The School is not Helping my Child with Disabilities

Federal and Minnesota law says schools must support students with disabilities. If a school does not meet a child's needs, parents have rights and clear steps they can take to ask for help and resolve problems.

Do schools in Minnesota have to support kids with disabilities?

Yes. Minnesota schools have a federal and state legal mandate called "FAPE." (Rhymes with "cape.") FAPE stands for Free and Appropriate Public Education.[1] This means:

- All children can get free education.
- All schools must follow special education laws.
- Education must be provided by a school district or other public agency.
- The child must be educated in the "least restrictive environment." For example: your child should get the chance to learn along with other non-disabled students when it's fine to do that.

Schools have a legal obligation to support children with disabilities even if they have an Individual Education Program (IEP) in place.[2]

If your child with disabilities needs more support at school and you are struggling to get the necessary help, there are several steps you should take as a parent.

What can I do?



First, collect documentation. Emails are better than phone calls, and documents with signatures are better than personal notes. If you have a phone call with a school staff member, follow it up with an email that summarizes what you just talked about.

Having things written down is an important part of getting help. They can clearly show your concerns and what services you think are lacking. It's also good to document incidents at school.

Second, decide what exactly you think is not working and what exactly you want to see change. What does the ideal IEP look like for your child? What services or intervention do not appear to be working? Knowing exactly what you want leads to more productive conversations. Write these things down too. See our fact sheet *Top 10 Tips for the Special Education Process and Individual Education Plans (IEPs)*.

Children with IEPs

If your child's school is not following your child's IEP or if your child needs more services than are written out in their IEP, you may call an IEP team meeting.[3] You can do this by contacting your IEP case manager, special education teacher, or school principal. You can ask for as many IEP team meetings you want during the school year.



Note: The school must have at least one IEP team meeting every year.

What if we had a meeting but it didn't fix the problems?

If you met with the IEP team but there are still problems with your child's supports, you have several options:

1. **Contact the school district's special education director.**
   You can search on your school district's website for the director's contact information. You can also find it on the Minnesota Department of Education database of Special Education Directors. Having the director involved usually helps solve problems at the school-building level.

2. **Conciliation meeting.**
   You can ask for a conciliation meeting within 10 days of an IEP meeting to talk about any IEP meeting decisions you don't agree with. This is a second, more focused IEP team meeting. After the conciliation meeting, the school must produce a memo that includes what was talked about in the meeting, decisions that were made and their final offer of service.[4]

3. **Mediation.**
   You or the school can ask for mediation. Mediation is a meeting you and the school has with an impartial third party. This means a neutral person who is not on one side or the other. They help solve disagreements. The third party works with you and the school to write a mediation document with a decision about the problem. Both you and the school must follow the decision. You can ask for mediation at the MDE website.

4. **Facilitated IEP team meeting.**
   You or the school can ask for a facilitated IEP team meeting. This is when an objective facilitator (like a mediator) goes to an IEP meeting and provides support. The objective facilitator works for MDE.[5]

Children Without IEPs

Every school district must create a plan for identifying and evaluating children who are suspected to have disabilities.[6] This is known as "Child Find."

If your child is diagnosed with a medical condition by a physician, and/or if you notice that your child is:

- struggling in a certain class,
- showing signs of a disability, or
- having any other challenges with school,

reach out to the child's teacher. You can ask for a special education evaluation. It is best to ask with an email, so you have it in writing. If the school agrees, they can help set up an IEP evaluation. If the school does not agree, you can reach out to school administrative staff with your concerns. This is staff like the principal or district special education director.

Writing a letter or email to your child's school administrators and teachers talking about your concerns is a great first step to getting an evaluation scheduled. Make sure you include specific behaviors or incidents, and any medical diagnoses your child got from doctors or other professionals. Ask for a meeting with a school administrator to talk about an IEP or Section 504 evaluation.

If a student shows signs of a certain disability, the school may first set up a pre-referral intervention plan. These plans or interventions are called different things in each school district. Some common names are "multi-tiered system of support" (MTSS), "response to intervention" (RTI), tiered supports, etc. You have a right to join these meetings and give input about support before they decide if an evaluation is appropriate.[7]

But, if you ask for an evaluation and the team thinks an evaluation is urgent, the pre-referral procedures may be waived. Also, a school cannot delay a needed evaluation because of pre-referral interventions.[8]

If the district turns down your request for an evaluation, they must give you a document known as "prior written notice" (PWN). They have to send you that PWN within 14 calendar days as stated in Minnesota Administrative Rules 3525.3600.This gives you time to challenge the decision if you want to.

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.
Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

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Laws, Statutes, Rules and Regulations

Note: Some of these citations are for special education administrative hearings. There are not always links you can use. The best way to see them is to bring this fact sheet to a meeting with a school official. The school official usually can access the Special Education database.

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1. Minn. Stat. 125A.083 Subd (a)
2. Minn. R. 3525. 0750
   Minn. R. 3525. 1100, subp. 2

Children with IEPs

3. 34 C.F.R. 300.501(b)

What if we had a meeting but it didn't fix the problems?

4. Minn. Stat. 125a.091 Subd 7
5. Minn. Stat. 125a.091 subd 12

Children Without IEPs

6. Minn. R. 3525. 0750
   Minn. R. 3525.1100, subp. 2
7. Minn. R. 3525. 0750
   Minn. R. 3525. 1100, subp. 2A
   34 CFR § 300.307(a)(2)
8. In general, it is not ok for a district "to wait several months to conduct an evaluation or to seek parental consent for an evaluation if the [school] suspects the child to be a child with a disability."
   Questions and Answers on Response to Intervention (RTI) and Early Intervening Servs. (EIS), 47 IDELR 196 (OSERS 2007)

   ***Avaras v. Clarkstown Cent. Sch. Dist.,* No. 15 CV 9679 (NSR), 2018 WL 4964230 (S.D.N.Y. 2018).** This case talks about how a New York district denied FAPE to an elementary school student with a specific learning disability by providing intervention services for 16 months before evaluating him for an IEP.

   Pulaski County Spec. Sch. Dist., 121 LRP 36365 (SEA AR 08/24/2021). This case talks about how the delay in the evaluation resulted in a loss of 6-9 months of special education for the student. The impartial hearing officer concluded that the district denied the student FAPE.

   Special Sch. Dist. of St. Louis County, 73 IDELR 271 (SEA MO 2019). A Missouri district's unsuccessful use of interventions for a school year was too long to delay an evaluation.