

# Immigrant and Multilingual Parents and Students in the Special Education Process

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Forward!~¡Adelante!~Avante!~展望!~Avanse!~ Tiến về phía  
trước!~التقدم في الدراسة!~Horey!

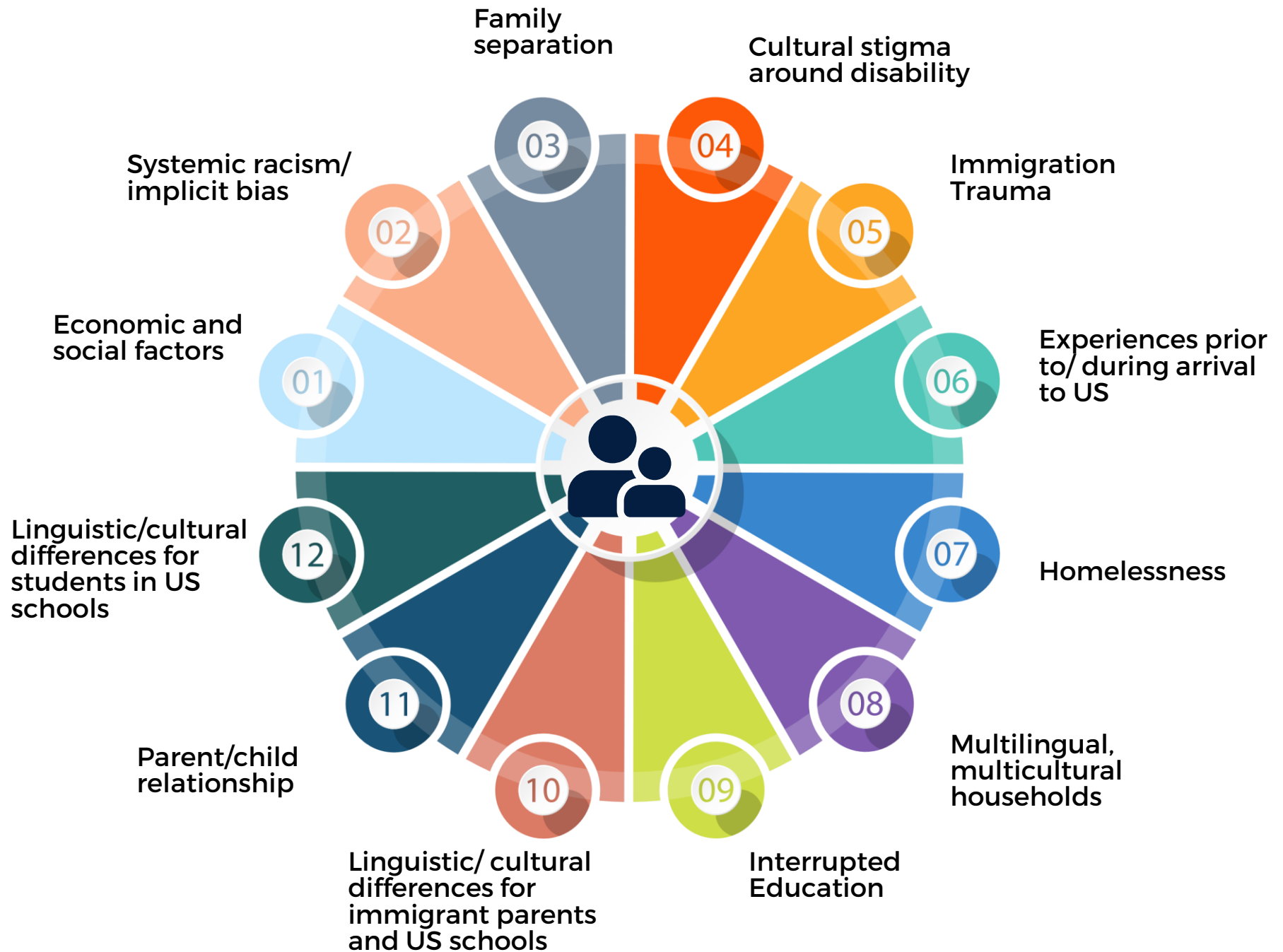
Advancing the Education Rights of Immigrant and Multilingual  
Children

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## LEARNING OBJECTIVES

1. Understand legal protections for multilingual learners with disabilities.
2. Learn to recognize common access barriers to learning for dually identified learners.
3. Consider, in your role, ways that you can support dually identified students and their families.



# Federal right to public education regardless of immigration status, EL status, or disability

## **PLYLER V. DOE, 457 U.S. 202 (1982):**

- Establishes a right to public education for immigrant children without documents

## **LAU V. NICHOLS, 414 U.S. 563, 564 (1974):**

- Establishes requirement to provide EL instruction to overcome language barriers to learning under Civil Rights Act of 1964

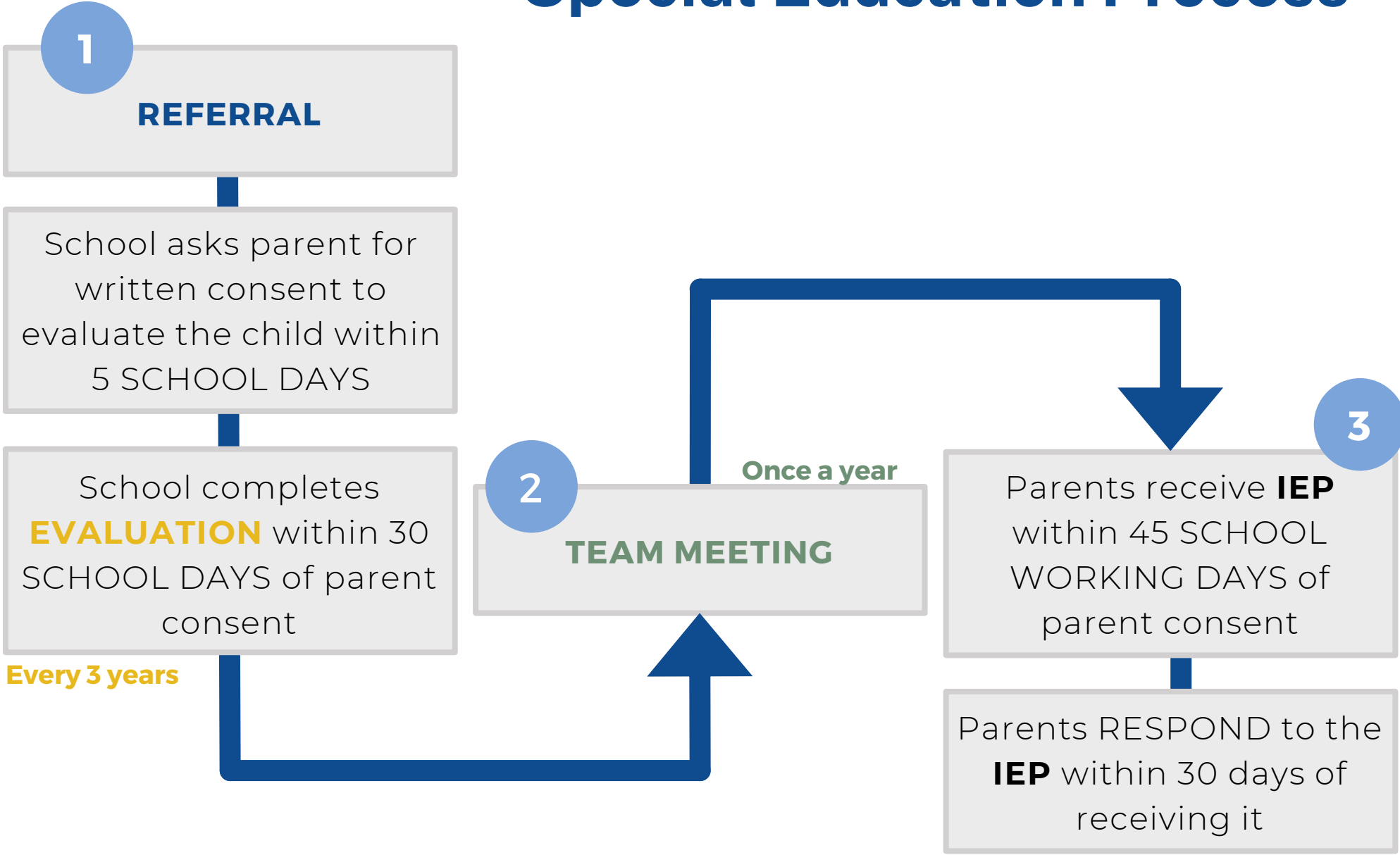
## **INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA):**

- Establishes the right to a free and appropriate public education (FAPE) for students with disabilities

# Massachusetts right to public education regardless of immigration status, EL status, or disability

- MA special education statute “Chapter 766” and implementing regulations
- The Learning Opportunities for Our Kids Act (LOOK Act): MA statute addressing the needs of ELs
- MA Student Anti-Discrimination Act
- MA Constitution, pt. II, c. 5, § 2: duty “to provide an education for all [ ] children, rich and poor, in every city and town in the Commonwealth at the public school level...”
  - *McDuffy v. Secretary of the Executive Office of Educ.*, 415 Mass. 545, 606 (1993).

# Special Education Process



# Parent Participation

*Parents know their children best!*

The law says:

- Parents are equal Team members
- All written letters, forms and meetings in your primary language (with qualified interpreter)
- Parental consent
- Parent response needed to proposed IEP and placement



# Referral and Evaluation: Identification of student with disabilities

- School districts (LEAs) are **legally required to identify students with disabilities** in a timely way (Child Find)
- Testing in form/language most likely to accurately assess what the child knows and can do academically, developmentally, and functionally
- Testing must take into account **cultural and linguistic differences** (be non-discriminatory)



# English Language Proficiency Assessments

- Evaluation and progress monitoring of ELs regardless of disability
- In MA, ACCESS testing for grades K through 12 (early childhood ELs assessed using other tools)
- Multilingual nonverbal communicators (based on home language) must also be assessed
- Alternative ACCESS for ELs with significant cognitive disabilities (should be 1% students who take ACCESS or less)

**If the Parent  
Disagrees with  
the School  
Evaluation:  
Independent  
Educational  
Evaluations  
("2nd opinion")**

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Can request district (LEA) funding  
(special protections for low-income  
families)

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Especially useful for many immigrant  
students who may not have health  
insurance that funds private  
evaluations

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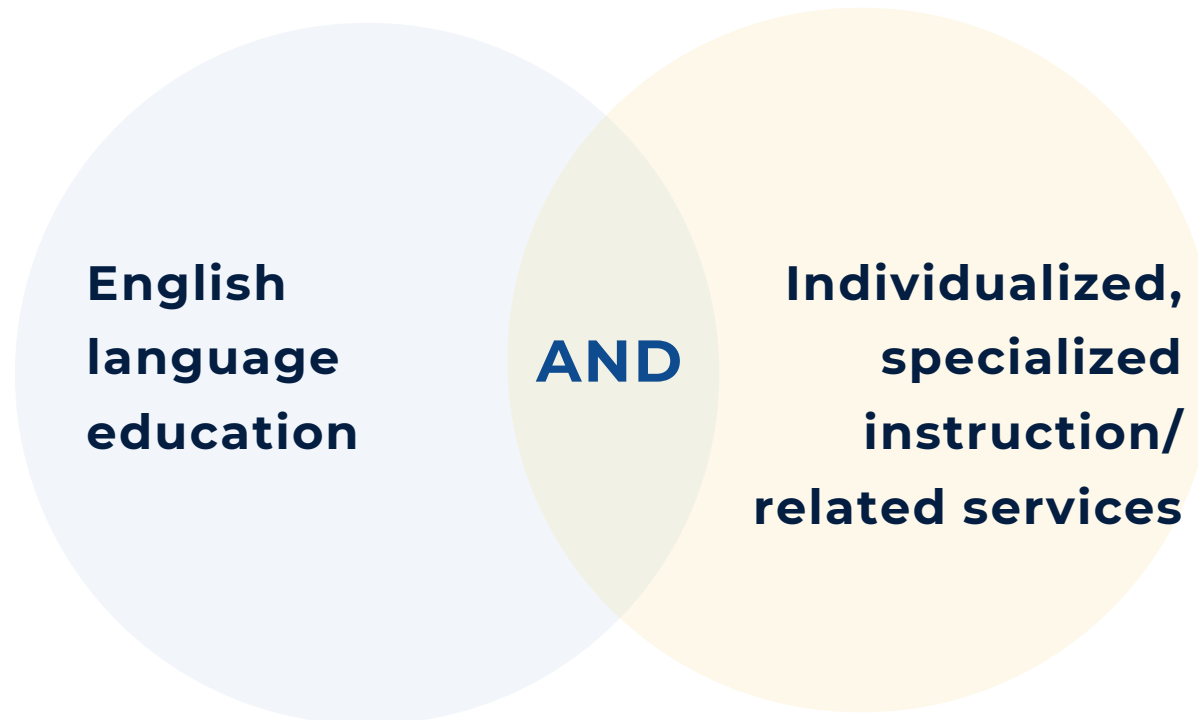
# Special Education Team Meeting

- MA DESE suggests a pre-meeting with parents, especially those unfamiliar with the US school system
- Parent can invite anyone with knowledge of the student to the Team meeting
- Qualified interpreter (and sufficient time given use of interpreter)



“[E]ssential that the IEP team include participants who have knowledge of the student’s language needs... and how to differentiate between the student’s needs stemming from a disability or lack of ELP.”  
USDOE/USDOJ 2015 Dear Colleague Letter

# The IEP for EL Students



If a student's EL needs are integrated with their special education needs, those needs must be considered in determination of what is an appropriate education.

**See In Re: Fernando; BSEA #1800970 (2017)**

## The IEP for ELs (cont.)

- **EL needs infused throughout the IEP**
- **Instruction in student's primary language**
  - Educator(s) who is qualified and experienced addressing student's language acquisition and disability related needs (directly or as a consult)
  - Consider how skills will be used at home as a basis for native language instruction
- **Response to the IEP:** can reject in part if does not adequately address EL needs integrated with student's disability-related needs (and will need to pursue IEE)

Team **won't recommend specialized support or instruction** (including bilingual education) despite child's unique needs because not readily available.

EL education needs often **overlooked** for ELs in **segregated special education settings**.

Delays in referral when suspected to “wait and see” if delays or behaviors due to limited English.

School districts **don't assess English language proficiency for nonverbal communicators** because they don't know how.

**No communication with the home** to learn how the student accessing languages in different settings.

# Issues to watch for in assessment and IEP development for ELs

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# Students with Limited or Interrupted Formal Education (SLIFE)

- ELs who have experienced interrupted formal education or have limited formal education prior to enrolling in the district
- Concern: over-identification **and** under-identification of disability
- Where suspected disability, should be referred **promptly** for a special education evaluation

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# Problem Resolution Options Beyond the Team Process

If in MA, contact MAC Helpline for help with these options:

- Mediation
- Appeal to the administrative agency that adjudicates special education matters
- Each state required to have a complaint system (In MA this is the DESE problem resolution system)
- U.S. Office of Civil Rights (U.S. DOE)



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# MAC Resources

**Free helpline** (617) 357-8431 or [massadvocates.org/helpline](https://massadvocates.org/helpline)  
(multilingual voicemail)

**Sample letters for education advocacy:**  
<https://www.massadvocates.org/covid-emails>

**Immigrant rights in education fact sheet:**  
<https://www.massadvocates.org/immigrant-and-latinx-families>

**Additional free trainings MAC offers for families and service providers**  
(please contact Laura Perez at [lperez@massadvocates.org](mailto:lperez@massadvocates.org)):

Bullying

Special Education  
basic rights for  
immigrants and  
multilingual families

Student discipline  
rights

Transition in special  
education

Navigating the IEP

Autism

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# MAC/MLRI videos about the special education process

**Español:** [www.massadvocates.org/recursos](http://www.massadvocates.org/recursos)

**English:** [www.massadvocates.org/resources-parents-students](http://www.massadvocates.org/resources-parents-students)

- Asking for a school evaluation
- Immigrants and special education
- Qualified interpreters
- Getting documents in your language
- Responding to the IEP
- Asking for a “second opinion” evaluation



# Advocacy Resources: Education

MA DESE Newcomer FAQs:

<https://www.doe.mass.edu/ele/guidance/newcomer-faq.docx>

USOELA Newcomer Toolkit:

<https://www2.ed.gov/about/offices/list/oela/newcomers-toolkit/index.html>

The Federal IDEA Regulations (34 CFR 300):

<http://www.ed.gov/legislation/FedRegister/finrule/2006-3/081406a.pdf>

Massachusetts Special Education Regulations (603 CMR 28):

<http://www.doe.mass.edu/lawsregs/603cmr28.html>

McKinney Vento Law (42 USC CHAPTER 119 §11431):

<https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter119/subchapter6/partB&edition=prelim>



# **Additional Resources for Newcomer Families Beyond Education**

**Everett Haitian Community Center Webinar on Navigating Cultural Differences when Working with Haitian Migrants:**

**<https://us02web.zoom.us/rec/share/vxuTrvt50A9PtbTp0Lsv-HrGXip4hFaHy0IK0ICW5lsFfxM1BY7ijidL9L6CydkR.FliD68dYCSfINYE->**

**Black Autism Coalition (Founder Cynthia Laine):**

**<https://blackautismcoalition.org/>**

**Multilingual Resources: Living in the US:**

**<https://sites.google.com/view/livingintheus?usp=sharing>**

谢谢你！

**THANK YOU!**

Mèsi!

¡Gracias!

Mahadsanid!

Cảm ơn!

Obrigado!

له تاسو مننه!