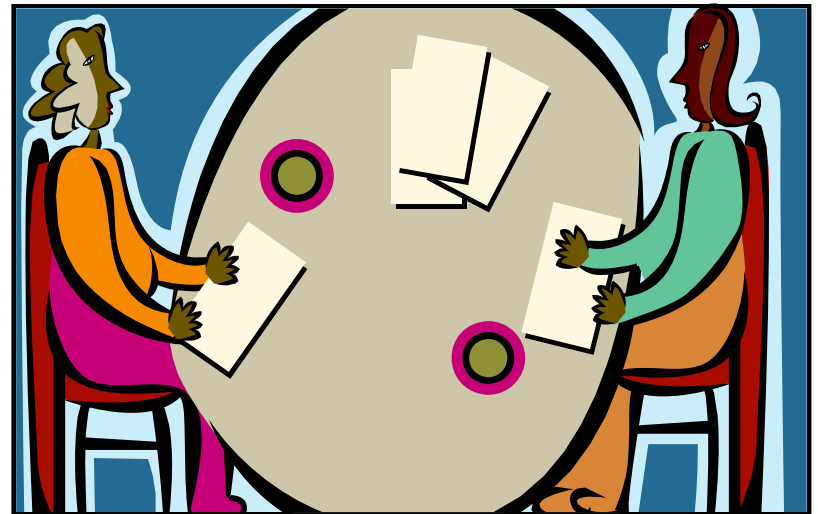
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- *“The law requires that you pay for the tuition for the amount of time it takes to implement my child’s IEP.”*



What to say if parent is told...

- “Our special ed preschool program is better for your child because they will receive more intensive instruction in a smaller class size.”
- *“Research shows that most preschoolers do better both academically and socially/behaviorally in a setting with typically developing peers. Under IDEA, my child’s IEP must incorporate research-based practices, so unless you can show me research to the contrary, my child’s IEP should reflect inclusion.”*



Other Placement Options

- Part-time inclusive setting and part-time preschool special education program
- Preschool special education program in the child's district



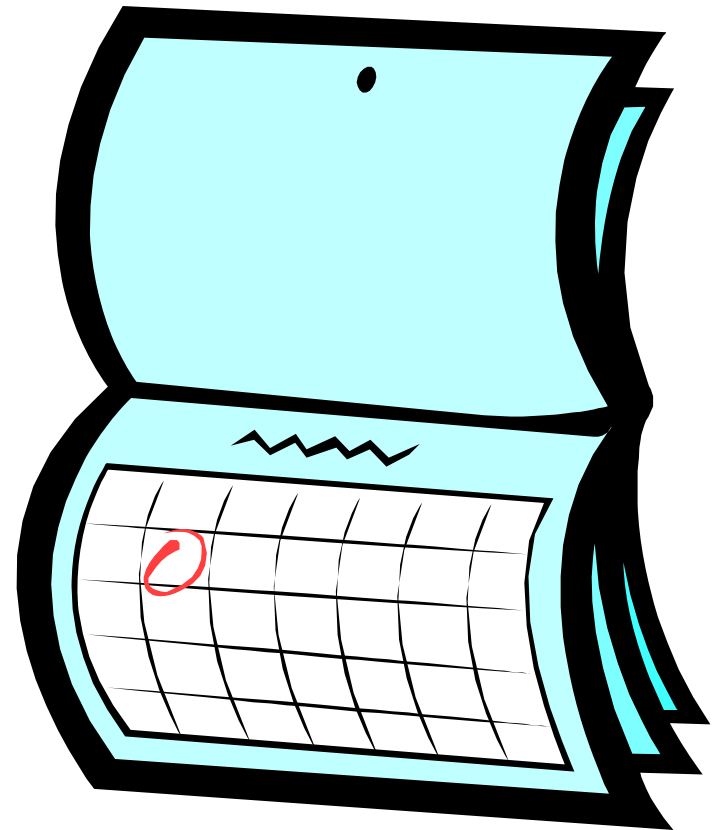
Preschool Placement Options

- Preschool special education program in another district
- Special education school (Educational Services Commission, Special Services School District, private special education school)
- Home instruction
- Hospital instruction
- Residential placement



Timelines – Preschool

- IEP is implemented within 90 days of signed consent for evaluation
- School holidays are excluded, but summer holidays are included.
- The district has 20 days to respond to a family; the family has 15 days to respond to the district



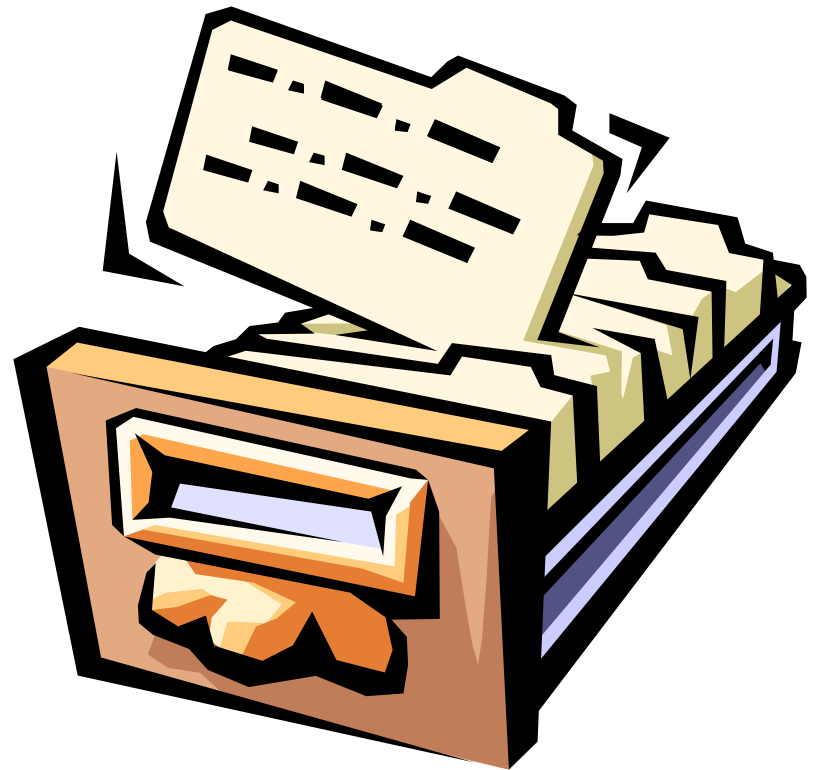
Procedural Safeguards: 3-21

- Informed, written consent for:
 - All evaluations
 - Initial IEP implementation
- Written responses to family's written requests
- Right to an IEP meeting on request



Procedural Safeguards: 3-21

- Review and get copies of child's records before any meeting
- Keep child's records confidential
- Request removal of inaccurate or inappropriate information in records
- Attach explanatory or disagreeing statement to child's records



Procedural Safeguards: 3-21

- Detailed, written explanation of why the district is planning on taking an action, or refusing the parent's request
- Advance written notice of any proposed meeting, or proposed actions
- PRISE Booklet (Parental Rights in Special Education)
- Bring someone at the parent's discretion – friend, relative, advocate, lawyer



Procedural Safeguards: 3-21

- To the maximum extent feasible:
 - Written information in parent's language
 - All meetings conducted in parent's language



Dispute Resolution Mechanisms

- Impartial mediation
- Impartial hearing
 - Preschool: Before an administrative law judge
- Complaint investigation
 - Preschool by NJS Department of Education



What to say if parent is told...

- “If you don’t agree with our recommendation for services or placement, the pendency placement is our recommendation. If you refuse to accept that recommendation, your child will not receive any services until we resolve the disagreement.”
- *“There is a 3rd Circuit Court of Appeals decision that says that, if we don’t agree, and I request mediation or a hearing, the pendency placement is the set of services s/he was receiving in the IFSP. So if we can’t reach agreement, be prepared to pay for the continuation of the services in my child’s IFSP while we work through our differences.”*



