



# Advocates for Children of New York

Protecting every child's right to learn

---

## **KINDERGARTEN PLACEMENT FOR STUDENTS WITH IEPs**

Each incoming kindergarten student with an Individualized Education Program (IEP) should receive a Final Notice of Recommendation (FNR) from the Department of Education (DOE). The FNR will state the student's school placement and the program and services recommended on the student's kindergarten IEP. For students referred for special education services before March 1<sup>st</sup>, the DOE will send the FNR by June 15<sup>th</sup>.<sup>1</sup>

### **How does placement work for students whose kindergarten IEPs recommend community school programs?**

The placement process for students with disabilities whose kindergarten IEPs recommend community school programs (e.g., ICT or 12:1:1 in a community school) has changed as a result of the DOE's special education reform.

As part of the special education reform, the DOE encouraged families to apply to their zoned school and other schools of interest through the Kindergarten Admissions Process. Whether or not families applied to schools, all students recommended for community school programs on their kindergarten IEPs will receive an FNR for a community school placement.

Students who were admitted to a school and have pre-registered for that school will receive an FNR for the school for which they have pre-registered unless the student is recommended for a specialized (District 75) school or a "specialized community school program" (see below). Pursuant to the DOE's special education reform, whenever possible, the DOE's Office of Student Enrollment will place students who have not pre-registered for a school at the student's *zoned* school. If the zoned school does not have enough kindergarten seats, the DOE will offer a seat at another community school.

Because all community schools are expected to serve all students whose IEPs recommend community school programs, **placement for community schools will not be based on the specific type of class recommended on a student's IEP** unless the student is recommended for a "specialized community school program" (see below). For example, the DOE is *not* assigning a student to a specific ICT or 12:1:1 class, but is assigning a student to a community school that is expected to implement the student's IEP.

### **How do I know if the school listed on the FNR will offer the type of community school program and services on my child's kindergarten IEP?**

All schools are expected to meet the needs of students as outlined on their IEPs. Before signing the FNR, we recommend that parents visit the offered school and speak with the school to confirm that it can provide the program and services required by the student's IEP. The school and parent may meet to

---

<sup>1</sup> Students referred during the month of March should receive FNRs by July 15<sup>th</sup>, and students referred between April 1<sup>st</sup> and May 10<sup>th</sup> should receive FNRs by August 15<sup>th</sup>. Students referred for the first time after May 10<sup>th</sup> should receive FNRs within 60 school days from the date that their parents sign consent for evaluations.

determine whether or not the school can address the needs of the student through a program other than what is recommended on the current kindergarten IEP. If the parent and school agree on a different set of appropriate programs and services, the school should document these recommendations on the IEP and provide the parent with a copy. IEP recommendations must be appropriate to meet the unique needs of the student and may *not* be based on the school's current resources or capacity.

If the school states that it cannot implement the student's IEP and the parent and school do not agree on a different set of appropriate programs and services, we recommend that parents use the various methods listed below to report the problem (e.g., if a child's IEP recommends a 12:1:1 special class and the school listed on the FNR states that it does not plan to have a special class in September and any suggested alternatives in that school are not appropriate).

### **What if I would prefer for my child to attend a different community school?**

Kindergarten students are entitled to attend any school to which they receive an offer. If a student is on the waitlist for his or her zoned school, the zoned school may offer the student a seat if one becomes available. If a student is on the waitlist for a school to which he or she is not zoned, the school may offer the student a seat, with the permission of the DOE's Office of Student Enrollment, if a seat becomes available and the student is next in line based on the DOE's list of admissions priorities (<http://schools.nyc.gov/ChoicesEnrollment/Elementary/Enrollment+Information.htm>). If a student is admitted to a school through this process, the student may attend the school if the family wishes – even if the family has pre-registered at a different school and even if an FNR for a different school has been issued. Thus, parents may want to follow up with schools where their children are on waitlists to see if any seats have become available for their children. Parents should speak with these schools to confirm that the schools can implement their children's IEPs.

Parents may also apply for a child care hardship transfer, a sibling transfer, or a medical transfer by going to their borough enrollment office. Contact information is available at <http://schools.nyc.gov/ChoicesEnrollment/NewStudents/BEO/BoroughEnrollmentOffices.htm>.

### **How does placement work for students recommended for specialized (District 75) schools on their kindergarten IEPs?**

For students whose kindergarten IEPs recommend a self-contained ("special") class in a specialized (D. 75) school, the DOE will offer a school placement based on the special class ratio recommended on the student's IEP, just as in past years.

### **How does placement work for students recommended for specialized community school programs on their kindergarten IEPs?**

The DOE offers several specialized community school programs, which are *not* currently expected to exist in every community school. These programs include:

- **ASD Nest** – an integrated class setting in a community school for high functioning students on the autism spectrum.
- **ASD Horizon** – a self-contained class in a community school for students on the autism spectrum.
- **Barrier Free** – a school building that is accessible to students who have limited mobility, serious health issues, or use a wheelchair or other mobility device.
- **Bilingual Special Education** – a self-contained ("special") class for students who are recommended to receive services in a bilingual classroom.
- **Special Class for Students with Intellectual Disabilities** - a self-contained ("special") class in a community school for students who are classified as intellectually disabled and who are being alternately assessed.

Students whose IEPs recommend a specialized community school program will receive a placement offer for a school that has the recommended program.

**What if the offered placement is not appropriate?**

The DOE must provide an appropriate placement that allows a student to make adequate progress. However, there is no right to “the best placement” and no right to any particular school. When parents believe that the offered placement is not appropriate for their child, they should write a letter to the Office of Student Enrollment (OSE) explaining why the proposed placement would not meet their child’s individual educational needs. However, if the DOE believes the first placement is appropriate, there is no guarantee that the DOE will offer a different placement. Parents may also request mediation or an impartial hearing or file a state complaint. For more information, please see Advocates for Children’s Turning 5 Guide at [http://www.advocatesforchildren.org/sites/default/files/library/turning\\_5\\_guide.pdf](http://www.advocatesforchildren.org/sites/default/files/library/turning_5_guide.pdf).

**What happens if I do not receive a placement offer by June 15<sup>th</sup>?**

Students whose kindergarten IEPs recommend a self-contained (“special”) class in a community school or a District 75 school and who are not offered a placement by June 15<sup>th</sup> (if referred for special education services before March 1<sup>st</sup>) are entitled to a P-I or “Nickerson” letter. Parents can use the P-I letter to place their child at a state-approved non-public school if they can find a school that has a seat available. The DOE is still responsible for finding that student a seat in a public school even after it issues the P-I letter.

**What can I do if I am having a problem with kindergarten placement?**

Parents and staff who are experiencing problems with the Turning 5 IEP or placement process may report problems to the ARISE Coalition by e-mailing Randi Levine at [kindergarten@afcny.org](mailto:kindergarten@afcny.org). Parents and staff can also leave a detailed voice mail message at (347) 688-4735. With a parent’s permission, we will pass along problems to the DOE. We are *not* agreeing to provide legal representation and are not agreeing to take any action other than passing the problem along to a high level DOE staff member.

Parents and staff who are experiencing problems with the Turning 5 IEP or placement process may also report problems directly to the DOE by sending the child’s name, the school or Committee on Special Education (CSE) where the IEP meeting was held, and a description of the concerns to [turning5@schools.nyc.gov](mailto:turning5@schools.nyc.gov).

**Advocates for Children of New York, Inc.**  
151 West 30th Street, 5th Floor, New York, NY 10001  
Phone: (212) 947-9779, Fax: (212) 947-9790

*This fact sheet does not constitute legal advice. This fact sheet attempts to summarize existing policies or laws without stating the opinion of AFC. If you have a legal problem, please contact an attorney or advocate.*

Copyright © May, 2012 by Advocates for Children of New York, Inc.