

Pennsylvania Parent Guide

To Special Education In Charter Schools



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DEPARTMENT OF EDUCATION

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INTRODUCTION

It is important for parents to understand the special education process.

Parents play a vital role on the team that decides the appropriate services for their child. This booklet is designed to help parents better understand the special education process so they can participate in the educational decision-making process for their child. The chapters in this booklet address frequently asked questions and concerns parents of a child with a disability may have regarding special education.

Chapter One focuses on how to determine a child's eligibility and need for special education. It discusses the evaluation and decision-making processes and members of the teams who conduct assessments and make decisions regarding eligibility for special education programs and services.

Chapter Two explains how a special education program plan is developed and what information it must include. Planning for the transition from school to adult living is discussed. This chapter describes how an appropriate educational setting is determined. The notice a school must give to parents summarizing a child's special education program also is discussed.

Chapter Three deals with the responsibilities a charter school has to a child who is eligible for special education services and the child's parents. The school has specific responsibilities related to confidentiality of school records, equality of materials and classrooms, and discipline procedures.

Chapter Four outlines the actions that parents can take if they disagree with school officials about their child's educational program. These actions include team meetings with school officials, mediation, special education hearings, and seeking the intervention of the Pennsylvania Department of Education.

At the end of this booklet are sample letters that parents may use as models when writing to school officials about their child who has special needs. A list of resources is included where parents can go for help or to have their questions answered.

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CHAPTER 1

Does My Child Need Special Education?

Determining Eligibility

Parents often know their child's learning strengths and weaknesses best. School personnel will use that knowledge to design a special education program for your child's unique needs. Your child may qualify for special education if your child:

- 1) Has mental retardation, emotional disturbance, an orthopedic impairment, a hearing impairment, deafness, a speech or language impairment, a visual impairment including blindness, autism, traumatic brain injury, other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities and
- 2) Needs special education as determined by an evaluation team.

Your child must meet both qualifications in order to be eligible for special education. In Pennsylvania, all children eligible for special education have the right to a free appropriate public education.

NOTE: Under Section 504 of the Rehabilitation Act of 1973, children who have disabilities that substantially limit their participation in or access to school programs, but who do not need specially designed instruction, may qualify for reasonable accommodations. The rules that apply to their education are different from those for special education students who qualify by meeting the above-mentioned criteria.

Indications of Physical, Sensory, Mental, or Emotional Disability

Some indications that your child may be a child with a disability, in order to meet the first of the two-part definition are:

- Exhibition of an emotional disturbance over a long period of time that affects your child's ability to learn
- Consistent problems in getting along with others
- Difficulty communicating
- Lack of interest or ability in age-appropriate activities
- Resistance to change
- Difficulty seeing or hearing that interferes with the ability to communicate
- Health problems that affect educational performance, including attention problems
- Difficulty performing tasks that require reading writing, or mathematics

Need for Special Education

Your child may need specially-designed instruction not normally needed by other children in the general education classroom. This need for special education is the second part of the two-part decision to qualify a child as a child with a disability.

If your child shows any of the characteristics previously listed, or if you are concerned about your child's progress in school, your child may be referred for a special education evaluation. An evaluation team gathers the information necessary to determine the need for special services and to design a program that will meet your child's needs and help your child make progress.

The Evaluation

Throughout the evaluation process, the evaluation team will gather information that will be used to determine if your child does in fact need special education and, if so, the types of services needed. The evaluation must include information gathered from your child's teacher, such as the results of informal tests and narrative statements describing your child's strengths and needs.

Part of this evaluation process may include an evaluation by a school psychologist. Other types of evaluations may include tests conducted by a hearing specialist or an evaluation from a medical doctor for a child with health problems. The evaluation also must include input from a therapist if certain related services, such as physical or occupational therapy, may be needed.

Your child may be referred for an initial evaluation in two ways:

- you may ask the school to evaluate your child at any time, or
- the school may contact you to ask permission to have your child evaluated.

If a parent makes an oral request for an initial evaluation to a professional charter school staff member, the charter school must provide the parent with the *Permission to Evaluate (PTE) – Evaluation Request* form within 10 calendar days. The parent must complete the form and return it to the charter school. Upon receipt of the *Permission to Evaluate (PTE) – Evaluation Request* form, if the charter school agrees to evaluate the child, it must provide the parent with the *Permission to Evaluate (PTE) – Consent* form within a reasonable amount of time. If the charter school does not agree that an initial evaluation is necessary, it must send the parent the *Notice of Recommended Educational Placement/Prior Written Notice* that explains why the charter school is refusing to evaluate the child along with a *Procedural Safeguards Notice* explaining how the parent can challenge the charter school’s refusal.

Consent must be given by you, the parent, in writing. School officials cannot proceed without written permission. If you refuse to consent to the evaluation, school officials may request a hearing to get approval. Due Process Hearings are described in Chapter 4 of this guide.

Reevaluations

Once your child has been identified as eligible for special education, your child must be reevaluated every three years to determine whether eligibility requirements are still met unless you and school officials agree that a reevaluation is not necessary. An exception to this is if your child has mental retardation. Students who have mental retardation must be reevaluated every two years.

When additional data is needed to complete a reevaluation to determine whether your child continues to be a child with a disability who needs to continue receiving special education, then school officials also must obtain your written permission for reevaluations. However, if the school has made “reasonable attempts” to get permission and has failed to get a response, it may proceed with the reevaluation. Each school defines “reasonable attempts,” which may consist of telephone calls, registered letters (return receipts required), and visits to the home or parents’ place of business.

If a parent makes an oral request for a reevaluation to a professional charter school staff member, the charter school must provide the parent with the *Permission to Reevaluate – Reevaluation Request* form within 10 calendar days. The parent must complete the form and return it to the charter school. Upon receipt of the *Permission to Reevaluate – Reevaluation Request* form, if the charter school agrees reevaluation is needed, then it must provide the parent with *Permission to Reevaluate – Consent* form within a reasonable amount of time. If the charter school does not agree that a reevaluation is necessary, it must send the parent the *Notice of Recommended Educational Placement/Prior Written Notice* that explains why the charter school is refusing to reevaluate the child along with a *Procedural Safeguards Notice* explaining how the parent can challenge the charter school's refusal.

You and your school may agree in writing that the three-year reevaluation is not necessary. This is not an option if your child has mental retardation.

All evaluations (whether initial evaluation or reevaluation) needed to determine your child's eligibility for special education services must be provided, at no charge to you, by the school. Results of the evaluations must be given to you. You also may get evaluation reports from outside professionals and send them to your child's school. The results of these outside evaluations will be considered in determining if your child has a disability and needs special education. If you wish for the school to pay for these outside evaluations, you must make a written request. If the school refuses to cover the costs, the school must request a special education hearing.

Allowing for Differences in English Language Skills and Ethnicity

Evaluations must take into account the child's English language skills and ethnicity to ensure that the testing and evaluation will not be unfair or discriminatory. Tests must be given in the language or form that is most likely to give accurate information, unless it is clearly not feasible to do so. Evaluations also must take into account the child's disability to be sure the test accurately measures what it is supposed to measure. For example, a child with a severe visual impairment should not be given a small-print written test.

The specific tests used in the evaluation process depend upon the challenges your child is experiencing. In most cases, your child will be given several tests to determine strengths and needs. Your child must be observed in class if a learning

disability is suspected. Information you provide also must be considered in the evaluation.

What the Evaluation Must Report

The evaluation must gather information about your child's skills, social behavior, learning problems, learning strengths, and educational needs. Evaluations and reevaluations must include a review of all testing and assessments that were conducted, information from parents, classroom observations, and observations of teachers and related service personnel. The evaluation or reevaluation also must report any additions or changes needed to help your child meet his/her IEP goals and to take part in and progress in the general curriculum (the skills and knowledge taught to all students in a specific school).

The evaluation team will review all materials and decide if your child has one or more disabilities and needs specially-designed instruction. The team will write an evaluation report and recommend the specific type of program and services needed. The team may recommend that your child is not eligible for special education and therefore does not need special education services. You will receive a written notice of this determination and have the right to dispute it at a hearing.

The entire evaluation process must be completed, and a copy of the evaluation report given to you, within 60 calendar days from the date your written permission is given. This does not include summer vacation days. All members of the evaluation team, including parents, are entitled to see the evaluation report. A copy must be given to you at least 10 days before the IEP meeting. A parent may waive this 10-day provision.



CHAPTER 2

How Is My Child's Special Education Program Determined?

Special Education

Children with disabilities who need special education are entitled to receive a free appropriate public education (FAPE).

Under Pennsylvania and federal law, eligible children have a right to special education and related services provided at public expense, without charge to eligible preschool, elementary, or secondary school students; under the supervision and direction of a state department of education; and described in an Individualized Education Program (IEP).

FAPE includes, when necessary, related services that help the child get to school and benefit from the special education program. These related services may include:

- Special transportation
- Assistive technology devices that help a child communicate or otherwise participate in school activities
- Psychological counseling
- Other services that help or support the child as the child grows and learns

Your Child's Individualized Education Program (IEP)

If the evaluation team determines your child has a disability and is in need of specially-designed instruction, the team will develop a written Individualized Education Program (IEP). This plan will be written at an IEP meeting with the required IEP team members and will include a description of all the programs and services necessary to help your child succeed in school. The IEP team will use information contained in the evaluation report to write and develop the IEP. **The IEP must be developed at the meeting with all required persons in attendance. It cannot be developed prior to the meeting. Revisions may be made to the IEP without a meeting if school officials and parents agree.**

As a parent, you are an IEP team member. It is important for you to attend IEP meetings. Meetings will be

scheduled to fit with both your schedule and the schedule of school officials. You will get a written notice of when, where, and why the meeting will be held and a list of the other invited attendees. If the date/time is not convenient for you, you may request a change. If you are unable to attend the meeting in person, you may attend by telephone. If you choose not to attend the IEP meeting or to participate by telephone, it may take place without you.

Required members of each IEP team are:

- The child's parent(s).
- At least one of your child's general education teachers (if your child attends, or might attend, general education classes).
- At least one special education teacher.
- A school representative who is qualified to provide or supervise special education programs and is familiar with the general curriculum and with resources offered by the charter school.
- An individual able to interpret evaluation results (may already be a team member).
- Other individuals, at your or the school's request, who know the child or have previously worked with the child. You may bring an advocate of your choice to advise you or any other individual who will be able to add information about your child's educational experience.
- Your child at age 14 (when post-graduation planning will be done) or any time prior to age 14 when you choose to have your child present.
- A vocational-technical school representative (if a vocational-technical program is being considered for the child).

One person may fill more than one of the above roles. The minimum number of people at the IEP meeting should be four if your child will participate at all in general education: you, a charter school representative, a special education teacher, and a general education teacher. The general education teacher is not required to attend all meetings or stay for the entire meeting, but is required to be a team member if your child is, or may be, participating in the general education environment. Teachers may be excused from meetings if you and the school agree in writing. If a teacher is excused and his/her area of expertise is being discussed, he/she must provide written input to you before the meeting.

IEP Timelines

The IEP must be developed within 30 calendar days after the determination that a child needs special education. Your child's program must be reviewed annually at an IEP meeting.

The IEP may be reviewed more frequently if requested by you or another IEP team member. Additional evaluations (reevaluations) are conducted at least every three years (two years if your child has mental retardation anywhere in his/her diagnosis – a requirement in Pennsylvania). You and your school may agree in writing that the three-year reevaluation is not necessary and it will not be conducted. This is not an option if your child has mental retardation.

IEP Contents

The IEP team will review all the evaluation material and will determine how your child is currently performing in school. The IEP team will write annual goals and short-term learning objectives (for students with disabilities who take the alternate statewide assessment aligned to alternate standards) that can be measured and meet the needs of your child. Annual goals will describe what your child can be expected to learn during the year. Short-term objectives are the sequential steps your child must take in order to reach these goals.

The IEP team will determine:

- The special education services and programs necessary to meet your child's individual needs including their location and frequency.
- Where, when, type, and frequency of related services that will be provided. For example, the IEP may say "individual speech therapy, 30-minute periods, three times per week, in the speech room." Special transportation, different from the mode of transportation utilized by other children, is also included in this category. For example, the IEP may say "a bus that will lift a wheelchair from the curb taking Jimmy from his home to school with a ride no longer than 30 minutes."
- The date services and programs will begin and their duration.
- The tests or other methods of evaluation that will be used to determine if your child is meeting annual goals and learning objectives and how and when this progress will be reported to you.
- The amount of time your child will be educated in and will participate in the regular class, extra-curricular, and other activities with nondisabled children.

- The adjustments and supplementary aids and services needed in the general education setting (if any) for your child's success, including untimed tests or assistance with note taking.
- The adjustments needed (if any) for your child to participate in the statewide Pennsylvania System of School Assessment (PSSA) or school-wide tests. If your child is unable to take the test, the IEP must indicate the reason(s) why the test is not appropriate for your child, and how your child will be assessed.
- Supports that school personnel may need to implement the IEP, such as resource materials or equipment.

In developing the IEP, the team must consider:

- Whether your child exhibits behavior that interferes with your child's learning or the learning of others, and therefore needs behavior management strategies for controlling and changing challenging behaviors
- The needs of children with limited English language skills
- Use of Braille for children with visual problems
- The communication needs of students, including children who are deaf or hard of hearing
- Whether the child needs assistive technology devices or services to communicate or participate in school activities

At each IEP meeting, the team will determine if the student is eligible for Extended School Year (ESY). If found eligible, a description of ESY services will be included in the IEP. In some cases, interruptions in the school schedule, such as summer break, will result in children with disabilities losing many of their basic skills and taking a long time to get those skills back once school begins again. ESY services are to be provided during breaks in the educational schedule to prevent this loss as part of a free appropriate public education.

Planning for Life After Graduation

Beginning no later than the first IEP in effect when your child turns 14, the IEP team will design a program to help your child prepare for life when finished with school. This is called transition planning because planning is done through the IEP to ease the transition from school to the world of work or other activities in which the young adult may be involved. Planning for the school-to-adult-living transition begins when your child turns 14, or sooner if the IEP team thinks early planning will be beneficial. The IEP team (including your child, if possible) must discuss with both you and your child what your child wants to do when high school is completed. These plans must include the type of education or training that will be received, desired job, where your child will live, and how your child will spend free time.

Educational Setting

The special education program will be completely developed before the IEP team decides where the program will be provided. The IEP team will examine different classes where the program can be delivered. The first place it will consider will be the general education classroom with supports and services.

The law requires that children with disabilities be placed in situations that will give them as many opportunities as appropriate to be with students who are not disabled. This is called placing the student in the least restrictive environment (LRE).

The general education classroom with supports and services is the LRE unless the nature or severity of the disability cannot be met satisfactorily in the regular education environment with the use of supplementary aids and services.

The Appropriate Services

The services chosen for your child will depend upon the amount and type of special instruction or support your child needs. A special education teacher may be able to give instruction in the general education classroom.

For some children, placement outside of a general education class for some of the day is necessary. Students who receive most of their instruction in basic academic subjects outside of general education still will have opportunities to participate in other activities in school with general education students. These opportunities might include participation in elective subjects such as art or music, belonging to a general homeroom, socializing in the lunchroom, and attending assemblies and other enrichment programs with general education students.

Every public agency, including charter schools, must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities. The continuum must include:

- Instruction in general education classes
- Special classes
- Instruction in the home
- Instruction in hospitals and institutions

Schools also must make provisions for supplementary services in or outside of the regular classroom.

If your child needs a full-time special education program, school officials must still try to place your child in the charter school, unless your child's needs are so complex that this would not be appropriate. If the IEP cannot be implemented in the charter school, placement might be in a program run by your school district, the local intermediate unit (IU), or an approved private school.

A private program can only be recommended if no public program exists in the charter school or a school district or if one cannot be developed. Ordinarily, a child would be assigned to a private school only during the school day. A residential or overnight placement can be recommended if this is the only placement to bring about meaningful educational progress for your child, or if the only appropriate program is at a school so far away that daily transportation is not practical.

Children, both with and without disabilities, may become ill and need to stay home for brief periods of time, perhaps a day or two. Sometimes, an illness may last for several weeks and students are excused from school during this period. These children may need some instruction during this period and this instruction is called "homebound instruction." It is not a special education placement.

Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN)

Once the IEP team has developed the IEP, you will receive the *NOREP/PWN*. This notice explains the educational placement or class recommended for your child as well as your parental rights. You must approve the IEP and educational placement in writing for your child's first special education placement before the school is allowed to begin implementation. For subsequent IEPs, services will continue without your signature on the *NOREP/PWN*.

CHAPTER 3

What Are the School's Responsibilities to My Child and Me?

High School Graduation

Unless there is a law to the contrary, a child who attains the age of 21 years during the school term and who has not graduated from high school may continue to attend the public schools in his/her district free of charge until the end of the school term. If school officials believe your child's IEP has been completed and your child is eligible for graduation, you will receive written notice. If you disagree with the notice, you may request an informal meeting with school officials, mediation, or a special education due process hearing. Your child may continue to attend school until due process is complete or to the end of the term in which your child turns 21.

Your Child's School Records

Parents are permitted to examine their child's education records and receive copies of them within 45 calendar days of asking or prior to any IEP meeting or due process hearing. Parents also are permitted to request and receive an explanation of information contained in the records. A written request must be made to your child's principal to view or copy the records.

Your child's school records are to be kept confidential. Only a person with "an educational interest" in your child is permitted to view your child's records. Someone has an educational interest in your child if that person teaches your child or otherwise is responsible for some aspect of your child's education. Educational records cannot be given to anyone outside the school without your permission unless there is a legal reason for doing so. The school must have a procedure for you to follow to correct student records that you feel are incomplete or misleading. You must be informed of this procedure.

Materials, Classrooms, and School Buildings

Equipment and materials may be different for children with disabilities because of their individual needs, but should be of the same quality as the equipment

and materials purchased for students in general education classes. School officials may not assign eligible students to isolated areas of a school, rooms that are not designated as classrooms, or areas that are difficult to reach.

Discipline for the Child With a Disability

Behavior problems sometimes are the result of a child's disability. When such instances occur and result in the violation of school code of conduct, school officials are not permitted to inappropriately discipline the child.

When the IEP team determines that a student's behavior is likely to disrupt learning, it must be addressed in the IEP. Programs to manage or change behavior must be designed using positive approaches to help children correct or manage their behavior. Positive approaches include recognizing and rewarding appropriate behaviors so that they will replace those behaviors that are inappropriate. They do not include punishing, embarrassing, or isolating your child.

Discipline must not include use of restraints except in an emergency situation where there is a danger that the child will be harmed or will harm someone else. The use of restraints in those situations will trigger an IEP team meeting within 10 school days of the incident to review the current IEP to ensure it is appropriate and remains effective. Mechanical restraints may be employed only when specified by an IEP and as determined by a qualified medical professional to control involuntary movement or lack of muscular control.

None of the following methods of punishment may be used with children:

- Corporal punishment
- Punishment for behavior that is caused by the student's disability
- Locked rooms, locked boxes, or other locked structures or spaces from which the student cannot readily exit
- Noxious substances
- Deprivation of basic rights, such as withholding meals, water, or fresh air
- Treatment of a demeaning nature
- Electric shock
- Prone restraints when the student is held face down on the floor
- Suspension or removals from classes for disciplinary reasons that form a pattern

Charter school students, including those with disabilities, are bound by Pennsylvania School Code Chapter 12 regulations concerning suspensions and expulsions from school. However, there are special legal requirements for excluding children with disabilities for disciplinary reasons. Exclusions from school for more than 10 consecutive school days in a school year, removals during the school year that total 15 school days, or a series of removals that may constitute a “pattern of removals” are considered to be changes in placement. Before such exclusions can occur, the IEP team must meet and a *NOREP/PWN* must be signed by the child’s parent(s). A series of removals may constitute a “pattern” if certain factors recur or show up repeatedly (e.g., length of each removal, total amount of time the child is removed, and proximity of removals to one another).

The exclusion of a child with mental retardation for any amount of time is considered a change in placement in Pennsylvania and requires all of the above-mentioned steps. If you, as a parent, disagree with the change in placement on the *NOREP/PWN*, your child will remain in the existing placement until due process is completed or school officials take further action.

If your child’s placement is changed for disciplinary reasons, the IEP team (including you) must review the IEP and decide if the placement is appropriate and contains a positive behavior support plan (PBSP) based on a functional behavior assessment (FBA) that addresses your child’s behavior problem. If a plan is not included in the IEP, a functional behavioral assessment must be conducted and a behavior plan developed. A functional behavioral assessment looks at your child’s behavior in the setting where the problems are occurring and analyzes what is triggering and reinforcing the inappropriate behaviors. The behavior plan then outlines steps to reduce problem behaviors and replace them with appropriate ones. If a plan already exists, it must be reviewed and, if necessary, revised.

In addition, a “manifestation determination” must be conducted by the IEP team to decide if your child’s behavior was caused by your child’s disability or was a “manifestation” of the disability. In order to determine that the behavior was caused by the disability, the team must decide that the conduct in question was caused by, or was directly related to, your child’s disability; or the conduct in question was the direct result of failure to implement your child’s IEP. Children with disabilities cannot be disciplined for behaviors that are related to, or are manifestations of, their disabilities. As a parent, you have the right to challenge a manifestation determination.

The Individuals with Disabilities Education Act (IDEA 2004) allows school officials to change a child’s placement, without your permission, for no more

than 45 school days in school situations involving weapon possession, possession or use of illegal drugs, the sale of a controlled substance, or serious bodily injury. In the alternative 45-day educational placement, your child must receive the services specified in the IEP and must continue to demonstrate progress in the general curriculum. The alternative placement must also offer services to deal with your child's behavior problem so it does not occur again.

Due Process to Challenge Disciplinary Exclusion

If the IEP team decides your child's behavior was unrelated to the disability, your child's placement may be changed for disciplinary reasons. You have the right to ask for a due process hearing to challenge this placement. Throughout the hearing and any appeals, your child remains in the current placement unless the incident involved drugs, weapons, or serious bodily injury. If drugs, weapons, or serious bodily injury were involved, your child will remain in the disciplinary placement for up to 45 school days or to the end of due process, whichever occurs first.

School officials may ask for more rapid action on a due process hearing if they believe the child is a danger to self or others in the current placement. This is called an expedited hearing.

Anytime a child is given a disciplinary change of placement or a placement is changed due to possession of weapons, drugs, or serious bodily injury, school officials still must provide a free appropriate public education (FAPE). FAPE includes services identified on the child's IEP that are necessary for the student to continue to participate in the general education curriculum, (although in a different setting) and to progress toward meeting the IEP goals.

Schools must continue to provide special education services to the child when the removals exceed 10 cumulative school days a year, even if the removals do not constitute a change of placement.

The law now contains certain protections for children who face disciplinary procedures who have not yet been evaluated and determined to be eligible for special education services. The law refers to these children as "not determined to be eligible" students. If school officials "knew or should have known" that a child was a child with a disability, the child is entitled to the protections given to those already identified as eligible. A school is considered to have knowledge that a child is a child with a disability for any of the following reasons: parents have expressed concern in writing to supervisory

or administrative school personnel about the child's need for special education and related services; parents have requested an evaluation; or teachers or other school personnel have expressed specific concerns about a pattern of behavior or performance of the child to the special education director or other supervisory personnel.



What if I Disagree With School Officials About My Child's Education Program?

The “Due Process” Rights of Parents

Both parents and school personnel may challenge the appropriateness of a special education program for a child. If you have a concern, you should first talk to your child's teacher. If you would like to visit your child's classroom to observe your child's program, you must follow the school's visitation policy.

If you or the school do not believe your child's special education program is working, an IEP meeting can be requested to discuss changing the program. The IEP team then may decide a reevaluation is needed to gather more information about your child. Anytime school officials suggest that additional information must be gathered as part of a reevaluation of your child or your child's program, you must be contacted in writing and given the opportunity to disagree. You or school personnel may request an IEP team meeting, mediation session, or due process hearing to resolve differences regarding your child's education.

You are responsible to give advance notice to school officials if you are placing your child in a private school and are asking the charter school to pay for this private school. This notice can be given at the IEP meeting or in writing 10 business days before removing your child from school. If you fail to give this notice, refuse to allow the school to evaluate your child, or otherwise act “unreasonably,” a hearing officer or court can deny or reduce your request for payment from the school.

A parent has the right to revoke consent for provision of special educational and related services. A parent must do this in writing. The school must issue a NOREP before services are discontinued. The NOREP must be issued to the parent within 10 calendar days. A school may not continue to provide special education and related services or use due process to challenge a parental decision to withdraw a student from special education programs. When a child is withdrawn from special education, the school is not required to remove references to special education services from the child's records.

The Bureau of Special Education has established ConsultLine, a toll-free information line for your questions and concerns: 1-800-879-2301. ConsultLine is designed to assist parents and advocates of children with disabilities or children thought to have a disability. If you have questions concerning your child's disability, special education program, or the laws relating to the provision of services in your child's IEP, the special education specialists at ConsultLine may be able to assist you.

Mediation

Even when parents and school officials try their best to develop and carry out an appropriate program for a child, disagreements can occur. An alternative to a due process hearing is mediation. Mediation is a free, voluntary, confidential procedure designed to help parents and school officials resolve the dispute. Both you and the school must be willing to participate in a mediation session in order for it to occur. Mediation may take place at any time during or before the due process cycle. However, mediation cannot be a required process and may not serve to delay or deny a parent the right to a due process hearing.

If you and school officials agree to try mediation, the Office for Dispute Resolution (ODR) will arrange for a neutral, specially-trained mediator to hold a mediation session. During mediation, the mediator will meet with both sides to hear both points of view regarding the disagreement. The mediator may meet with both sides together and separately, to better understand each position. Neither school officials nor parents may include a lawyer at a mediation session.

The mediator will not make a decision on the disagreement. Rather, the mediator will help both parties to reach an agreement. The agreement will be put into writing and, if appropriate, will be incorporated into the student's IEP. The mediation agreement is a legally binding document and is enforceable in a court.

You may discuss using mediation with your school administrator or by calling the Office for Dispute Resolution at 1-800-222-3353. A Mediation Request Form can be found in the *Procedural Safeguards Notice* and on the Office for Dispute Resolution website at odr.pattan.net.

The Special Education Hearing

You may request a special education due process hearing anytime you have concerns about your child's program, placement, evaluation, or the provision of a free appropriate public education. When

requesting a due process hearing, you or your lawyer must make a written request to school officials and the ODR. This request must include the following information:

- The name and address of the child and the name of the school the child attends.
- A description of the problem.
- A proposed solution to the problem. The commonwealth has developed a form for school districts to provide to parents for this purpose. This form is called a *Due Process Complaint Notice*. It is available through your school district's administrative office, the Office for Dispute Resolution website (odr.pattan.net), and your *Procedural Safeguards Notice*.

Within 15 days of receiving notice of your complaint and before a hearing is held, the school district must hold a resolution session for you and school officials to provide an opportunity to resolve your complaint, unless both you and the school agree in writing to waive this meeting or agree to use mediation.

If your complaint has not been resolved to your satisfaction within 30 days of the school receiving the due process complaint notice, a hearing may occur before an impartial hearing officer. The hearing officer cannot work for the charter school, school district, or local intermediate unit. You may be represented by legal counsel or you may represent yourself. You also may be accompanied and advised by any individuals whom you believe would be knowledgeable or helpful to you during the hearing.

Each side may have witnesses and may ask questions of the other side's witnesses. Prior to the hearing date, you may ask the hearing officer to subpoena anyone from the school whom you believe has information important to your case. Witnesses testify under oath.

Both sides may give the hearing officer written material to consider. A list of material to be used at a hearing must be given to the other side at least five business days before the hearing. Any information given to the hearing officer to consider also must also be given to the school.

The hearing must be held at a reasonably convenient time and place for you. The hearing will be closed to the public unless you ask the hearing officer to open the hearing to the public. A transcript of what was said during the hearing will be made available upon your request.

The hearing officer will listen to both sides and then make a written decision. The decision will be mailed to

you and to school officials within 45 calendar days after the receipt of your request for the hearing, unless an extension has been granted by the hearing officer.

Except in limited circumstances (see page 15 “Due Process to Challenge Disciplinary Exclusion”), when a parent requests a due process hearing, the child must remain in the child’s current educational placement unless the parent and school agree otherwise. This is called the “stay put” rule.

If you prevail in a due process hearing, it can be decided by the courts that your attorney’s fees will be paid by the school. Parents may be ordered to pay the school’s costs if it is found they pursued a complaint to harass, cause unnecessary delay, or needlessly increase costs to the school.

The Appeal Process

If you disagree with the decision of the hearing officer, you may file an appeal in court. You may file your case in commonwealth or federal court. Commonwealth court cases must be filed within 90 calendar days after the hearing officer’s decision.

CONCLUSION

The concept of special education is simple. If a child has unique needs that require special education as a result of a disability, those needs are to be determined and a program to meet those needs designed and carried out. However, the procedures and processes involved in designing this special program and carrying it out are complex and may seem cumbersome.

Everyone involved must remain focused on meeting each child's individual needs. When parents and school officials successfully keep this objective in mind, the likelihood of providing quality educational programming dramatically increases.



APPENDIX

Sample Letters

The following sample letters may give you ideas for composing letters to request evaluations, reevaluations, or reimbursement for independent evaluations. As in any case with any child, parents should always keep the best interest of their child in focus when communicating with school officials.

Requesting Evaluation

Your address

Your phone number at home

Your phone number at work

Date

Principal's name

School name

School address

Dear principal's name:

I am the parent of your child's full name whose date of birth is month/day/year. Your child's first name is in the number grade in room number. My child is not doing well in school, and I am requesting that an evaluation be carried out to determine what the problems are and how they can be addressed. I understand that I am a member of my child's evaluation team and I wish to give input to the team. Please let me know how I can participate in this process.

I look forward to the school providing me with a notice of my parental rights and a "Permission to Evaluate-Consent" form for me to sign. I understand that the evaluation must be completed and a report issued within 60 calendar days after the school district receives my signed "Permission to Evaluate-Consent" form.

Please contact me if you require any further information.

Thank you.

Sincerely,

Your name

Requesting Reevaluation

Your address

Your phone number at home

Your phone number at work

Date

Principal's name

School name

School address

Dear principal's name:

I am the parent of your child's full name whose date of birth is month/day/year. Your child's first name is in the number grade in room number. My child is not doing well in school. I am particularly concerned about: list specific worries you may have about your child's progress, IEP goals, behavior, and so forth.

In order to better find out what changes may need to be made in my child's special education program or services, I am requesting that a reevaluation be carried out. I understand that I am a member of my child's evaluation team which conducts the reevaluation and I wish to give input to the team. Please let me know how I can participate in this process.

Please send me the "Permission to Reevaluate - Consent" form. Please contact me as soon as possible to let me know when the reevaluation will take place.

Thank you.

Sincerely,

Your name

Requesting Reimbursement for an Independent Evaluation

Your address

Your phone number at home

Your phone number at work

Date

Principal's name

School name

School address

Dear principal's name:

I am the parent of your child's full name whose date of birth is month/day/year. Your child's first name is in the number grade in room number.

I am requesting that the school agree to pay for an independent evaluation of my child. I believe that this evaluation is necessary because the school's evaluation did not list reasons why you believe the school's evaluation was not sufficient or appropriate to be used to develop an appropriate program for your child.

I understand that if the school turns down my request, it must arrange for a special education hearing. Please contact me to let me know whether the independent evaluation will be provided or when the hearing will be scheduled.

Thank you.

Sincerely,

Your name

Resources

- **Special Education ConsultLine,
Office for Dispute Resolution**
(800-879-2301 V/TTY)

ConsultLine is a statewide service of the Pennsylvania Department of Education, Bureau of Special Education that provides assistance to parents and advocates of eligible or thought-to-be eligible children with school-related concerns, special education regulations, and the special education complaint process.

- **Parent Education and
Advocacy Leadership (PEAL) Center**
(412-281-4404 V) (412-281-4409 TTY)
(866-950-1040 V toll free)

The PEAL Center is a coalition of parents and professionals, which provides technical assistance, on-site parent training workshops, and literature regarding early intervention, special education, and transition.

- **Parent Education Network (PEN)**
(800-522-5827 V/TTY)
(800-441-5028 Spanish)

PEN is a statewide coalition of parents and professionals, which provides technical assistance, on-site parent training workshops, and literature regarding early intervention, special education, and transition.

- **Intermediate Units (IUs)**
(See local telephone directory blue page listings in the “schools” section)

IUs are regional service agencies that provide consultative, advisory, and educational program services to school districts and charter schools within their geographic area.

- **Pennsylvania State Task Force on the
Right to Education**
3190 William Pitt Way
Pittsburgh, PA 15238
(800-446-5607 ext. 6830)

The Pennsylvania State Task Force is charged with ensuring that the mandate and spirit of the Right to Education Consent Agreement are carried out throughout the commonwealth.

Glossary of Special Education Terms

ASSISTIVE TECHNOLOGY DEVICE: A piece of equipment or product that is used to increase, maintain, or improve the way a child with a disability interacts and communicates with the world around them. This does not include a medical device that is surgically implanted or the replacement of such a device.

ASSISTIVE TECHNOLOGY SERVICES: Services to help a child with a disability use an assistive technology device. These services include evaluating the needs of the child; providing the device; and then training the child, the child's family, and the professionals who work with that child in the use of the device.

CHAPTER 711: The state regulations or rules pertaining to the delivery of special education services and programs in charter schools.

CHILD WITH A DISABILITY: A child evaluated as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who as a result of the disability needs special education and related services.

DUE PROCESS: The legal procedures that parents can use to disagree with the decisions of school officials concerning special education. The parent is informed of this right by written notice, which describes the options of a preliminary resolution session, a formal hearing, and appeals.

EVALUATION: The process used to determine if a child has a disability and if special education is needed. The evaluation looks at how the child learns, the kinds of instruction that would be successful, and the kinds of instruction that have been tried and have not resulted in success.

EVALUATION REPORT (ER): The report that is compiled and written by the evaluation team (which includes parents) following an evaluation. It describes all of the information gathered from the team members, including the results of assessment. From the report, the evaluation team determines the student's eligibility and need for special education programs.

EVALUATION TEAM: A team of educators, other professional individuals, and the child's parents that reviews all formal testing of a child and all other evaluation material. The evaluation team must issue a written report stating if the child is a child with a disability who needs special education and making suggestions about the programs and services needed.

FREE APPROPRIATE PUBLIC EDUCATION

(FAPE): A program of education and related services for a child with a disability that is designed to meet the child's special education needs. Related services are those which allow the child to make meaningful progress in the educational setting. FAPE is provided without charge to parents.

INDIVIDUALIZED EDUCATION PROGRAM

(IEP): The plan written by the IEP team (including parents) that specifically describes the programs and services necessary for a free appropriate public education for the child with a disability.

INDIVIDUALS WITH DISABILITIES

EDUCATION ACT (IDEA 2004): The federal law that governs the provision of special education services and the rights of parents of a child with a disability.

LEAST RESTRICTIVE ENVIRONMENT (LRE):

Students eligible for special education will be educated to the maximum extent appropriate with students who are not disabled.

NOTICE OF RECOMMENDED EDUCATIONAL PLACEMENT (NOREP)/PRIOR WRITTEN

NOTICE: The form issued to parents to inform them of the placement recommended by the IEP team.

PARENT: A birth parent, adoptive parent, surrogate parent, or foster parent who has been assigned educational decision-making rights. The term also may apply to an individual acting in the place of a birth or adoptive parent (including grandparent or other relative) with whom the child lives and who has educational decision-making rights, or an individual who is legally responsible for the child.

RELATED SERVICES: Services necessary to provide specially designed instruction to ensure the child benefits from the special education programs. Examples are special transportation, counseling, school health services, and physical therapy.

SPECIAL EDUCATION: An educational program individually designed to meet the unique education needs of a child with a disability. A special education professional is directly involved as either a consultant or a provider of services.

SPECIALLY-DESIGNED INSTRUCTION: Adapting the content, methods, or delivery of the instruction as appropriate based on the unique needs of the child with a disability.

TRANSITION SERVICES: Specific planning in school that helps to prepare students with disabilities to participate more effectively in higher education or job training, community participation, independent living, continuing and adult education, and employment when they leave school.

COMMONWEALTH OF PENNSYLVANIA

Tom Corbett

Governor

DEPARTMENT OF EDUCATION

Ronald J. Tomalis

Secretary

Carolyn C. Dumaresq, Ed.D.

Deputy Secretary, Office of Elementary and Secondary Education

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Patricia Hozella

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If you have any questions about this publication, or for additional copies, contact: Pennsylvania Training and Technical Assistance Network (PaTTAN), 200 Anderson Road, King of Prussia, PA 19406. Voice Telephone: 800-441-3215.

The following offices have been designated to handle inquiries regarding the nondiscrimination policies:

Complaints regarding discrimination in schools:
Human Relations Representative, Intake Division
Pennsylvania Human Relations Commission
www.phrc.state.pa.us

Harrisburg Regional Office: Voice (717) 787-9784, Text (717) 787-7279
Pittsburgh Regional Office: Voice (412) 565-5395, Text (412) 565-5711
Philadelphia Regional Office: Voice (215) 560-2496, Text (215) 560-3599

Complaints against a Pennsylvania Department of Education employee:
Pennsylvania Department of Education
Equal Employment Opportunity Representative
Bureau of Human Resources
11th Floor, 333 Market Street, Harrisburg, PA 17126-0333
Voice Telephone: (717) 787-4417, Fax: (717) 783-9348
Text Telephone TTY: (717) 783-8445

Information on accommodations within the Department of Education for persons with disabilities:
Pennsylvania Department of Education
Americans with Disabilities Act Coordinator
Bureau of Human Resources
11th Floor, 333 Market Street, Harrisburg, PA 17126-0333
Voice Telephone: (717) 787-4417, Fax: (717) 783-9348
Text Telephone TTY: (717) 783-8445

Title IX and general questions regarding educational law or issues:
Pennsylvania Department of Education
School Services Unit Director
5th Floor, 333 Market Street, Harrisburg, PA 17126-0333
Voice Telephone: (717) 783-3750, Fax: (717) 783-6802
Text Telephone TTY: (717) 783-8445