

Parent Guide to Special Education in Charter Schools



GLOSSARY OF SPECIAL EDUCATION TERMS

To help you understand words and terms commonly used in special education, the following key phrases have been highlighted throughout this guide.

ASSISTIVE TECHNOLOGY DEVICE: A piece of equipment or product used to increase, maintain, or improve the way children with disabilities interact and communicate with the world around them.

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 training the child, the child's family and the professionals who work with that child to use the device.

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, autism, traumatic brain injury, another 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 procedures that parents can use to disagree with the decisions of school district officials concerning special education. These include the parents' right to written notice, a pre-hearing conference, a formal hearing, and appeal.

EVALUATION: The process that gathers information used to determine if a child has a disability according to federal definitions and is in need of special education. The evaluation should examine how the child learns, the type of instruction that would be successful, and the type of instruction previously tried that was unsuccessful.

EVALUATION REPORT: The report that is compiled and written by the evaluation team following an evaluation. It contains all of the information gathered by various team members, as well as the results of assessment. In this report, the evaluation team documents its determination that the student has a disability and needs special education programs.

continued on inside back cover

ABOUT THIS GUIDE



It is important for parents to understand the special education process. They 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 need for special education. The evaluation and decision-making processes are discussed in this chapter, as well as members of the teams who conduct evaluations 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 class and school are decided upon. The notice a school must give to parents summarizing a child's special education program is also 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 education 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.

TABLE OF CONTENTS

CHAPTER 1

Does My Child Need Special Education?	4
--	----------

CHAPTER 2

How Is My Child's Special Education Program Determined?	9
--	----------

CHAPTER 3

What Are the School's Responsibilities to My Child and Me?	16
---	-----------

CHAPTER 4

What if I Disagree With School Officials About My Child's Special Education Program?	21
---	-----------

APPENDIX

Sample Letters	25
Resources	28

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 specific needs.

Your child may qualify for special education if your child:

1. Has a physical, sensory, mental or emotional disability **and**
2. Needs special education as determined by a team of people.

Your child must meet both qualifications in order to be eligible for special education. Under federal law, eligible children have the right to a "free and appropriate public education," at no cost to the parents to meet the unique needs of a child with a disability. These students must have individualized education program (IEPs) plans. The IEP is a document that is written and developed by the IEP team.

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 in the regular classroom. The rules that apply to their education are different from those for special education students who qualify by meeting the above-mentioned criteria (has a physical, sensory, mental or emotional disability **and** needs special education as determined by a team of people).

INDICATIONS
OF PHYSICAL,
SENSORY,
MENTAL OR
EMOTIONAL
DISABILITY

Some indications that your child may have a disability and may meet the first eligibility requirement (has a physical, sensory, mental or emotional disability) are:

- Evidence of an emotional disturbance over a long period of time that affects the 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 ability to communicate
- Health problems that affect educational performance

NEED FOR
SPECIAL
EDUCATION

Your child may need special help not normally needed by other children in the regular 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 (has a physical, sensory, mental or emotional disability **and** needs special education as determined by a team of people).

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 a special program 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 from your child's teacher such as the results of informal tests and narrative statements describing the student'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 must also include input from a therapist if certain related services, such as physical or occupational therapy, may be needed.

Your child may be referred for a first 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.

**The school must respond to you by sending the Permission to Evaluate format or by indicating in writing they are declining the request for an evaluation (one of the choices on the Prior Written Notice format).*

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 on page 21 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. An exception to this is if your child has mental retardation. Students who have been determined to have mental retardation must be reevaluated every two years. This is a Pennsylvania requirement.

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 to receive special education, then school officials must also obtain your written permission (Permission to Reevaluate format) 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.”

Reasonable attempts may consist of:

- Telephone calls
- Registered letters (return receipts required)
- Visits to the home or parents’ place of business

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. If your child needs special education, the special programs and related services (as determined by the IEP team) will be provided free by your child’s school. Results of the evaluations must be given to you. You may also 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, it 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 child’s native language or mode of communication (such as Braille or sign language), unless it is clearly not feasible to do so. Evaluations must also 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 problems 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. Information you provide must also be included 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 must also report what additions or changes are 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. It may recommend the specific type of program and services needed. The team will write an evaluation report. The team may recommend that your child is not eligible for special education and therefore does not need special education services. If this is the case, the report will list changes that may be made in the regular classroom to make your child's education more successful.

The entire evaluation process must be completed within a reasonable amount of time from the date your written permission is given. The federal Office of Special Education Programs has indicated that a reasonable amount of time might be 60 school days after the school receives the signed Permission to Evaluate. All members of the evaluation team, including parents, are entitled to see the evaluation report.

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

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

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

YOUR CHILD'S IEP

If the evaluation team determines your child has a disability and is in need of specially designed instruction, the team will write and develop an 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 when all required persons are in attendance. It cannot be developed prior to the meeting.**

As a parent, you are required to be an IEP team member. It is important you attend IEP meetings. Meetings must be scheduled to fit

with both your schedule and the schedule of school officials. You must 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 via telephone.

Required members of the IEP team are:

- The child's parent(s)
- At least one of the child's regular education teachers (if the child is, or might become, part of regular 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 local educational agency (LEA)
- 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 regular education: you, an LEA representative, a special education teacher, and a regular education teacher. The regular 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 regular education environment.

If you choose not to attend the IEP meeting, it may take place without you.

IEP TIMELINES

The IEP must be developed within 30 calendar days after the evaluation team issues its report. Your child's program must be reviewed annually at an IEP meeting. It 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).

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 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.
- 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. Progress must be reported at least as often as progress is

reported for regular education students.

- Amount of time (if any) your child will **not** participate in the regular class or in the general education curriculum and will be in settings with other special education students only. This should indicate when your child will not be learning skills or knowledge directly linked to the skills and knowledge studied by children in regular education.
- The adjustments needed in the regular 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 PA 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, why the test is not appropriate for your child, and how your child will be assessed.

In developing the IEP, the team must consider:

- Parental concerns
- Whether your child exhibits behavior that interferes with your child's learning or the learning of others, and therefore needs a behavior management plan describing 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 children, including children who are deaf or hard of hearing
- Whether your child needs assistive technology devices or services to communicate or participate in school activities

Information on the following must be provided in the IEP, if appropriate for your child:

- Extended School Year (ESY)—the team must consider whether your child needs more than 180 days in order to receive a free appropriate public education. For some children with disabilities, interruptions in the school schedule, such as summer

break, can result in the loss of basic skills, and it may take a significant amount of time to regain those skills once school resumes. ESY services will be provided during breaks in the educational calendar to prevent such circumstances.

- Special or modified physical education (adaptive physical education) for a child unable to participate in regular physical education due to a disability.

PLANNING FOR LIFE AFTER GRADUATION

As your child gets older, 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. By the time your child is 14, the IEP team must decide what kinds of courses your child will take. Examples include art courses, vocational courses, or courses to prepare your child for college or higher education.

Planning for the school-to-adult-living transition begins when your child turns 16 or sooner if the IEP team thinks early planning will be beneficial. The IEP team 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 or schools where the program can be delivered. The first place it will consider will be the regular classroom with supports and services.

The law requires that children with disabilities be placed in situations that provide them with the best opportunities to be with students who are not disabled. This is called placing the student in the “least restrictive environment.”

The least restrictive environment is the regular classroom with supports and services unless the IEP team determines that the special needs of the child cannot be met there.

THE APPROPRIATE CLASS

The classroom chosen for your child depends upon the amount and type of special instruction or services your child needs. If your child needs only some instruction in special education classes, it may be possible for your child to stay in the regular classroom throughout most of the day, leaving it only for a short period of special instruction. A special education teacher may also be able to give instruction in the regular classroom.

For some children, placement in a special education class for most or all of the day is necessary. Students who receive most of their instruction in basic academic subjects in special education classes will still have opportunities to participate in other activities in school with regular education students. Some examples of these opportunities might include participating in elective subjects such as art or music, belonging to a regular homeroom, socializing in the lunchroom, and attending assemblies and other enrichment programs with regular education students. Participation is not limited to the above list.

Every public agency, including charter schools, must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services if an IEP team decides that a particular type of class is necessary. The continuum must include:

- Instruction in regular classes
- Special classes
- Special schools
- Home instruction
- Instruction in hospitals and institutions

Schools must also make provisions for supplementary services such as resource room or itinerant instruction.

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 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 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 "home-bound instruction." It is not a special education placement.

**PRIOR
WRITTEN
NOTICE**

Once the IEP team has developed the IEP, you will receive the Prior Written Notice. This notice explains the placement or recommended class for your child as well as your parental rights.

You are responsible to give advance notice to school officials if you are placing your child in a private school and are asking the 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. An exception will be made for those unable to read or write in English.

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

HIGH SCHOOL GRADUATION

Notwithstanding any other provision of law to the contrary, a child who attains the age of twenty-one (21) years during the school term and who has not graduated from high school may continue to attend the public schools in his 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 are also 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

Schools are required to provide children in special education programs with the same quality of materials, classrooms, and furniture that are provided to children in regular education classes. These materials must be appropriate for students to ensure the provision of a free, appropriate public education. 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 regular 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

Inappropriate behavior may result from a child's disability. When such instances occur and result in the violation of school rules, school officials are not permitted to inappropriately discipline the child.

Programs to control or change behavior must be designed using positive approaches to help children correct or control their behavior. An example of a positive approach is recognizing and rewarding appropriate behaviors so that a child will replace inappropriate behaviors. Positive approaches do not include punishing, embarrassing, or isolating a child.

Discipline must not include use of mechanical restraints or physically restraining a child, except in an emergency situation where the child is in danger of being harmed or may harm someone else. If a parent agrees, and the use is clearly stated in the IEP, certain mechanical restraints, such as seat belts, can be used to help children control their movements.

The following punishment methods may not be used with children with disabilities:

- Locking the child in a space so the child is unable to get out
- Using harmful substances or electric shock to discourage certain behavior
- Depriving the child of food, water, fresh air, or other basic needs

- Demeaning the child

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 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 Prior Written Notice must be signed by the child’s parent(s). A series of removals may constitute a “pattern” if:

- the removals total more than 10 school days in a school year, and
- factors indicate a pattern (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 Prior Written Notice, your child will remain in the existing placement until due process is completed or school officials take further action.

Changes to the 1997 Individuals with Disabilities Education Act (IDEA '97) allow school officials to change a child’s placement, without your permission, for up to 45 calendar days in school situations involving weapon possession, possession or use of illegal drugs, or the sale of a controlled substance. In the alternative 45-day educational placement, your child must receive the services specified in the IEP and must continue to participate 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.

If your child’s placement is changed for disciplinary reasons, the IEP team (including

you) must meet within 10 business days to review the IEP and decide if the placement is appropriate and contains an appropriate plan 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 not a manifestation of the disability, the team must decide that the current IEP and placement are appropriate and have been put into place; that your child was able to understand the consequences of the behavior; and that your child could have controlled the behavior. 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.

**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 or weapons. If drugs or weapons were involved, your child will remain in the disciplinary placement for up to 45 calendar 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 in placement or a placement is changed due to possession of weapons or drugs, school officials must still provide a free appropriate public education, including all services identified on the child's IEP and any others necessary for the student to reach IEP goals.

Schools must continue to provide special education services to the child when the removals exceed 10 cumulative school days, even if the removals do not constitute a change in 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. Federal law refers to these children as "not yet eligible" students. If school officials "knew or should have known" that a child was disabled, 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 to appropriate school personnel about the child's need for special education and related services; parents have requested an evaluation; teachers or other school personnel have expressed concerns about the behavior or performance of the child; or the child's performance or behavior demonstrates a need for special services.

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

"DUE PROCESS" RIGHTS OF PARENTS

Both parents and school personnel may challenge the appropriateness of a special education program for a child. 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 may then decide a reevaluation is needed to gather more information about your child. Anytime school officials suggest a reevaluation of your child or your child's program, you must be contacted in writing and given the opportunity to agree or disagree. You or school personnel may request an IEP team meeting, mediation session, or due process hearing in order to resolve differences regarding your child's education. The pre-hearing conference is a Pennsylvania requirement available in local school districts. **The pre-hearing conference is not required under federal law, but may be a useful tool in resolving conflicts without a due process hearing.**

MEDIATION

Disagreements can occur even when parents and school officials do their best to develop and implement appropriate programs for eligible children. Mediation is a free, voluntary, and confidential procedure designed to help parents and school officials reach agreement. Mediation may take place at any time before or during the due process cycle.

If you and school officials agree to try mediation, the Office for Dispute Resolution will arrange for a specially trained, neutral mediator to meet with each party (both separately and then together) and listen to both regarding the

disagreement. Neither school officials nor parents may use a lawyer at a mediation session.

The mediator does not make a decision on the disagreement, but rather assists both parties in reaching an agreement. The agreement will be put in writing and incorporated into the student's IEP following an IEP team meeting.

For information about the mediation process, contact the Office for Dispute Resolution at 1-800-992-4334.

THE SPECIAL EDUCATION HEARING

You may request a special education hearing when you have concerns about your child's program, placement, or evaluation and have exhausted all other dispute resolution options. The school may request a hearing for permission to evaluate or place your child if you refuse to give permission for an evaluation or for the initial special education placement.

A special education hearing is held before an impartial hearing officer. The officer cannot be employed by the school or local intermediate unit. Both parties are permitted to have lawyers at the hearing. You may also have an advocate present. In addition, each side may have witnesses present and may question opposing witnesses. Witnesses testify under oath. Prior to the hearing date, you may request the hearing officer to subpoena individuals from the school whom you believe have information important to your case.

Each side may provide the hearing officer with written material to consider. A list of materials for the hearing must be given to the opposing side at least five business days prior to the hearing. The hearing must be held at a time and place convenient for both you and school officials. You may request that the hearing be open to the public. A transcript of what is said will be made.

When requesting a due process hearing, you or your attorney must provide school officials with the child's name and address as well as

the name of the child’s school, a description of the problem, and your proposed solution. The information must be given to school officials in writing. Pennsylvania has developed a form for schools to provide to parents for this purpose. It is provided at the end of the Procedural Safeguards Notice.

After the hearing officer hears both sides and renders a decision, the decision will be written and sent to both you and school officials within 45 calendar days of the request for the hearing. If you or school officials are dissatisfied with any part of the hearing officer’s decision, either party may file an appeal to a three-member panel. The procedures and timeline for filing the appeal will be included with the hearing officer’s decision.

THE COURT PROCESS

Once the appeal decision has been made, if you or school officials disagree with the decision, either party may file a case in commonwealth or federal court. Commonwealth court cases must be filed within 30 calendar days after the appeal decision.

Once the special education hearing process has begun, no changes may be made to your child’s IEP, evaluation, or placement until the disagreement process is complete, unless you and the school agree to a change.

THE COMPLAINT PROCESS

The law provides a way for you to file a complaint if you believe your child’s rights are being denied, your child’s IEP services are not being provided, or timelines and procedures are not being followed. In Pennsylvania, you may file complaints with the Pennsylvania Department of Education’s Bureau of Special Education, Division of Compliance. The Special Education ConsultLine (1-800-879-2301) is available to assist you with the complaint process. Complaints are documented in writing and the ConsultLine adviser will send a complaint form to you to complete and send to the Division of

Compliance. An employee from the Division will then investigate the complaint and send a written decision to you and school officials within 60 calendar days of receiving the complaint.

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 provide input to the team. Please let me know how I can participate in this process.

I look forward to receiving a notice of my parental rights and a "Permission to Evaluate" format for my signature. I understand that the evaluation must be completed within a reasonable amount of time.

Thank you for your time, and please contact me if you require any further information.

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 and objectives, behavior and so forth.

In order to determine what changes may need to be made in my child's special education program or services, I am requesting that a reevaluation be conducted. 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 a permission form to sign. I look forward to hearing from you about when the reevaluation will take place.

Thank you.

Sincerely,

Your name

REQUESTING
REIMBURSEMENT
FOR 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

(800-879-2301 V/TTY)

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 NETWORK

(800-522-5827 V/TTY) • (800-441-5028 Spanish)

Statewide coalition of parents and professionals providing technical assistance, on-site parent training workshops, and literature regarding early intervention, special education, and transition.

INTERMEDIATE UNITS

(see local telephone directory blue page listings in the “schools” section)

Regional service agencies that provide consultative, advisory, and educational program services to school districts within their geographic area.

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 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 other services for a child with a disability that is designed to meet the child's special education needs and which allows the child to make meaningful progress in the educational setting. It is provided without charge to parents.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA): The federal law that governs special education services and the rights of children with special education needs and their 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.

PRIOR WRITTEN NOTICE: The form issued to parents to inform them of the placement recommended by the IEP team. It also explains parents' rights.

RELATED SERVICES: Services that help a child access or benefit from the child's special education program. Special transportation, speech therapy, counseling, school health services, and physical therapy are examples of related services.

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

TRANSITION FROM SCHOOL TO ADULT LIVING/WORLD OF WORK: The bridge between school programs and all the aspects of adult life. Specific planning in school helps to prepare students with disabilities to participate more effectively in higher education or job training, community participation, independent living and employment when they leave school.

**COMMONWEALTH
OF PENNSYLVANIA**

Edward G Rendell
Governor

**DEPARTMENT OF
EDUCATION**

Vicki L. Phillips
Secretary

Thomas P. Carey
*Deputy Secretary,
Office for Elementary
& Secondary
Education*

**Fran James
Warkomski**
*Director, Bureau of
Special Education*

**John J.
Tommasini**
*Assistant Director,
Bureau of
Special Education*

The Pennsylvania Department of Education (PDE) does not discriminate in its educational programs, activities, or employment practices, based on race, color, national origin, sex, sexual orientation, disability, age, religion, ancestry, union membership, or any other legally protected category. Announcement of this policy is in accordance with State law including the Pennsylvania Human Relations Act and with Federal law, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act of 1990.

If you are a parent or advocate and need information on special education services, please call the Pennsylvania Department of Education, Bureau of Special Education ConsultLine 800-879-2301 (Voice/TTY).

If you have any questions about this publication, or for additional copies, contact: Pennsylvania Training and Technical Assistance Network, 200 Anderson Road, King of Prussia, PA, 19406; Voice Telephone: 610-265-7321; TTY 610-768-9723.

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

Complaints regarding discrimination in schools:

Human Relations Representative, Intake Division
Pennsylvania Human Relations Commission
Harrisburg Regional Office 717-787-9784
Pittsburgh Regional Office 412-565-5395
Philadelphia Regional Office 215-560-2496

Complaints against a Pennsylvania Department of Education employee:

Pennsylvania Department of Education
Equal Employment Opportunity Representative
Bureau of Personnel
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 Management Services
15th Floor, 333 Market Street
Harrisburg, PA 17126-0333
Voice Telephone: 717-783-9791
Fax: 717-772-2317
Text Telephone TTY: 717-783-8445

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