

Legal Services NYC—Bronx Education Staff Attorney Nelson Mar appeared on BronxNet on February 1st to discuss the rights of parents whose children are sent to hospitals by their schools or by EMS for psychiatric evaluation.

nelson

[Click here to view the interview.](#)

Know Your Rights: Psychiatric Clearance Letters and Emergency Medical Services

This information is for parents whose children were sent to a hospital by a school for a psychiatric evaluation and for parents whose children were taken to the Emergency Room from school by Emergency Medical Services (“EMS”) for psychiatric evaluation.

The school told me to keep my child home until he sees a doctor. Can a school force my child to stay home from school?

No, the school cannot force your child to stay home because they believe he or she needs a psychiatric evaluation. The State is required to provide a free public education to every child living in New York State. N.Y. CONST. ART. XI §1. Education is mandatory for anyone from 5 to 17 years old. N.Y. EDUC. LAW § 3202. Students up to 21 who do not have a diploma are also entitled to a public education. N.Y. EDUC. LAW § 3201. This means that your student has the right to keep going to school. A student who is acting-out or who has a disability is entitled to an education just like everyone else. The school violates this right when the school requires your child to see a psychiatrist before he or she can come back to school.

Can the school call EMS if my child is acting out?

The school should not be calling EMS unless a true medical emergency exists. EMS may not be used to address disciplinary issues, or because the school is having trouble controlling a child’s behavior. If the school does contact EMS, they should call you immediately. Chancellor’s Regulation A-412. <http://docs.nycenet.edu/docushare/dsweb/Get/Document-17/A-412.pdf>. When EMS arrives, you have the right to refuse medical services on your child’s behalf, including having your child taken to the hospital, unless the treatment is seen as required for a life-threatening medical condition. N.Y. Pub. Health Law 2504(2); *Joswick v. Lenox Hill Hosp.* 510 N.Y.S.2d 803 (Sup. Ct., 1983).

Even though the school cannot force a psychiatric evaluation on my child, does my child still need one?

That is a decision only you can make. If you are concerned about your child’s mental health please contact your doctor, a mental health service provider, or your hospital.

What can I do to get my child back in school and improve his or her education?

- You can take your child back to school and explain that he or she has a right to education which is being denied.
- If your child is seeing a mental health provider (e.g. psychiatrist or psychologists or a therapist or counselor), try to improve communication between your child’s mental health provider and the school. Ask your school to call you and your child’s mental health provider before they call EMS.
- Try to meet with school officials to improve your relationship and discuss strategies to meet your child’s educational and behavioral needs. Some things that might help are:
 - Reevaluating or developing an Individualized Education Plan;
 - Having the school perform a Functional Behavioral Assessment;
 - Developing a Behavioral Intervention Plan;
 - Developing a relationship with staff members and teachers who are concerned about your child.

What can I do if my child is still being sent to the hospital or not allowed back to school?

- If your child is told he or she is not allowed to go to school the Department of Education recommends that you immediately call the Chancellor's Office, Division of Family and Community Engagement (FACE) at (212) 374-2323.
- You may make a formal complaint. Ask the parent coordinator at your school for an Division of Family and Community Engagement intake form. You may ask the parent coordinator to file this form or you may submit the form to the District Family Advocate. The contact information for your District Family Advocate is available at <http://schools.nyc.gov/AboutUs/schools/superintendents/DFAcontact.htm>
- You may call 311 to report the problem.
- You may wish to contact Legal Services NYC's Education EMS/Medical Clearance Hotline at **347-592-2408**.