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**THE PROCESS TO OBTAIN PUBLIC FUNDING FOR PRIVATELY PROVIDED
SPECIAL EDUCATION AND RELATED SERVICES FOR STUDENTS WITH
DISABILITIES.**

1. The parent, school district, or another public agency suspects that the child may have a disability that affects his or her learning.
2. The case is referred to the school district's Committee on Special Education ("CSE") or Committee on Preschool Special Education ("CPSE"), depending on the age of the child, for evaluations to determine the student's eligibility for special education and/or related services.
3. The school district seeks and obtains the consent of the student's parent(s) to evaluate the student (unless such consent has already been provided).
4. The school district evaluates the child.
5. The school district convenes a Committee on Special Education ("CSE") or Committee on Preschool Special Education ("CPSE") review meeting, depending upon the age of the child, to review the evaluation report(s), determine whether the child has a disability and, if he or she has a disability, determine the child's educational classification and recommend an appropriate program of special education and/or related services. The review team drafts an Individual Education Plan ("IEP") for the student and provides the same to the parent at the conclusion of the meeting or within a reasonable time thereafter. The IEP provides the parent with the review team's findings regarding whether the student has a disability, the student's educational classification, and the school district's recommendations for the student.
6. The school district provides the parent with an offer of a school and class placement in which the IEP will be implemented.

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7. If the parent agrees with the school district's determinations and recommendations, the parent allows the child to attend the school district recommended program and the matter is resolved.
8. If the parent believes that the school district's determinations and recommendations are inappropriate, he or she may choose to unilaterally place the student in a school that will provide appropriate services. The parent may also commence a lawsuit against his or her school district seeking to obtain funding for the unilaterally selected school. The lawsuit is referred to as an impartial hearing.
9. After the commencement of the lawsuit, the school district is required to provide a written response to the parent, or if the parent is represented by an attorney, to his or her attorney. At the current time, there are no penalties in the event that a school district fails to provide a written response or if it does not adequately respond to the commencement of the lawsuit.
10. The district is also required to invite the parent to attend a Mandatory Resolution Meeting ("MRM") after the lawsuit is filed. However, the law does not provide any meaningful guidance as to how these meetings should be conducted and as a result, they tend to vary from one district to another. Further, at least in New York City, school district personnel who attend these meetings often lack the statutorily required authority to enter into a monetary settlement to resolve tuition reimbursement claims. As a result, in a suit seeking funding for a private school placement, the MRM may accomplish little, if anything. It should be noted that, although the MRM may be waived if *both* parties agree to such a waiver (in writing), there may be situations in which attending the MRM may be beneficial to both parties.
11. After the occurrence or waiver of the MRM, the testimonial and evidentiary phase of the impartial hearing begins. Prior to the commencement of the testimonial and evidentiary phase of the hearing, the parties may submit motions, seeking to resolve legal issues, and/or proposed subpoenas to the hearing officer for his or her consideration. In addition, the parties may be called upon to argue issues of law before the hearing officer so that such issues may be resolved, thus narrowing the issues to be litigated, prior to the commencement of the testimonial and evidentiary phase of the hearing.

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12. Although the testimonial and evidentiary phase of an impartial hearing is less formal than a courtroom trial, it resembles a trial in that a hearing officer, acting in the role of a judge, considers testimony and documentary evidence submitted by the parties and then renders a decision. The hearing officer may decide to accept or reject the parent's claim for private school funding or to have privately obtained supplemental educational services paid for by the school district.
13. Either party may choose to appeal the results of an impartial hearing to the New York State Review Officer ("SRO") in Albany, New York. An appeal to the State Review Officer ("SRO") is "on paper." In other words, it is highly unusual for the SRO to consider any additional evidence that the parties may seek to introduce after the conclusion of the impartial hearing. The SRO renders a decision, and may choose to affirm or reverse, in whole or in part, the hearing officer's decision. In addition, the SRO has the power to modify a hearing officer's decision.
14. Either party may choose to appeal the SRO's determination to either the appropriate New York State Supreme or United States District Court. Again, the appeal is on paper. However, there are exceptions in which a Court may consider additional evidence that was not introduced during the impartial hearing. A judge may choose to affirm or reverse, in whole or in part, the SRO's decision. A Judge may also remand a case for further consideration to either the hearing Officer or SRO.
15. Either party may choose to appeal a judge's determination to the appropriate appellate court. Again, the appeal is on paper and an appellate court may choose to affirm or reverse, in whole or in part, the lower court's decision. Occasionally, appellate court decisions concerning special education lawsuits may be appealed and eventually reach the United States Supreme Court.
16. The majority of special education lawsuits are settled sometime subsequent to the commencement of the suit but prior to the time at which the parties begin introducing testimony and documentary evidence in support of their respective positions. Each case must be assessed on its own merits. There are factors that are individual to each one. As a result, it is difficult, if not impossible, to determine which cases will be settled and which ones will be litigated.

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