Parent and Mental Health Service Provider Have Requested Special Education Assessment by the School But Nothing Has Happened

My child struggles with school work and has very serious behavior issues in the classroom. He is sent to the principal’s office and is given time outs in other classrooms so he misses instruction in his own class. Sometimes the office staff calls me and tells me to pick him up. My child’s mental health clinician wrote a letter to the school requesting that he be assessed for special education services. The school has not responded and it has been several months. What can I do?

The law says: A child attending a public school is entitled to a free and appropriate public education (FAPE). If his disability interferes with his ability to benefit from the education offered to him, he may be entitled to special education services provided through an Individualized Education Program (IEP). The law says that a parent, guardian, teacher, service provider or foster parent (consistent with federal law) can make a written request for assessment with which the school must comply.

Once the school receives the written request, it is obligated to respond in writing in 15 days. The school must either provide an assessment plan for the parent to sign or give the parent written notice of its refusal to assess that includes information about the parent’s due process rights of appeal.

What to do: Schools have an obligation under the law to find and identify students with special needs and assess them for special education services; however, it is best practice for parents to request assessment in writing and keep a copy for their records. While it is permissible under the law for a clinician or other service provider to write such a letter, it is a good idea for the parent to co-sign any letter signed by a clinician.

If your child has emotional or behavior problems, you should include in your written request for assessment a request that your child be assessed for educationally-related mental health services (ERMHS). To request an assessment, write a simple letter asking that the school evaluate your child. Take two copies of the letter to the school office and ask that they be date-stamped received. Take your copy home and keep it in a safe place. No later than 15 days from the date you delivered your letter, the school must provide you with 1) an assessment plan that should include assessment for ERMHS, or 2) written refusal, indicating the reasons for refusal to evaluate and notice of your appeal rights. Once you sign the plan, the school must complete the testing in 60 days and hold an IEP meeting to agree upon a program of services, including educationally-related mental health services.

Note: School breaks over 5 days long are added to the timelines described above.

Still have questions? Call Mental Health Advocacy Services at 213-389-2077, or Disability Right California at 800-776-5746 (voice) or 800-719-5798 (TTY)