



### Who can you take with you to an impartial hearing?

- An attorney
- Medical providers and experts in special education
- Witnesses who have observed your child's behavior
- Your child

### What must the DOE provide for you?

- All of the documents, including evaluations and recommendations, that the school district will present at the hearing.
  - The school must provide this information to you at least 5 days before the hearing (3 days if you have an expedited hearing).
  - If you do not get information on time, you can stop the school district from presenting such information and request an adjournment.
- If you request it, a word-for-word record (written or electronic) of the hearing and findings of the IHO. It is a good idea to have a copy of these for your own records.
- An interpreter, fluent in your native language or in sign language for the deaf.
- An opportunity at the hearing to cross-examine (ask questions of) the school district's witnesses.

### How long does it take from the time they receive my request until the impartial hearing?

- 45 calendar days for school-age children
- 30 calendar days for preschool children
- Longer periods if you or the school district request more time
- Shorter periods if the impartial hearing is related to discipline

### Helpful Contacts

- Advocates for Children.....(212) 947-9779
- The Children's Aid Society .....(212) 358-8930
- Lawyers for Children.....(212) 966-6420
- Legal Services for Children .....(212) 683-7999
- The Legal Aid Society .....(212) 577-3300
- Legal Services for New York .....(212) 431-7200
- New York City Department of Education .....311
- New York Lawyers for the Public Interest .....(212) 244-4664
- State Website: [www.vesid.nysed.gov/specialed](http://www.vesid.nysed.gov/specialed) (Help for Parents: A Parent's Guide to Special Education); Appeals: [www.sro.nysed.gov/appeals.htm](http://www.sro.nysed.gov/appeals.htm)

For in-depth information, contact The Children's Aid Society at (212) 358-8930 to get a complete set of **KNOW YOUR RIGHTS** brochures and other legal advocacy publications in both English and Spanish. You may also log onto [www.childrensaidsociety.org](http://www.childrensaidsociety.org).

special  
education:  
requesting  
an impartial  
hearing



For over 150 years, The Children's Aid Society has been assisting New York City's children and their families without regard to race, religion, nationality or socio-economic status. Children's Aid helps children in every aspect of their lives from infancy through adolescence, providing guidance and resources to ensure a child's current well-being and future potential. With over 100 programs and 40 locations in New York that touch the lives of more than 150,000 children every year, Children's Aid is one of the country's largest and most innovative child and family social service agencies.



## If your child is in special education, or you are seeking to have your child receive special education services, the Department of Education (DOE) has a legal duty to provide you with an impartial hearing to challenge any denial or change of services with which you do not agree.

This hearing is part of your due process rights under the federal Individuals with Disabilities Education Act (IDEA).

Before requesting an impartial hearing, you have the right to take any dispute you have with your child's school district to a mediator who will try to help you and the school resolve your disagreements. If that doesn't work, then you may request an *impartial hearing* before a judge who will decide what is right and issue an order. If you don't agree with the judge's decision, you may appeal to a federal or state court, and as far as the U.S. Supreme Court. This flyer describes some of the rights and responsibilities of parents and the school district (DOE) when you request an impartial hearing. Contact information is listed below.

### What is an impartial hearing?

An impartial hearing is a formal proceeding in which a third party called the Impartial Hearing Officer (IHO) decides an outcome to a disagreement between you and the school district regarding your child's Individualized Education Program (IEP). In many ways, an impartial hearing is similar to trial, except it does not occur in court.

### Under what circumstances can you request an impartial hearing?

- If you disagree with the disorder or disabilities named in the IEP. *For example*, the IEP states that your child is autistic and you do not believe that is accurate.
- If you disagree with an evaluation of your child. *For example*, the school's evaluation shows the child reading at grade level but the reading specialist that works with the child believes the child reads at a much lower level.
- If you disagree with the child's educational placement. *For example*, your child is in a full-day special education

classroom but you believe your child would benefit from a full-day regular education classroom with only a few hours a week in a resource room.

- If you think the child is not getting a free, appropriate public education. *For example*, you do not believe the education placement or services are proper for the child, or you have been told you must pay for the special services your child is receiving.
- If you believe the IEP is not being followed. *For example*, the IEP says the child is entitled to speech therapy but the district does not provide this service or has stopped providing this service.
- If the school has taken disciplinary action against your child for behavior you believe occurred because of your child's diagnosis. *For example*, your child is suspended for disruptive behavior in the hallway or classroom, but your child has an attention deficit-hyperactivity disorder that causes him to act out.

### What will happen to your child's educational placement while you wait for an impartial hearing?

The school must allow the child to continue in the current placement during the impartial hearing process and during all appeals unless you believe the placement is harmful to your child.

### How much does an impartial hearing cost?

An impartial hearing is free. You are only responsible for your attorney's fees if you choose to hire one.

### Are there any free or low-cost lawyers available?

Yes. Several agencies represent parents and children at impartial hearings, but they are frequently unable to take new cases. You should still contact them and ask for advice or referrals to other agencies. They are listed at the end of this brochure under Helpful Contacts.

When you make a request for an impartial hearing the school district must give you a list of any services available to you, both free and low-cost. If you ask, the district must also provide you with a list of attorneys and contact information if you want someone to represent you at your impartial hearing.

### How do you request mediation or an impartial hearing?

You may request an impartial hearing by writing to the addresses below. *Keep a copy for your records.*

- New York City Department of Education  
Office of Impartial Hearings  
131 Livingston Street  
Brooklyn, NY 11201
- Office of Vocational and Education Services for Individuals with Disabilities  
One Commerce Plaza, Room 1624  
Albany, New York, 12234  
Attention: Impartial Hearing Reporting System

### What should the request include?

The request for mediation or an impartial hearing is called a *Due Process Complaint Notice* and must include the following:

- A description of the problem
- Suggestions for how you believe the problem could be fixed
- Your child's name and address
- The name and address of the school your child attends
- Additional contact information if you or your child is homeless

### What can you expect once the school receives your request?

Within 15 days after the Department of Education receives your request, the DOE must invite you to meet with the school to try to resolve the problem before going to the impartial hearing. This meeting is called a *resolution session*. The resolution session can be skipped if you and the school agree to go directly to the impartial hearing.

### What if the complaint is not resolved or I cancel the agreement?

The school district then has 30 days from the date they received your original request to resolve the problem to your satisfaction. After 30 days, the impartial hearing must be held.