



FEDERATION FOR CHILDREN  
WITH SPECIAL NEEDS

## Basic Rights: Evaluation and Eligibility Parent Training and Information Center



INFORMING, EDUCATING, EMPOWERING FAMILIES

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FEDERATION FOR CHILDREN  
WITH SPECIAL NEEDS

## Who We Are



FEDERATION FOR CHILDREN  
WITH SPECIAL NEEDS

The Federation for Children with Special Needs promotes quality education, parent participation and access to quality health care services for all children, especially those with disabilities.

The Parent Training and Information Center is a project of the Federation. It provides free information, support, technical assistance and affordable workshops to families who have children with disabilities and the professionals who work with them.

**PTiC**



Workshop contents were developed under a grant from the US Department of Education. However, the contents do not necessarily represent the policy of US Department of Education; you should not assume endorsement by the federal government.

## Workshop Goals

- Understand your rights under special education law
- Understand special education procedures
- Provide information so you can better participate in the team process, collaborate with your school and better support your student



## What are the Special Education Laws?

### **Federal**

Individuals with Disabilities Education Act (**IDEA**)  
20 USC §§ 1400-1487

*Regulations*  
*34 CFR Part 300*

### **State**

Massachusetts Special Education Law  
MGL Chapter 71B

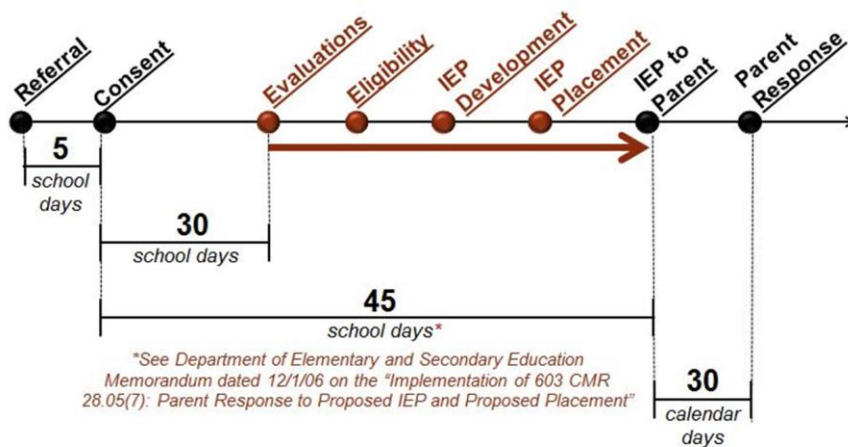
*Regulations*  
*603 CMR § 28.00*

## What is the Purpose of IDEA?

20 USC § 1400(d)(1)(A); 34 CFR § 300.1

The purpose of IDEA is “to ensure that all children with disabilities have available to them **a free and appropriate public education** that emphasizes special education and related services **designed to meet their unique needs** and *prepare them for further education, employment, and independent living*” (emphasis added)

## Review of Important Timelines





## Why and Who Makes the Referral

Are there concerns about the student's development?

A parent or any person in a caregiving or professional position may refer a student for evaluation

The findings from the evaluation will determine whether the student might need special education services in order make effective progress



## When and How to Make the Referral

A referral can be made at any time that you or someone else have concerns about student

Submit the request in writing to the student's school principal or the director of special education

After the referral is made, the school will give parent the consent form. Parent's written permission is required to perform evaluation

## Evaluation Consent Form

See 603 CMR 28.04 (1)(a) and (2)

Re: [Name of Student and other necessary identifying information] Notice Date: [Date from N 1]

**School District Name**

**EVALUATION CONSENT FORM**  
Attachment to N 1

TYPE OF ASSESSMENTS: A variety of assessment tools and strategies should be used to gather information that determines the educational needs of this student. (Check yes or no for each assessment.)	RECOMMENDATION	
	YES	NO
<b>Assessment in All Areas Related to the Suspected Disability(ies)</b> – describes the student's performance in any area related to the child's suspected disability(ies). List recommended assessment(s):		
<b>Educational Assessment</b> – includes the history of the student's educational progress in the general curriculum and includes current information on the student's performance.		
<b>Observation of the Student</b> – includes the student's interaction in the student's classroom environment or in a child's natural environment or an early intervention program.		
<b>Health Assessment</b> – details any medical problems or constraints that may affect the student's education.		
<b>Psychological Assessment</b> – describes the student's learning capacity and learning style in relationship to social/emotional development and skills.		
<b>Home Assessment</b> – details any pertinent family history and home situations that may affect the student's education and, with written consent, may include a home visit.		

**PARENT RESPONSE SECTION**

Please indicate your response by checking at least one (1) box and returning a signed copy to the school district. Please keep one copy for your records. Thank you.

☐ I accept the proposed evaluation in full. ☐ I reject the proposed evaluation in full.

☐ I accept the proposed evaluation in part and request that only the listed assessments be completed:

I additionally request the following assessment(s): ☐ assessment(s) listed above: ☐ other assessments (specify)

Signature of Parent, Guardian, Educational Surrogate Parent, Student 18 and Over\* \_\_\_\_\_ Date: \_\_\_\_\_

\*Required signature once a student reaches 18 unless there is a court appointed guardian.

**PARENT INPUT**

We strongly encourage you to share your knowledge of this student with us. If you choose, please provide a written statement (use back of form) or call the indicated contact person. Thank you.

School sends evaluation consent form to parent for signature **within 5 school days** of receiving referral.

School evaluates student **within 30 school days** of receiving parent's signed consent form

## Which Assessments Will Be Performed?

See 603 CMR 28.04(2)(a)

- I. An assessment in all areas related to the suspected disability
- II. An educational assessment by a representative of the school district will include:
  - history of the student's educational progress
  - assessment of the student's attention skills, participation behaviors, communication skills, memory, and social relations
  - description of the student's educational and developmental potential

The school or parent may request:

- Comprehensive health assessment
- Psychological assessment
- Home assessment

For students with limited English proficiency (LEP):

- Information about the student's language must be considered in determining how to conduct the evaluation to prevent student from being misclassified.
- District must assess the student's proficiency in English and the native language proficiency in reading, writing, speaking and understanding.

Evaluator shall summarize in written report:

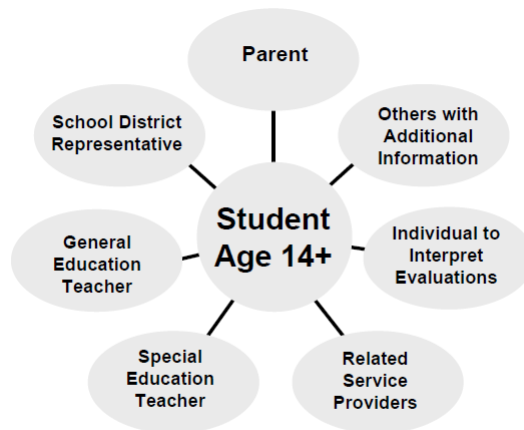
- procedures used,
- results,
- diagnostic impression,
- student's needs, and
- Recommendations to include explicit means of meeting needs.



If requested **in writing**, a parent can obtain a copy of the evaluation report in writing at least 2 calendar days before the Team meeting

A Team meeting will be scheduled at a time mutually convenient to school and parents, at which the evaluation will be discussed

## Who is at the Team Meeting?



## Who May Be Excused from Team Meeting?

Every member of the Team must attend the meeting unless the parent or guardian agrees in writing to their excusal

If a Team member's expertise is required but the parent has agreed to excuse them, the Team member must still provide written input to the parent and the school before team meeting

*In what situations might you excuse someone from the Team meeting? When would you refuse to do so?*



## What Are the Team's Initial Tasks? See 603 CMR 28.05 (1)

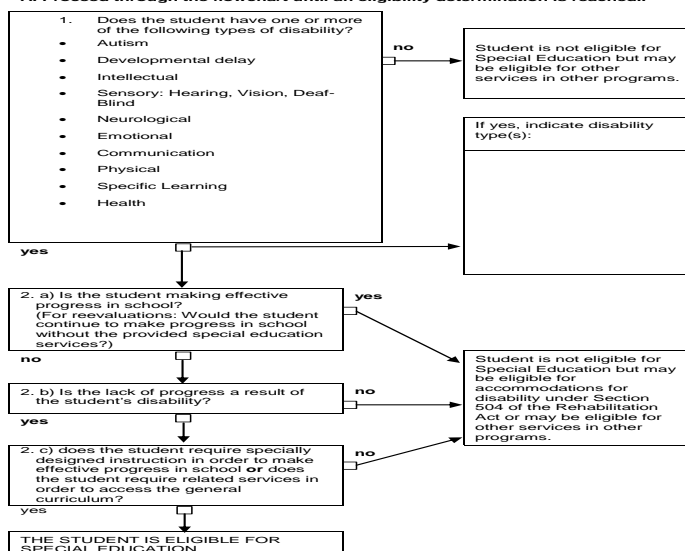
Within **45 school days of receipt of parent's written consent**, the school shall:

- ✓ Convene a Team meeting
- ✓ Review evaluation results
- ✓ Determine eligibility for special education



## Who Is Eligible for Special Education?

A. Proceed through the flowchart until an eligibility determination is reached..





## Step 1: Does Student Have a Disability?

### Special Education Eligibility/Initial and Reevaluation Determination

Student Name: \_\_\_\_\_ DOB: \_\_\_\_\_ ID#: \_\_\_\_\_ Date: \_\_\_\_\_

**A. Proceed through the flowchart until an eligibility determination is reached..**

```
graph TD; Q1[1. Does the student have one or more of the following types of disability?] -- no --> A1[Student is not eligible for Special Education but may be eligible for other services in other programs.]; Q1 -- yes --> Q2[If yes, indicate disability type(s):];
```

1. Does the student have one or more of the following types of disability?

- Autism
- Developmental delay
- Intellectual
- Sensory: Hearing, Vision, Deaf-Blind
- Neurological
- Emotional
- Communication
- Physical
- Specific Learning
- Health

no

Student is not eligible for Special Education but may be eligible for other services in other programs.

yes

If yes, indicate disability type(s):

Step 2(a): is Student making Effective Progress?  
Step 2(b): if Not, is it Due to Disability?

### Special Education Eligibility/Initial and Reevaluation Determination

Student Name: \_\_\_\_\_ DOB: \_\_\_\_\_ ID#: \_\_\_\_\_ Date: \_\_\_\_\_

```

graph TD
    Q1["2. a) Is the student making effective progress in school?  
(For reevaluations: Would the student continue to make progress in school without the provided special education services?)"]
    Q2["2. b) Is the lack of progress a result of the student's disability?"]
    Q3["2. c) does the student require specially designed instruction in order to make effective progress in school or does the student require related services in order to access the general curriculum?"]
    A1["yes"]
    A2["no"]
    A3["yes"]
    A4["no"]
    A5["no"]
    A6["yes"]
    A7["no"]
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    A9["no"]
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## What Is Effective Progress?

See 603 CMR 28.02 (17)

Effective progress is “the documented growth in the acquisition of knowledge and skills, including social/emotional development, within the general education program with or without accommodations according to chronological age and developmental expectations [and] the individual educational potential of the child”

*Effective progress is NOT determined solely by passing grades or being promoted from grade to grade*

## Step 2c: Does Student require **specialized instruction** to make Effective Progress?

The Special Education Teacher modifies the:

- content,
- methodology and/or
- performance criteria as appropriate to:
  - address the unique needs of the child and
  - ensure access to the general curriculum



Specialized instruction *is* special education

## Step 2(c): Does Student require **related supports or services** to Access Curriculum?

- Assistive Technology
- Audiology
- Occupational Therapy
- Orientation and Mobility
- Parent Training
- Physical Therapy
- Psychological
- Rehabilitation Counseling
- Recreation
- School Nurse/ Social Worker
- Health Services
- Speech/Language Pathologist
- Travel Training
- Transportation

In MA, student can qualify for an IEP if he/she needs specialized instruction and/or related service(s) to access general curriculum

## What if Team decides Student is Not Eligible for Special Education?

Team Chair notifies parents in writing of determination of ineligibility (N-2 form) within 10 school days of Team meeting.

- The student may not be eligible for special education, but may be eligible for other services in other programs
- “If a parent disagrees with an initial evaluation...the parent may request an Independent Educational Evaluation”
- Parents have a right to appeal to the Bureau of Special Education Appeals (BSEA)

B. Answer this question for all students.

Is parent satisfied with school evaluation?	
yes <input type="checkbox"/>	no <input type="checkbox"/>
Continue forward as previously discussed.	Discuss Extended Evaluation and rights to an Independent Educational Evaluation.

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KEY EVALUATION FINDINGS AND/OR NEXT STEPS

## Student ineligible for an IEP may be eligible for a 504 Plan

If student does not require specialized instruction or related services to access the curriculum, but does require accommodations to access school, the student may be eligible for accommodations under a Section 504 plan.

- 504 plan is **not** “special education” under IDEA and MGL Chapter 71B

### REQUIRED for 504 Plan & IEP

- FAPE in LRE
- Disability Determination
- Evaluations
- Accommodations based on *need*
- Accommodations on Testing
- Appeals to BSEA, PRS or OCR

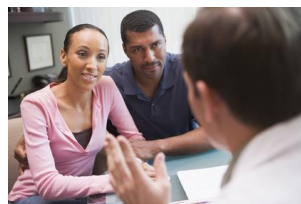
### NOT Required for 504 Plan

- Written plan
- Progress Reports
- Annual Team Meetings
- Discipline protections limited
- Transition Planning

## If Student is determined to be eligible for Special Education

### The Team will proceed to:

1. Develop an IEP
2. Determine placement
3. Hold annual review of IEP and placement
4. Re-evaluate for eligibility every three years





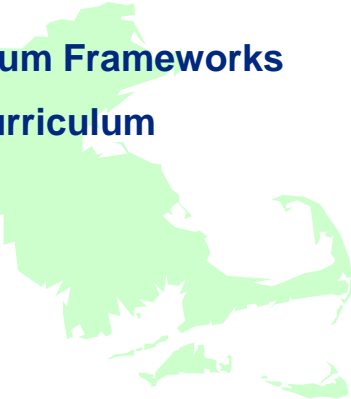
## The Purpose of an IEP

Enables student to access the general curriculum

**Massachusetts Curriculum Frameworks**

**Local School District Curriculum**

**MCAS & MCAS-ALT**



## What is the Content of the IEP?

See 603 CMR 28.05(4)

- Parent &/or student concerns & vision
- Student Strengths & Key Results
- Present Levels of Performance (PLEPs)
- Accommodations
- Modifications and specially designed instruction
- Related services
- Measurable goals & benchmarks used to gauge progress
- Service delivery grid
- Schedule modifications including Extended School Year (ESY)
- Transportation
- How student will participate in Standardized Testing (MCAS)
- Placement



## What is an Accommodation?

See 34 CFR 300.42

### 1. Change within the learning environment

### 2. Allows access to the same information

- Extended testing time
- Preferred seating (specify where)
- Digital books & taped lectures
- Sensory breaks & reduced seat time
- Reading & writing software
- Use of a graphic organizer
- Computers & computer-assisted devices
- Large print materials



## What is Free Appropriate Public Education (FAPE)?

The standard for providing services:

- **F**ree = No cost to parents
- **A**ppropriate = Services sufficient to enable student to make meaningful or effective progress according to his/her potential and toward challenging IEP goals.
- **P**ublic = Provided by public school district or under direction of the public school district
- **E**ducation = Preschool, elementary and secondary education, including extra curricular and non-academic school activities

## What is the Least Restrictive Environment (LRE)? See 34 CFR 300.114; 603 CMR 28.02 (12)

The standard to determining the placement

Means the student is placed, to the maximum extent appropriate, with students who are not disabled with use of supports and services as needed

The Team decides which placement is the least restrictive environment for the student

Possible placements:

- Full Inclusion (80% included)
- Partial Inclusion (60% included)
- Substantially Separate Class
- Separate Day School
- Residential School
- Home-Based Early Childhood
- Center-Based Early Childhood
- Other Placements
- Placements with Non-Educational Agencies

## What happens at close of Team Meeting?

Parents receive a summary of the decisions and agreements reached during the Team meeting, including:

- A) completed IEP service delivery grid describing types and amounts of special education and/or related services and
- B) statement of the major goals associated with those services

Expect proposed IEP in two calendar weeks.

Parents are not required to sign an IEP at the Team meeting

*\*Proposed IEP to be provided to parents immediately; if parents are provided with completed IEP grid sheet describing types and amount of special education and related services and statement of associated major goals, providing a proposed IEP within 2 weeks is considered immediate unless parents request IEP within 3-5 days.*



## What are Parent's Response Options ?

See 603 CMR 25.05(7)

### Options for IEP:

1. Accept IEP in full
2. Reject IEP in full
3. Accept IEP in part

### Options for placement:

1. Accept placement
2. Reject placement



Parents should send response within 30 calendar days

Parent can request a Team meeting to discuss rejected portions of the IEP if they check the appropriate box on the response form

"Stay put" rights mean that previously accepted services or placement – now in dispute - remain in place until the issues are resolved or one of the parties request BSEA review



## Not Sure How To Respond to an IEP?

Do further research

**Observe the school placement:** Parents and their experts have an unconditional right to observe student's current and any proposed placement

**Review school records:** Parents have right to request and receive a copy of school records

**Consult an independent expert:** the Team must reconvene in 10 school days to discuss reports that you submit to the school.



## What Happens once the IEP is Accepted?

Once the parent signs and returns the IEP, the school will implement the accepted parts of it immediately

IEP must be accessible to everyone who has responsibilities for implementing it

Parents should expect:

- Progress reports as often as report cards
- Annual Team meeting to review IEP and progress towards meeting the goals
- Three-year re-evaluation or sooner if necessary.



## Can IEP be changed after IEP Meeting?

See 34 CFR 300.323 and 34 CFR 300.324

Yes, after the annual IEP meeting, parents and school may agree in writing to update or change the IEP without another Team meeting.

Parent consent is required for *all* changes to IEP.



## Transition Planning by Age 14

Starting by age 14, the *Transition Planning Form (TPF)* is used as the starting place to draft the IEP

Focus is on student's post-secondary vision, including:

- post-secondary or vocational education,
- employment (including supported employment),
- adult services,
- independent living, &
- travel training
- community participation as appropriate



## Resolving Disputes



Research shows that when parents and schools work collaboratively to resolve disagreements, the outcomes are more mutually satisfying and beneficial for the student in the long term



## Local Dispute Resolution Options



**Team  
Meeting**

**Independent  
Educational  
Evaluation**

**Meeting with Special  
Education Director,  
Principal, and/or  
Superintendent**



## Independent Education Evaluation (IEE)

**Option 1:** within 16 months of the school evaluation, the parent can request an IEE as a second opinion if they disagree (income based)

**Option 2:** If parent requests IEE in an area not assessed by school, does not meet income eligibility standards, the school can agree to pay for IEE,

**Option 3:** Parent may obtain an independent evaluation at private expense any time

Team must consider all evaluations submitted to the school within 10 school days, but is not bound by recommendations.

Consider having evaluator attend the meeting to the support the report in person or by phone.

## External Dispute Resolution Options

### Procedural Safeguards and “Due Process” Rights

#### Procedural Violations & Enforcement Issues

**PRS**  
Problem  
Resolution System  
781-338-3700

**OCR\***  
Office for  
Civil Rights  
1-800-421-3481

*\*if civil rights violation*

#### Voluntary Alternative Dispute Resolution

**Facilitated IEP  
Meeting**  
617-626-7250

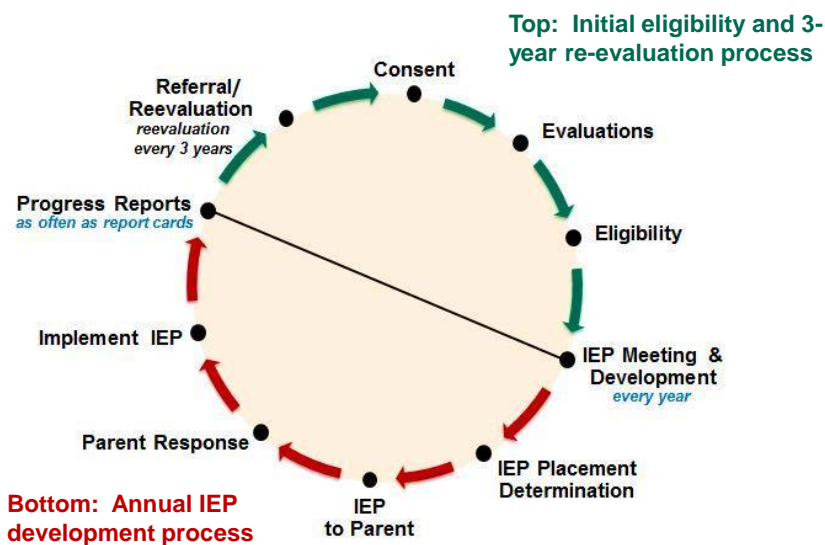
**Mediation**  
617-626-7291

#### Due Process

**BSEA  
Hearing**  
617-626-7250

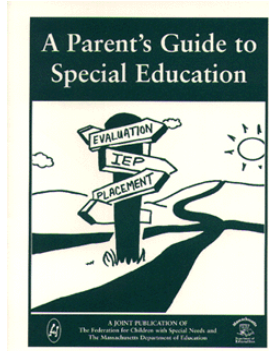
**Resolution  
Meeting**

## Review of Full IEP Cycle





## Review of Six Key Principles of IDEA



Parent and Student Participation in the Team

Appropriate Evaluation

Individualized Education Program (IEP)

Free and Appropriate Public Education (FAPE)

Least Restrictive Environment (LRE)

Procedural Safeguards (Due Process)

<http://www.fcsn.org/parentguide/parentguide.pdf>



## Strategies For Success

### ❖ Know your Basic Rights under law

- Use effective communication skills with school
- Be prepared to be an active participant on Team
  - What are your child's unique needs?
  - Is your child making progress?
  - Set high expectations for your child
  - Don't allow IEP goals to stagnate from year to year
  - Do you need to verify your child's progress with an evaluation?
- Access assistance from FCSN Call Center and other resources
- If you need support, bring someone with you to Team meeting
- Network with your SEPAC and learn all you can from others
- Acknowledge and be grateful to teachers and therapists who make a difference in your child's life
- Three P's – be positive, professional, and persistent



Federation for Children with Special Needs (FCSN)

[www.fcsn.org](http://www.fcsn.org)

Mass. Association of Special Education PACs

[www.fcsn/masspac](http://www.fcsn/masspac)

Parent's Guide [www.fcsn.org/parentguide/pgintro.html](http://www.fcsn.org/parentguide/pgintro.html)

MA Department of Elementary and Secondary Education

[www.doe.mass.edu](http://www.doe.mass.edu)

Massachusetts Advocates for Children [www.massadvocates.org](http://www.massadvocates.org)

Understood [www.understood.org](http://www.understood.org)

Massachusetts Arc [www.arcmass.org/](http://www.arcmass.org/)

NAMI National Alliance on Mental Illness [www.naminmass.org](http://www.naminmass.org)

Parent Professional Advocacy League (PPAL) [www.ppal.net](http://www.ppal.net)

Special Needs Advocacy Network (SPAN) [www.spanmass.org](http://www.spanmass.org)

Wrights Law Special Education Advocacy [www.wrightslaw.com/](http://www.wrightslaw.com/)



The Parent Training & Information Center is funded by a federal grant. We need to collect the information in the forms below for the grant.

**Please complete these forms:**

- 1. Demographic Data Collection &**
- 2. Workshop Evaluation**



Kindly return completed forms to workshop presenter

## Parent Training & Information Center

### CALL CENTER

**FREE** info about  
*Special Education Rights*  
<http://fcsn.org/ptic/call-center/>  
617-236-7210  
Mon-Fri 10am-3pm,  
Thurs by appt. 3pm-8pm

The PTIC provides special  
education training, information  
and support to families  
who speak:

**Spanish, Portuguese,  
Haitian Creole, Chinese  
and Vietnamese**

### WORKSHOPS

(**FREE** to participants)

- A IEP For My Child
  - Discipline & Suspension
  - Effective Communication
- AND MORE!*

<http://fcsn.org/ptic/workshops>

### Parent Consultant Training Institute

An in-depth training for parents in  
a 54-hour tuition-based program.

<http://fcsn.org/ptic/parent-consultant-training>



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FEDERATION FOR CHILDREN  
WITH SPECIAL NEEDS



INFORMING, EDUCATING, EMPOWERING FAMILIES

617-236-7210 | [www.fcsn.org](http://www.fcsn.org) | [fcsninfo@fcsn.org](mailto:fcsninfo@fcsn.org)