

## Taking Action...

- Before any change in placement, parents must be given 15 days written notice, often as a revision to the IEP. If parents do not take action within 15 days, the proposed change takes effect. (see exception below) The 15-day timeline begins when the school district sends the written notice to the parents, not when the notice is received.
- If parents disagree with the proposed change, and they file for Mediation or a Due Process hearing within the 15-day timeline, the student must remain in his/her current placement. Any change in the type of class, the school, the amount of related service, or the types of services and supports, is considered a change in placement.
- If parents disagree but do not request Mediation or a Due Process hearing within the timeline, the school district's proposed change goes into effect (see exception below). This then becomes the student's "stay put" placement if the parents subsequently initiate proceedings to contest the change.
- There is an important exception: The 15-day timeline does not begin as long as parents and the district are working to resolve parental concerns. Sometimes, districts ignore this requirement and attempt to change the placement at the end of the 15-day timeline, even while they are still taking steps, such as holding additional meetings or securing independent evaluations, in order to address the parents' concerns.
- The "stay put" placement remains in effect throughout the appeals process. This can be weeks, months or even years after the school district first proposes changing it.

## To learn more, please call:

(609) 896-4200

(973) 660-9060

(215) 860-2100

[www.hinkle1.com](http://www.hinkle1.com)

e-mail: [legal@hinkle1.com](mailto:legal@hinkle1.com)

## Office locations in New Jersey and Pennsylvania

2651 Main Street  
Lawrenceville, New Jersey 08648

●  
Evesham Commons, Suite 306 B  
Route 73 & Evesham Road  
Marlton, New Jersey 08053

●  
147 Columbia Turnpike, Suite 106  
Florham Park, New Jersey 07932

●  
600 West Germantown Pike, Suite 400  
Plymouth Meeting, Pennsylvania 19462

●  
Two Bala Plaza, Suite 300  
Bala Cynwyd, Pennsylvania 19004

*Opening soon in Bergen County, N.J.*



All offices  
are barrier-free

# CHANGES TO YOUR CHILD'S SPECIAL EDUCATION PROGRAM



*What  
Parents  
Need  
to Know*

**HINKLE, FINGLES & PRIOR**  
ATTORNEYS AT LAW

*Representing people with disabilities  
and their families since 1974*

**Parents are an integral part of the IEP team** · Federal and state laws guarantee them an important role in determining their child's special education program and placement. In most cases, the decision about a child's educational placement (where the child goes to school) is made jointly by parents and the school district. This decision is reviewed every year during a meeting to develop the child's Individualized Education Program (IEP). Occasionally, a school district may propose to change a student's placement against the parents' wishes. When this occurs, parents need to know how to exercise their rights.

## The "Stay Put" Rule

Placement decisions are made by the IEP team. If there is a disagreement, federal law requires that the child remain in his or her current educational placement throughout any legal review. This rule is called the "stay put" or "pendency" provision.

Congress included this provision in the Individuals with Disabilities Education Act - IDEA - because it felt that having consistency in a child's program and placement was better than having placement changes occur at various levels in the appeal process. This provision assures that a change will not be implemented in a child's program or placement only to find later that it was inappropriate or contrary to the child's best interests.



## When a District Suggests a Program Change

*"My school district is developing a new program for children with similar disabilities as my child's. I do not want my child to be moved out of his current program."*

**What you should know:** Placement decisions are made by the IEP team, which includes parents. The district cannot unilaterally move your child out of his current placement against your wishes.

*"My school district told me that it must reduce the number of students in out-of-district programs."*

**What you should know:** Placement decisions for students with disabilities must be made on an individual basis, and, as such, they cannot conform to prescribed numbers or percentages of students in certain settings. In fact, to do so is a clear violation of federal law.

*"My school district says that it can no longer afford to send students to out-of-district programs."*

**What you should know:** It is a violation of state and federal law for districts to make placement decisions solely on the basis of cost. A program must be individualized and appropriate, regardless of how much it costs.



*"My school district has said that my child's current placement is not the 'least restrictive environment.'"*

**What you should know:** A placement cannot be considered the "least restrictive environment" unless it is appropriate, meaning that it adequately addresses all of the student's learning needs. A placement that is less restrictive than the current placement may not be the "least restrictive environment" if it is not appropriate for the student. A full continuum of placement options, including special classes, and out-of-district programs, must be considered. For some students with disabilities, a separate special education program is the least restrictive environment.

