

# **KNOW YOUR RIGHTS**

## **SCHOOL DISTRICT OBLIGATIONS TO KIDS IN COURT**



**A Community Education Pamphlet**

**Prepared by**

**The Youth Law Project**

**Of**

**New Hampshire Legal Assistance**

**[www.nhla.org](http://www.nhla.org)**



**NEW HAMPSHIRE  
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## School Involvement in Juvenile Court Cases

### IF I GO TO COURT ON A CHINS OR DELINQUENCY PETITION WILL THE SCHOOL FIND OUT ABOUT IT?

Maybe. If the school referred you to court, the school will likely be aware of the case but may or may not participate in it. Regardless of where the conduct leading to your court involvement occurred, the court may always ask the school to become involved by “joining” the school district to your case. If the court is considering removing you from your home, it is required to join the school district to your case.



### WHAT DOES IT MEAN IF THE COURT JOINS THE SCHOOL DISTRICT TO MY COURT CASE?

The purpose of joining the school district to your case is to make sure the judge fully understands your educational needs and to make sure the school is trying to meet those needs. If you are court involved and struggling in school, you are less likely to do well on probation. It's very important that you talk to your parents and attorney about any problems you are having in school.

### HOW WILL MY SCHOOL PARTICIPATE IN MY COURT CASE?

Upon joinder, the school must consider whether you have an educational disability. It must report its determination to the court. It also must report why it does or does not believe you have an educational disability. If you are already identified with an educational disability the school must tell the court what educational environment and services are necessary to meet your needs.

# School District Access to Court Records

## **WILL THE SCHOOL DISTRICT SEE MY COURT RECORDS?**

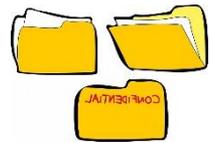
Once the court is joined as a party, the school district is entitled to full access to any records in your court file. This access does not include police reports or DCYF records (unless those reports or records have been filed in court).

## **WHAT DOES THE SCHOOL DO WITH ANY COURT RECORDS IT ACCESSES?**

If your school district is joined to your case and obtains your court records, it's against the law for the school district to disclose those records to anyone outside of the school district without your parent's permission. If you are 18 or older, the school must have your permission to disclose records. The school district may only disclose your records to school staff who have a "legitimate educational interest" in your records. In most cases, your IEP team—the team determining whether you have an educational disability or reviewing your educational services—may decide to review some or all of your court records.

## **WHAT IF MY COURT RECORDS HAVE NOTHING TO DO WITH MY DISABILITY OR MY EDUCATION, OR I SIMPLY DO NOT WANT MY COURT RECORDS IN MY SCHOOL FILE?**

If the court joins the school district to your case and you or your parents have concerns about your school obtaining a copy of your court records, you should talk to your attorney about



this. Your attorney can ask for a protective order that limits who from the school may access your court file and whether the school district may have a copy of your records. The court could also order redactions of educationally irrelevant information on copies provided to the school district and/or place limits on where copies are stored and who may access them.

## School Obligations to Court Involved Students

### **WHAT IS THE SCHOOL REQUIRED TO DO IF IT'S JOINED TO MY CASE AND I AM NOT YET IDENTIFIED WITH AN EDUCATIONAL DISABILITY?**

If the court joins the school district to your case and you are not yet identified with an educational disability, the school must convene a team meeting within 15 business days of the school receiving the court order. This meeting is to determine whether the team, including your parent(s), suspects you may have a disability. If the team suspects you may have a disability it must determine what additional information is necessary and make an evaluation plan. The evaluation process should take no longer than 60 days. If the team reviews the evaluations and determines you have an educational disability, it can take up to thirty additional days to put a plan in place.



Most of the time the educational process will move slower than the court process. If your struggles in school are impacting your court case, it's extremely important that you cooperate with the evaluation process and keep your attorney informed of your school meetings and any outcomes.

### **WHAT IS THE SCHOOL REQUIRED TO DO IF IT'S JOINED TO MY CASE AND I ALREADY HAVE AN INDIVIDUALIZED EDUCATION PLAN (IEP)?**

If the court joins the school district to your case and you are already identified with an educational disability, the school must review the services and supports in your IEP and make sure they are appropriate.

# Special Education Process for Court Involved Youth Facing Removal From Home

Remember, the court is always required to join your school district to your case if it is considering removing you from your home.

## WHAT ARE THE SCHOOL DISTRICT'S OBLIGATIONS IF I HAVE AN IEP AND AM FACING REMOVAL FROM MY HOME?

If you have an IEP and are facing residential placement (removal from your home), your IEP team is required to meet and determine which placement is educationally appropriate.

Your school must then make a recommendation to the court.

The recommended placement should have access to a school with the supports and services identified in your IEP, as well as a similar educational

environment. This means that if you are in public school, the school should only recommend a placement that has a similar public school education option.



If your public school cannot meet your educational needs and your education problems are affecting your court involvement, your IEP team should discuss what additional supports and services you may need. Your team may discuss whether you may require a smaller or more supportive school setting. Your IEP team, together with your JPPO, can then determine whether changes to your IEP may alleviate the need for residential placement.

If the court does not follow the school district's recommendation it must issue written findings explaining why it chose a different placement.

## **WHAT IF I HAVE A DISABILITY AND THE COURT MAKES AN EMERGENCY PLACEMENT?**

Sometimes the court will order short-term removal from your home on an emergency basis. When that happens, there's usually not enough time for the school to hold an IEP meeting and make a recommendation to the court. If the court makes an emergency residential placement the school must:

- Immediately notify your parents of its intent to convene an IEP team meeting;
- Immediately forward your IEP to the school you will attend during your emergency placement; and
- Convene an IEP meeting within 10 days of the emergency placement to review the whether your IEP and the emergency placement are appropriate, and to revise your IEP if necessary.

If you are placed in a short-term emergency placement and your JPPO is recommending long term placement, your IEP team should always meet to discuss which placements are equipped to meet your educational needs as set forth in your IEP. If you are facing removal from home due to school-based conduct or problems, your team should consider whether additional educational supports and services may reduce the need for residential placement. If not, your team should determine whether you require a residential placement for educational reasons.

If you require a residential placement for educational reasons, your team should include residential services in your IEP. Residential educational placements, when necessary, are both free to your family and much more flexible than court ordered placements.

## Dispute Resolution

### **WHAT IF I DISAGREE WITH THE SCHOOL DISTRICT'S DISABILITY DETERMINATION, PROPOSED IEP, OR PLACEMENT RECOMMENDATION?**

If you or your parent disagree with the school district's decision on any matter relating to special education identification, evaluation, educational placement, or provision of educational services, your parent may file a due process complaint with the New Hampshire Department of Education (NHDOE). If you file a due process complaint, the NHDOE will schedule a formal hearing where your parent will have the opportunity to present witnesses and tell the hearing officer why they think you require different services than the school district has proposed.

Alternatively, any person or organization may file a complaint with the NHDOE on any matter regarding the education of children with disabilities. This type of complaint triggers the NHDOE to complete an investigation into whether the school district has followed the proper procedures and offered appropriate services. There is no formal hearing associated with this process.

You can find information on both types of complaints at [www.education.nh.gov/instruction/special\\_ed/complaint.htm](http://www.education.nh.gov/instruction/special_ed/complaint.htm).



# New Hampshire Legal Assistance Youth Law Project

New Hampshire Legal Assistance provides free legal help to low-income and elderly persons who cannot afford a private attorney. The Youth Law Project is a special project of New Hampshire Legal Assistance that provides advocacy and legal services to:

- Youth facing repeated or lengthy school exclusions;
- Foster youth in need of educational services;
- Homeless youth in need of educational stability; and
- System involved youth with unaddressed educational needs.

**PLEASE NOTE:** This is general information for students at public elementary, middle, and high schools in New Hampshire and their parents/guardians. It is not legal advice. Students and families are encouraged to seek legal counsel about their specific situations.

## Contact Us

Apply for free help online at

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

or call

603-224-3333 or

1-800-639-5290

**“Know Your Rights” pamphlet series includes:**

***Disciplinary Protections for Students with Disabilities***  
***Search, Seizure and School-based Arrests***  
***School District Obligations to Kids in Court***



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