

# THE RIGHT TO SPECIAL EDUCATION

## IN PENNSYLVANIA: A GUIDE FOR PARENTS

### EDUCATION LAW CENTER

1315 Walnut Street, 4th Floor, Philadelphia, PA 19107  
Phone: 215-238-6970 Fax: 215-772-3125  
TTY: 215-789-2498

1901 Law & Finance Bldg., 429 Fourth Avenue  
Pittsburgh, PA 15219  
Phone: 412-391-5225 Fax: 412-391-4496  
TTY: 412-467-8940

e-mail: [elc@elc-pa.org](mailto:elc@elc-pa.org)  
website: <http://www.elc-pa.org>

*This booklet was made possible, in part, by grants from Pennsylvania Protection and Advocacy, Inc, with funding from the U.S. Dept. of Health and Human Services and from the U.S. Dept. of Education under the Protection and Advocacy for Individual Rights Act, P.L. 102-569; the Administration on Developmental Disabilities under the Developmental Disabilities Assistance and Bill of Rights Act, P.L. 101-496; and the Substance Abuse and Mental Health Services Administration under the Protection and Advocacy for Mentally Ill Individuals Act, P.L. 99-319. The contents are solely the responsibility of the Education Law Center and do not necessarily represent the views of the U.S. Department of Health and Human Services or the U.S. Department of Education.*

© 2006 - EDUCATION LAW CENTER  
ALL RIGHTS RESERVED

The Education Law Center staff advocates for improved educational opportunities and outcomes for Pennsylvania's most educationally "at risk" public school students. Through our telephone HelpLine, ELC staff members provide free legal assistance to parents, students, and parent organizations on public education issues in Pennsylvania.

Copies of this manual may be ordered from:

The Education Law Center  
The Philadelphia Building  
1315 Walnut Street, 4<sup>th</sup> Fl.  
Philadelphia, PA 19107

215-238-6970

E-mail: [elc@elc-pa.org](mailto:elc@elc-pa.org)

Single copies are available free. Multiple copies are available for \$10.00 each + tax and postage. Bulk orders (more than 20 copies) are available for \$7.50 each + tax and postage. This manual can be downloaded from our website at [www.elc-pa.org](http://www.elc-pa.org) and copied with attribution to the Education Law Center. This manual is also available in alternative formats for persons who are visually impaired.

## Table of Contents

INTRODUCTION	1
EVALUATING YOUR CHILD	3
GETTING YOUR CHILD AN INDEPENDENT EDUCATIONAL EVALUATION	10
DEVELOPING THE SPECIAL EDUCATION PROGRAM	13
WHERE WILL YOUR CHILD GET SERVICES?	28
SCHOOL DISCIPLINE AND STUDENTS WITH DISABILITIES	33
HOW TO RESOLVE SPECIAL EDUCATION DISPUTES	42
A REVIEW OF KEY TIMELINES	56
<u>APPENDIX</u>	
SAMPLE LETTER REQUESTING AN EVALUATION	62
SAMPLE LETTER REQUESTING A RE-EVALUATION	63
SAMPLE LETTER REQUESTING AN INDEPENDENT EVALUATION	64
SAMPLE LETTER REQUESTING A SPECIAL EDUCATION DUE PROCESS HEARING	65
DOC COMPLAINT FORM	67
ADVOCACY AND SUPPORT GROUPS	68
USEFUL WEBSITES	71



## INTRODUCTION

This revised booklet includes recent amendments to the federal Individuals with Disabilities Education Act, the most substantial change in this federal law since the law was enacted in 1975. We believe that it accurately reflects current federal and state law requirements.

However, the federal regulations that will help us understand some of the new provisions better will not be final until, at the earliest, the end of 2005. Therefore, we are publishing this booklet with a warning - this is our best effort at explaining the requirements of federal and state special education law. In some areas the law is so unclear that we cannot accurately describe current requirements (for example, the rules for evaluating children with suspected specific learning disabilities) - and we tell that to the reader. When the final federal regulations are published, and the state regulations reflecting the new federal requirements are final, we will revise this booklet (and all of our publications) again.

This booklet is designed to answer some of the most frequently asked questions about special education in Pennsylvania. If you think your child has a disability and needs help, or if you're unhappy with the progress your child is making, we hope you'll find answers to your questions here. Throughout this booklet, we include links to PA Department of Education forms. The forms have notations and suggestions to help families understand the process better. All of PDE's annotated forms can be viewed at <http://www.pattan.k12.pa.us/regsforms/annotatedformsandformats.aspx>.

At the end of this booklet we list some organizations in Pennsylvania that might be able to help. In addition, ELC keeps a list of "Special Education Buddies." Buddies are usually parents of children with disabilities who are willing to give support to other parents. Feel free to contact ELC to see if a Buddy is available in your area. ELC also operates a telephone HelpLine. If a parent, student, or someone who is working with a family wants to talk about an education or special education law problem with a member of our staff, she can call our Philadelphia or Pittsburgh office.

ELC has many other publications on the legal rights of students; check our webpage at [www.elc-pa.org](http://www.elc-pa.org). Or you can call our office and we will send you a copy of the publication. Check the list of other helpful webpages at the end of this booklet.



## EVALUATING YOUR CHILD

### HOW CAN I GET MY CHILD EVALUATED TO DETERMINE IF SHE HAS A DISABILITY?

The purposes of the first or "initial" evaluation are to find out if a child has a disability that affects his or her learning, to gather the information necessary to design a program in which the child can make real progress, and to determine the extent to which the child can be involved with and progress in the general education curriculum (or, for a preschooler, age-appropriate activities). A child can be eligible for special education even if she has been progressing from grade to grade. For more information on the types of disabilities that qualify a child for special education services, you can review the definition of "child with a disability" on pages 35836-35837 of the following document:

<http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-11804.pdf>.

If you think your child has a disability and needs special education, you should send a written request for an evaluation to the school district or public charter school. (A sample letter requesting an evaluation is included in the Appendix.) However, even after it has received your written request, the public charter school or school district cannot evaluate the child without first giving you written notice of its evaluation plan (including the reason for the evaluation, your right to review the school records and other protections, any assessment record or report on which it is relying, and the procedures and specific types of tests that will be used) and getting your written consent to proceed. The school or school district will provide you with a "Permission to Evaluate" form for you to sign. The PA Department of Education's (PDE) sample "Permission to Evaluate" form can be viewed at [http://www.pattan.k12.pa.us/files/Forms/English/AnnPTE\\_072205.pdf](http://www.pattan.k12.pa.us/files/Forms/English/AnnPTE_072205.pdf). *Remember, the timeline for completing the initial evaluation described below does not begin to run until you have signed this form!! Keep a copy of whatever you sign or send.*

The rules in this section apply to a formal special education "evaluation." Not every school district effort to understand how well a student is achieving or whether she needs help is an "evaluation." A school district does not need the

parent's consent to review the existing data on a child or to give the child a test or evaluation that is given to all other students (such as the Pennsylvania test called the PSSA that is given to students in certain grades to assess their level of academic achievement). Another example is when a teacher or specialist screens a student to determine appropriate instructional strategies for curriculum development; this is also not an evaluation and does not require the parent's consent.

### **WHAT IF I DO NOT WANT MY CHILD EVALUATED OR DO NOT WANT MY CHILD TO BEGIN RECEIVING SPECIAL EDUCATION SERVICES?**

If you refuse to sign the Permission to Evaluate form or fail to respond to a school or school district's request to conduct an initial evaluation of your child, the school district or school can - but does not have to - request that a Special Education Hearing Officer order the evaluation. Under certain circumstances, a family court judge can give someone other than the birth or adoptive parent the right to consent to an initial evaluation for a child involved in the child welfare system. It's important to understand that, when a parent gives the school or school district written consent to conduct an initial evaluation of a child, the parent is not agreeing that the school or school district can start to provide special education to the student. A parent must consent separately and in writing to a specific education plan for the child before special education services can begin. In fact, a parent's refusal to permit her child to begin to receive special education services cannot be challenged through the hearing process. (For more information on the special education hearing system, see the section of this booklet entitled, "*How To Resolve Special Education Disputes*").

### **HOW QUICKLY MUST THE SCHOOL OR SCHOOL DISTRICT COMPLETE THE INITIAL EVALUATION?**

Unless you repeatedly fail to produce your child for the evaluation, a school district must evaluate your child and give you a copy of the Evaluation Report within sixty (60) school days of the date you sign the education agency's "Permission to Evaluate" form; charter schools have sixty (60) calendar days to complete the evaluation from the date you sign the school's consent form. For children ages 3 to school-age, the deadline for the preschool early intervention agency to complete the initial evaluation and to give the parent a copy of the

Evaluation Report is sixty (60) calendar days from the date you sign the Permission to Evaluate form.

### **WHAT HAPPENS TO THE TIMELINE WHEN THE CHILD MOVES?**

If the child enrolls in a new school or school district before the initial evaluation has been completed, the timeframe for finishing the evaluation may be extended, but only if the parent agrees to the extension and the school makes sufficient progress to ensure prompt completion of the evaluation. The new and old schools and school districts must coordinate their assessments to ensure that the child's evaluation is completed as quickly as possible. The new school or school district must promptly request, and the old school or school district must promptly send, the child's school records.

### **WHAT RULES APPLY TO RE-EVALUATIONS?**

Once a child has been identified and is receiving special education, the child must be re-evaluated if requested by the teacher or parent or if the school or school district decides that a re-evaluation is necessary to determine a child's educational or related service needs. The parent and school or school district can agree to more frequent re-evaluations, but the education agency does not have to conduct more than one re-evaluation each year. The child must be evaluated at least every 3 years unless the parent and the education agency agree to waive this requirement. Education agencies must re-evaluate pre-schoolers (children aged 3 to school-age) and school-aged students with mental retardation at least every two years; this re-evaluation timeline is not waivable.

The purposes of a re-evaluation are to determine if the child still needs special services; whether the child is making reasonable progress towards her goals; and, if reasonable progress is not being made, what changes are needed. The district cannot conduct a re-evaluation if the parent refuses consent. However, the district can conduct a re-evaluation if it has made reasonable efforts to get the parent to consent and the family has not responded.

If you think that your child needs to be re-evaluated, you must send the public charter school or school district a written request. (A sample letter requesting a re-evaluation is included in the Appendix). A written request for a re-

evaluation is enough to start the clock running (unlike the initial evaluation, where the time does not start running until the Permission to Evaluate form is signed and returned). A re-evaluation must be completed by a school district and the re-evaluation report provided to the family within 60 school days of the school district's receipt of your request (or of the request of the teacher or the school or district's determination that a re-evaluation is needed). For preschoolers, the re-evaluation must be conducted and the parent must receive the re-evaluation report within 60 calendar days of your signing of the Permission to Evaluate form. The timeline for charter schools to complete re-evaluations is not clear. *Keep a copy of whatever you sign or send.*

### **HOW DOES THE SCHOOL DISTRICT OR THE CHARTER SCHOOL DECIDE HOW THE EVALUATION OR RE-EVALUATION SHOULD BE CONDUCTED, AND WHAT TYPES OF TESTS SHOULD BE INCLUDED?**

Information on the child is reviewed, and the evaluation is designed, by a "team" of qualified professionals that includes the parent. There is no specific number or type of "tests" that must be given to a child as part of an evaluation or re-evaluation. However, the child must be assessed in **all areas** related to the suspected disability, and the evaluation must be sufficiently comprehensive to identify all of the child's special education and related services needs. All evaluations must be provided at no cost to the child or family.

The evaluation must determine whether the child has a disability (or continues to have a disability) and needs special services; the child's present levels of academic performance and related developmental needs; and whether any additional services are needed for the child to meet the measurable annual goals set out in her Individualized Education Program (IEP) and to participate, as appropriate, in the general education curriculum offered to all students.

The IEP Team (the group, including the parent, that develops the child's IEP) has a crucial role to play in reviewing the existing information on the child and determining whether additional testing is necessary. At least the following information must be available and reviewed by the IEP Team during the evaluation or re-evaluation process: evaluations and information provided by the parent; current classroom-based local and state assessments and observations; and information from the teachers and therapists. In most cases when the Team is

determining whether a child is eligible or still eligible for special education, a certified school psychologist must also participate in this review. (For preschoolers, a psychologist does not have to participate in the evaluation process; however, the parent can always ask that a psychologist participate). If the IEP Team decides that no additional information is needed to determine if the child is eligible or still eligible for special education and the educational needs of the child, the district must tell the parent and explain why. In that situation, the school or school district must also tell the parent that they can request further assessments.

Unless it is clearly not possible to do so, the evaluation must be conducted in the child's native language or other way of communicating (for example, sign language) that is most likely to yield accurate information on what the child knows and can do academically and functionally. The child must be assessed properly by trained and knowledgeable school personnel, and assessments must be selected and administered to avoid discrimination based on the child's disability, race, or ethnic background. No one test (such as an IQ test) can determine whether a child has a disability or the child's educational needs.

### **ARE THE RULES DIFFERENT IF IT IS SUSPECTED THAT MY CHILD HAS A "SPECIFIC LEARNING DISABILITY" (SLD)?**

Recent changes to federal special education law added additional requirements for evaluating children to determine if they have specific learning disabilities (SLD). The evaluation process for these students will not be clear until the federal special education regulations are finalized. Some rules that are already clear include:

- Under the old rules, to be identified as having a SLD, the child had to demonstrate a "severe discrepancy" between her capacity and her achievement in one of a number of areas, such as reading fluency skills or reading comprehension. That rule has largely been abandoned, and school districts cannot be required to use that rule to identify a child as having a specific learning disability.
- In evaluating a child for a specific learning disability, school districts may use a process that determines if the child responds to scientific,

research-based interventions.

## **WHAT IS DONE WITH THE RESULTS?**

The Team writes an evaluation report that includes a decision as to whether the child is eligible to receive special education, and a recommendation regarding the type and amount of services needed. A school district must give the parent a copy of this report at least 10 school days prior to the meeting of the IEP Team, unless the parent agrees to waive the 10-day period. PDE's sample Initial Evaluation Report form can be viewed at [http://www.pattan.k12.pa.us/files/Forms/English/AnnER\\_072205.pdf](http://www.pattan.k12.pa.us/files/Forms/English/AnnER_072205.pdf).

For initial evaluations, upon signing the Permission to Evaluate form, the parent will be given a "Procedural Safeguards Notice" that explains the family's rights, including the right to disagree with how the evaluation was conducted or the results of the evaluation, and how to request mediation or a special education hearing. PDE's sample Procedural Safeguards Notice can be viewed at [http://www.pattan.k12.pa.us/files/Forms/English/PSN\\_070105.pdf](http://www.pattan.k12.pa.us/files/Forms/English/PSN_070105.pdf).

For re-evaluations, the parent may request a copy of the Procedural Safeguards Notice, but the school or school district is not required to give the notice to the family automatically.

## **ARE THERE OTHER SITUATIONS IN WHICH A SCHOOL DISTRICT OR A CHARTER SCHOOL IS REQUIRED TO RE-EVALUATE MY CHILD?**

A school district or a charter school must re-evaluate a child who is receiving special education services before determining that the child is no longer eligible for services. However, no evaluation is required before a school district or charter school graduates a student with a regular high school diploma or the student leaves school after completing the school year in which she reached age 21 (a point at which the student is no longer eligible for special or regular education). However, if the school or school district terminates services to a student for one of these reasons, it must provide the student with a summary of the child's academic and functional performance, including recommendations on how to assist the student to achieve her postsecondary goals.

## **WHAT ABOUT INDEPENDENT EDUCATIONAL EVALUATIONS?**

If you feel that the evaluations done by the school or school district do not answer crucial questions, or if you disagree with the evaluation report, you can ask that an independent evaluation of your child be done at the school or school district's expense. Or, you can pay for the independent evaluation yourself and ask to be reimbursed. If you want to be sure that the school or school district will be required to fund the Independent Educational Evaluation, it is important that you first ask the school district or school to complete or to correct its evaluation, and that you cooperate with their efforts to evaluate your child.

If school officials don't want to pay for your independent evaluation, the school or school district must schedule a special education hearing. The Special Education Hearing Officer will only order the school district to pay for an Independent Education Evaluation if the Hearing Officer determines that the district's evaluation was not adequate. Regardless of who pays, the results of all independent evaluations must be considered - but not necessarily accepted - by school officials. (For more information on independent evaluations, see the section of this booklet entitled, "*Getting Your Child an Independent Educational Evaluation*").

## **WHAT CAN I DO IF MY CHARTER SCHOOL OR SCHOOL DISTRICT DOES NOT OBEY THE TIMELINES AND OTHER RULES?**

If the school district or charter school doesn't conduct a complete and accurate evaluation or re-evaluation, you can request mediation or begin the process of requesting a special education hearing. A sample letter requesting a special education hearing can be found at the end of this booklet.

Alternatively, if the school or school district has violated a clear legal rule, such as the timeline for conducting an evaluation or re-evaluation, you can file a complaint with the Division of Compliance, Monitoring and Planning. The Division of Compliance forms can be found by clicking the "Compliance" link and then the "Consumer Complaint Form" link on the far-left-hand side of the following webpage: [www.pde.state.pa.us/special\\_edu/site/default.asp?g=0&special\\_eduNav=|978|](http://www.pde.state.pa.us/special_edu/site/default.asp?g=0&special_eduNav=|978|).

## **GETTING YOUR CHILD AN INDEPENDENT EDUCATIONAL EVALUATION**

### **WHAT IS AN "INDEPENDENT EDUCATIONAL EVALUATION?"**

An independent educational evaluation is an evaluation of a child that is conducted by a qualified person not employed by the child's school district, public charter school, or intermediate unit (if the IU is educating the child).

### **WHEN IS IT A GOOD IDEA TO GET AN INDEPENDENT EDUCATIONAL EVALUATION FOR YOUR CHILD?**

Whenever you believe that your charter school's or school district's evaluation of your child is not "appropriate." For example, if you believe that your child's evaluation is not accurate or complete, that essential testing was not done, that the wrong tests were used, or that the results are not sufficient for you and the IEP team to decide if the child has a disability and what special services she needs, you can ask your school district or charter school for an independent educational evaluation. You may also want to get an independent educational evaluation because you are about to go to a "Due Process Hearing," or because you have questions about your child's program or progress and want guidance from someone unconnected with your school or school district.

### **DOES MY CHARTER SCHOOL OR SCHOOL DISTRICT HAVE TO PAY FOR THE INDEPENDENT EDUCATIONAL EVALUATION?**

If the district believes its evaluation is appropriate it can refuse to pay for the independent educational evaluation. However, the law requires that the school or school district immediately schedule a "Due Process Hearing" so that a Hearing Officer can decide if the district should pay.

Remember, the school or school district has a right to evaluate the student before deciding whether she has a disability and what services she needs. Only if that evaluation is not adequate do they have to pay for an independent evaluation. So you can't refuse to let the school or school district evaluate your child and force them to pay for an outside evaluation instead.

## **WHAT QUALIFICATIONS SHOULD MY INDEPENDENT EVALUATOR HAVE?**

It is important that the evaluator have qualifications similar to the evaluators used by your charter school or school district. For example, if you want an independent psychological evaluation of your child, be sure the evaluator is a "Pennsylvania certified school psychologist." You can ask your school or school district for the criteria that the agency uses to conduct a similar evaluation. You can also ask the agency for information about where you can get an independent evaluation. However, the school or school district cannot limit you to a list of "outside" evaluators; you can pick any qualified person in your region.

## **WHAT SHOULD I EXPECT FROM MY INDEPENDENT EVALUATOR?**

That depends on the question you want the independent evaluator to answer. If the question is whether the child has a disability, you will want the evaluation report to identify the child's disability and the special education that the child needs. Another question might be what kind and amount of related services the child needs to make educational progress? Or, is the special education program the child is receiving appropriate and, if not, what changes should be made? Can the child be educated in a regular classroom with supports, and what specific supports are needed? It is very important that the evaluator help you to understand what your child needs to make meaningful progress. The more detailed the recommendations (for example, what exactly should my child's IEP say) the more useful the evaluation report will be.

## **HOW DO I REQUEST THAT THE CHARTER SCHOOL OR SCHOOL DISTRICT PAY FOR AN INDEPENDENT EDUCATIONAL EVALUATION FOR MY CHILD?**

You should write to your school or school district and request an independent evaluation at public expense. In your letter, you should state the type of evaluation that you want and the reasons why you think the school or school district's evaluation is not appropriate and an outside evaluation is necessary. You should also ask the district for information on where an independent evaluation can be obtained. (A sample letter requesting an independent educational evaluation at public expense is included in the Appendix.) The district should answer you in writing within a reasonable time. If the answer is "no," the district should

schedule a "Due Process Hearing." If the district does not respond to your request, and does not schedule a hearing, you can begin the Due Process procedures yourself by requesting a Special Education Due Process Hearing. With the school or district's agreement, you can also ask for mediation. For a discussion of the range of options for resolving this or other special education problems with your school or school district, see the section of this booklet entitled, "*How To Resolve Special Education Disputes.*"

### **MUST THE CHARTER SCHOOL OR SCHOOL DISTRICT CONSIDER THE RESULTS OF AN INDEPENDENT EDUCATIONAL EVALUATION?**

Regardless of whether the district agrees to pay for the independent educational evaluation, it must consider the results of any evaluations you have obtained when it makes a decision relating to your child's disability and special education needs. However, it doesn't have to agree with the results of the evaluation. Even if the school doesn't agree with the results of the evaluation, you may present the independent educational evaluation report as evidence at a "Due Process Hearing."

## DEVELOPING THE SPECIAL EDUCATION PROGRAM

### WHAT IS AN IEP?

Before a child with a disability can begin receiving special services, an Individualized Education Program (IEP) must be developed for the child. An IEP is a written plan that addresses the child's individual learning needs. It lists the special education, related services, and other supports the child needs to make real progress in school. The IEP should state when the services will begin, and how frequently and for how long they will be provided (for example, 2 periods per week of physical therapy, 30 minutes per session). The IEP must also state where the services will be provided.

The public charter school or school district *must* provide the child with the special education, related services, and other supports listed in the IEP. If the school or school district does not provide those services, it is in violation of the law. If that happens, and you are unable to persuade your public charter school or school district to fix the problem promptly, you can file a complaint with the PA Division of Compliance, Monitoring and Planning (see the section of this manual on "*How To Resolve Special Education Disputes*" for a discussion of how to file a complaint with DOC). The PA Department of Education's sample IEP form, with explanations of some of the terms and examples, can be found at [http://www.pattan.k12.pa.us/files/Forms/English/AnnIEP\\_072205.pdf](http://www.pattan.k12.pa.us/files/Forms/English/AnnIEP_072205.pdf).

### WHO WRITES THE IEP?

The IEP is written by a team of people. The IEP team should include at least the student's parents, a special education teacher, and a regular education teacher if the child participates or may participate in regular education classes. Also required is a school official who is qualified to provide or supervise specially designed instruction and who knows the special education system and the general education curriculum. The team must also include someone who can interpret the evaluation data (usually a school psychologist). If she has the necessary expertise, a school staff person can perform more than one role at the meeting.

Although the student's participation is not generally required, the student

can attend any meeting if that would be appropriate. In addition, if one of the purposes of the meeting is to consider the post-school transition needs of an older student, the district must invite the student to the meeting. If the student does not attend, the district must take other steps to ensure that the student's preferences and interests are considered. If the child has just turned 3 and was receiving early intervention services, the parent can ask the school or school district to invite someone from the Infants and Toddlers Early Intervention Program. Finally, the IEP team can also include anyone else the parents or the school district want to have there (including a parent advocate or related services personnel if appropriate).

A parent can agree *in writing* to excuse a required team member from attending the IEP meeting if the team will not be discussing or changing something in the IEP that relates to the team member's curricular area or the related service she is providing. A parent and a school district can even agree, *in writing*, to excuse a team member whose area is relevant to the discussion. In that case the team member must, *before* the team meeting, give the parent and the team *written* input. The parent cannot be asked to excuse other team members (such as the school official with knowledge of the school's general education curriculum). A parent should consider conditioning her agreement to excuse a required member on getting that member's written input at least a full week in advance of the meeting. This will allow time for the family to talk with the team member, or even to request that the team member come after all (if the school district points to the waiver that the parent signed and refuses to produce the team member at the current meeting, the family can request another IEP meeting and insist that the person attend that new meeting).

*Remember, a parent has no obligation to excuse - and should not excuse - a team member unless she believes that the person's active participation in the meeting is not necessary to understand the child's needs or to develop an appropriate IEP for the child.* For example, the regular teacher is often needed to help the team decide what positive behavioral interventions, supports, and other strategies should be included in the IEP, what supports should be provided for the student in the regular classroom, and what help is needed for school personnel to deliver the special education and related services so that the student can achieve her educational goals, make progress in the general education curriculum, and be educated to the extent possible in a regular classroom. So, in almost all cases, the

current or future regular education teacher will add to the discussion at the IEP meeting and should participate. The special education teacher and the provider(s) of important related services are also essential team members, especially when the child has not been succeeding in her program.

## **WHAT DOES THE IEP INCLUDE?**

First, the IEP must include a statement of the child's present levels of academic achievement and functional performance. This section should include information on how the child's disability affects her involvement and progress in the regular education curriculum (or, for preschoolers, participation in age-appropriate activities). For students who will be instructed according to learning standards that are different from their age-peers without disabilities, this section should set out the short-term objectives for the child in accordance with those alternate standards.

The IEP team then develops annual (year-long) academic and functional goals for the child. These goals must be "measurable," and must be designed to meet the child's needs and to help the child participate and progress, to the extent appropriate, in the general educational curriculum. The IEP must also explain how the child's progress towards these goals will be measured and when progress reports will be issued (for example, through report cards and written progress reports every six weeks).

The team must then decide what special education, related services, and supports the child needs in the regular classroom, and what help is needed for school staff who will be teaching the child. The programs and services must be based, to the extent practicable, on peer-reviewed research; help the child progress towards her annual goals; and help her be involved and progress in the general curriculum and extracurricular and non-academic activities. The IEP must also explain the extent to which the child will be educated in regular classes and activities. Note that the law requires schools to provide the child with the supports and services that are necessary to help the child succeed the regular class setting. If the child will turn 16 or older during the next school year, the IEP must address services that will be provided to help the student transition to post-school objectives.

Finally, the team must decide whether the child can participate in state and district-wide achievement testing (the PA System of School Assessment or PSSA is the PA test) and whether the student needs accommodations when taking the test. If the team concludes that a different type of test is needed, such as the Pennsylvania Alternate System of Assessment (PASA), the alternate test must be listed on the IEP.

## **WHAT ARE RELATED SERVICES?**

Related services are support services that some children with disabilities need to benefit from special education. These could include transportation and various types of therapies, such as speech, physical, occupational or psychological therapy. Related services can also include special equipment or other assistive technology that help the child participate and learn in school. The district can sometimes use another public agency to provide a needed service (for example, a child's need for one-to-one support for a severe behavioral disability could be met with Medical Assistance funded "wraparound staff" or TSS workers) but the services must still be listed on the child's IEP and guaranteed by the school district. This means that, if for some reason the other agency fails to provide the service (for example, the TSS worker is sick one day), the school district must provide the service itself.

## **WHAT DOES IT MEAN THAT THE SPECIAL EDUCATION, RELATED SERVICES, AND SUPPORTS OFFERED TO THE CHILD MUST BE BASED, WHENEVER PRACTICABLE, ON PEER-REVIEWED RESEARCH?**

The new special education law requires that the related services, and supplementary aids and services (the supports the child needs to be successful in a regular classroom) that are included in the IEP must be "based on peer-reviewed research to the extent practicable." In general, this means that schools should use strategies that have been found, through rigorous research studies, to be effective in helping students with disabilities learn successfully. For lots more information on research-based practices, see the PA Department of Education website at <http://www.pattan.k12.pa.us>. Follow the link for *IDEA 2004: Definition of Scientifically Based Research*.

In general, the school district or public charter school has the right to

select the instructional approach that will be used to teach the child. However, the law requires the school or school district to select approaches with a proven track record of success with children with similar learning needs. So, for example, if your child has dyslexia and a significant deficit in reading, if your school district offers an approach that your private evaluator says won't work with children with dyslexia (and shows you supporting research), you can ask the school district why it chose that approach (the school may have other research supporting its choice). Whether or not the school has its own research supporting its choice, you can share your expert's research with the district and ask it to consider switching methods. In any case, if the school district's approach has been unsuccessful with your child for a long time, a new approach may be needed for the child's special education program to be appropriate.

### **WHAT DOES IT MEAN THAT MY CHILD MUST BE GIVEN THE SERVICES NEEDED TO MAKE PROGRESS IN THE GENERAL EDUCATION CURRICULUM?**

The IEP team must decide how the child's disability affects her ability to be involved and progress in the general education curriculum that is offered to all children in the school district. The "general education curriculum" means the curriculum that your school or school district has developed that is aligned with the state standards that describe what all children at the same grade level are expected to know. You can review Pennsylvania's standards at <http://www.pacode.com/secure/data/022/chapter4/chap4toc.html>.

This means that children with disabilities should be taught what all other children at their grade level are taught unless there is a good, disability-based reason why they should be taught at a lower level. Note that the law states that the school can't refuse to include the child in the general curriculum solely because that curriculum would need to be modified for the child.

In order to help school districts prepare their students for statewide assessments, the PA Department of Education has developed "assessment anchors." Assessment anchors identify those parts of PA's standards in math and reading that the Department of Education considers most important. The assessment anchors are also helpful because they explain what students are expected to learn in simpler terms than the state "standards" and include helpful examples. For lots of information on assessment anchors and the Department's

assessment anchor "tool kit," see

[http://www.pde.state.pa.us/a\\_and\\_t/cwp/view.asp?a=108&q=103127&a\\_and\\_tNav=|6309|&a\\_and\\_tNav=|](http://www.pde.state.pa.us/a_and_t/cwp/view.asp?a=108&q=103127&a_and_tNav=|6309|&a_and_tNav=|).

The "assessment anchors" are a great place for a parent to start if she is trying to determine whether her child can progress in the general education curriculum, and to develop an IEP that is aligned with the general education curriculum. For example, you may want to ask the IEP team to develop IEP goals either entirely based on these anchors or that emphasize these anchors (since they are considered the most important math and reading concepts in the general curriculum).

It is important for a parent to advocate forcefully for her child's inclusion in the general education curriculum - after all, the general education curriculum is what the State and your school or school district have decided is important for all children to know to succeed in their post-school goals. But it is the school's or school district's job to make sure that each student's IEP is designed to help children be involved and progress in this curriculum. Remember, the IEP team must include someone who is "knowledgeable about the general education curriculum."

### **WHAT DOES IT MEAN THAT MY CHILD MUST BE EDUCATED, TO THE EXTENT POSSIBLE AND WITH SUPPORTS, IN A REGULAR CLASSROOM?**

Children with disabilities are entitled to be educated in a regular classroom if they can make reasonable educational progress given their disability in that setting when they are given extra supports. These supports are called "supplementary aids and services." The student does not have to achieve at the same level as her classmates without disabilities to be taught in a regular classroom - she just needs to make reasonable progress in the IEP goals that have been developed for her. The IEP team makes the decision whether and for how much time a student with a disability can be educated in a regular classroom, and that decision must be written in the "least restrictive environment" section of the IEP form. This is also the section where the name of the school that the child will attend must be listed.

Even if a student with a disability must be in a "pull-out" program for part of

the school day, (for example, going to a resource room for reading) the student should remain in the regular setting (with supports if needed) for the rest of her academic program and non-academic classes. Students with disabilities should also be allowed to participate in the same extracurricular activities as other students, with supports as necessary.

### **WHAT STEPS MUST THE CHARTER SCHOOL OR SCHOOL DISTRICT TAKE TO MAKE SURE THAT PARENTS KNOW ABOUT AND CAN ATTEND AN IEP MEETING?**

The law places great emphasis on parent participation in the IEP meeting. The school or school district must take steps to ensure that one or both of the child's parents are present at the IEP meeting and have an opportunity to participate fully. That means the school must notify parents of the meeting early enough so that they can attend, and schedule the meeting at a convenient time and place. Remember, if the student will be 16 or over during the next year and transition planning (planning for post-school goals) will be discussed, the student must also be invited to the IEP meeting. The PA Department of Education has developed a form for schools and school districts to notify parents about IEP meetings.

[http://www.pattan.k12.pa.us/files/Forms/English/AnnInvitationIEP\\_072205.pdf](http://www.pattan.k12.pa.us/files/Forms/English/AnnInvitationIEP_072205.pdf).

If the parent cannot attend the meeting in person, the school or school district must offer the family other ways of participating in the meeting, including conference calls. If the family does not participate in person or through other methods, the school or school district can hold the meeting without the parent - but it must keep a record of its efforts to get the parent to attend.

The school or school district must also provide interpreters for parents with deafness or parents whose native language is not English if the interpreter is necessary for the parent to understand what is being discussed at the IEP meeting.

### **WHEN MUST THE IEP BE COMPLETED?**

An IEP must be in effect for each child receiving special education services at the beginning of each school year. For a child who has been identified as eligible

for special education for the first time, the IEP meeting must be held within 30 calendar days of Evaluation Report date. Unless waived by the parent in writing, there must be at least 10 school days between the time the parent gets the evaluation report and the IEP meeting.

## **WHAT SHOULD HAPPEN AT THE IEP MEETING?**

School officials may arrive at the IEP Meeting with a *draft* IEP, but they cannot arrive with a final version. The draft IEP must be open for discussion and parent input at the IEP meeting. The final IEP should reflect the information exchanged by the team and the insights gained at the meeting.

The IEP team must consider the child's strengths, the parents' concerns for enhancing the education of their child, and the results of the most recent evaluation. If the child demonstrates behaviors that interfere with her learning, the team must consider the use of positive behavior interventions, supports, and other strategies to address the behavior. The team should also consider the child's language needs relating to the IEP if she has limited English proficiency. If the child is blind or visually impaired, the team should consider whether the child should have instruction in Braille and the use of Braille. If the child is deaf or hard of hearing the team must consider, among other things, the child's communication and language needs. The team must also consider whether the child needs assistive technology devices or services. The school district must also consider whether the child needs extended school year services.

The IEP team must also determine what type of special education program the child needs and what type of special education supports the child needs. Will she need, for example, a program that focuses on learning support, emotional support, life skills, or some other option? In general, in Pennsylvania, the "type of support" selected depends on the child's primary learning needs - is it to learn academic skills (learning support); to control behaviors (emotional support), to acquire basic living skills (life skills), and so on. The IEP team must then decide how much of the school day the child will receive special education, either in the regular classroom (this is called "itinerant support") or in a pull-out special education program such as a resource room, a part-time, or a full-time special education classroom.

## **WHAT HAPPENS AFTER THE IEP HAS BEEN DEVELOPED BY THE IEP TEAM?**

After the IEP has been finalized, the school or school district must give the parents a copy of the IEP along with a form called the Notice of Recommended Educational Placement (NOREP). The NOREP is a document that allows the parent to approve or disapprove the IEP. If the child will receive special education for the first time, services cannot start until the parent approves the IEP in writing on the NOREP. For later IEPs, if the parent does not disapprove the IEP in writing by checking the "I do not approve this recommendation" box on the NOREP, the IEP will go into effect. If the parent disapproves the IEP, the parent can select a number of options to resolve the dispute, including a meeting with school district officials, mediation, and a special education hearing. (See the section of this booklet on "*How To Resolve Special Education Disputes*" for more information on these options).

## **WHEN MUST THE SCHOOL DISTRICT OR PUBLIC CHARTER SCHOOL START PROVIDING THE SERVICES IN THE IEP?**

The child must start receiving the services in her IEP no later than 10 school days after the IEP is completed. For preschoolers with disabilities (between age 3 and school-age), the IEP must be implemented no later than 14 calendar days from its completion. These specific timelines do not apply to children in public charter schools, but charter schools are required to provide students with the services on their IEPs as soon as possible following the completion of the IEP.

## **HOW OFTEN ARE IEPS REVIEWED?**

The Team must meet at least once each year to review, and if necessary revise, the IEP based on the child's progress (or lack of progress) on her annual goals and in the general education curriculum, any re-evaluations, and parent or teacher concerns. Parents can request a new IEP Team Meeting at any time - even if an IEP meeting has already occurred this year.

With *the parent's consent*, IEPs can be amended between the annual meetings *without holding an IEP team meeting*. The IEP amendment must be in writing, but the school district is only required to give the family a copy of the

amendment if the parent requests it. *A parent should always request a copy of an IEP amendment!*

If your child is having problems, and you believe that the child's IEP should be reviewed, send a letter to the school or school district and ask that an IEP meeting be scheduled. If the school district does not promptly hold an IEP meeting, the parent can request a "pre-hearing conference" in writing, and, if the district agrees to hold the meeting, it must be held within 10 school days of its receipt of the request. Charter schools do not have to convene pre-hearing conferences. (For more information on pre-hearing conferences and the alternative options when your child attends a charter school, see the section of this manual on "*How To Resolve Special Education Disputes.*")

### **WHAT HAPPENS IF I MOVE - DOES THE NEW DISTRICT HAVE TO FOLLOW MY CHILD'S IEP?**

If a student with a disability transfers school districts, either from another Pennsylvania school district, charter school, or from out-of-state, the new school district or charter school must consult with the parents and provide the child with services comparable to those described in the last IEP until the new school district adopts the old IEP or the school district and the family agree on, and the school district implements, a new IEP. The new school district must promptly request, and the old school district must promptly forward, the child's school records, including the IEP and other special education records. In Pennsylvania, the old PA school District has 10 school days in which to send the records.

### **WHAT IF THE CHILD LIVES IN A RESIDENTIAL FACILITY, HOSPITAL, OTHER CHILD CARE FACILITY, OR A GROUP OR FOSTER HOME?**

The school district in which a foster placement, a residential facility or a group home is located is responsible for providing a child with an appropriate program and educational placement. Just like children living at home, children in residential facilities are entitled to be educated in the "least restrictive" educational setting, including, when appropriate, the local public schools. If the child's program cannot be implemented in the local school system, the school district in which the facility is located must make sure that the child receives all needed special education services. This could include contracting with the facility

if it offers its own education program. The student's "home" or resident school district reimburses the "host" district for most of the costs of the education program.

## **A QUICK REVIEW OF WHAT MUST OR MIGHT BE INCLUDED IN AN IEP?**

Remember, an IEP can be of any length and can contain any amount of information. However, the number of pages to the IEP is less important than the usefulness of the information provided. Here is a quick review of the major sections of an IEP and some of the questions that parents and school districts should ask as they develop an IEP for a child:

### **AN IEP CHECKLIST**

- CURRENT EDUCATIONAL LEVELS** - What are the student's current levels of academic achievement and functional performance (including social and daily living skills)? What can we learn from the latest school district and private evaluations? What insight can the parents or the other team members contribute from their experiences? What were the child's scores in the last state or district-wide assessment (PSSA or PASA), and what do those scores tell the team about the child's strengths and weaknesses? Can the child learn and progress in the general education curriculum, or will her program be geared to different learning standards?
- MEASURABLE ACADEMIC AND FUNCTIONAL ANNUAL GOALS** - What does the IEP Team, including the family, want the student to learn this year, starting from the goals/assessment anchors that reflect what all children of her age should be learning (that is, what goals are needed for the child be involved and progress in the general education curriculum)? Do the goals reflect all of the student's disability-related needs? Can this student take the state (PSSA) or district-wide assessments in one or more areas that is given to all students? Does the student need accommodations to take the PSSA? Is the student so severely cognitively impaired that she should be taking the alternate assessment (PASA)?
- SHORT TERM OBJECTIVES** - For children who take the PASA (or who are otherwise tested against achievement standards that are lower than the

usual achievement standards) the IEP must contain a description of the benchmarks or short-term objectives the child should meet throughout the year.

- **SPECIFIC SPECIAL EDUCATION TO BE PROVIDED** - What specialized instruction, methods, and strategies will be used by school personnel to help the child make progress towards his or her goals, to be involved and make progress in the general education curriculum, and to participate in extracurricular and nonacademic activities? Where will the services be provided?
- **TYPE, AMOUNT & FREQUENCY OF RELATED SERVICES** - What types of related services, such as transportation or physical, occupational, or speech therapy, does the child need? How often will it be provided? For how much time each session?
- **SUPPLEMENTARY AIDS, SERVICES AND MODIFICATIONS** - Are changes to the program or extra supports needed to help the child succeed in regular education classes? For example, does the child need more time to take tests? Or is a special education teacher needed to help the regular teacher modify the curriculum or to provide extra support directly to the child? What extra help will be provided to the child and to the child's teachers so that the child can advance toward annual goals; be involved *and progress* in the general curriculum; be educated with non-disabled peers; and participate in state and district-wide assessments? All aids and services needed for the child to succeed in the regular class must be listed on the child's IEP and provided by the district. A student with a disability should not simply be "dumped" into a regular education class without supports.
- **DATES SERVICES BEGIN & END** - Will all the services begin immediately? Will all the services continue through the school year?
- **HOW TO DETERMINE IF THE CHILD IS MAKING PROGRESS** - Are the annual goals and short-term objectives really measurable? How will the IEP Team measure the progress the child makes? How and when will parents be informed of the child's progress?

- **PROGRAMS AND ACTIVITIES WITH REGULAR EDUCATION STUDENTS** - If the child cannot be in regular classes for the full school day, during which parts of the school day will the child be with children who are not disabled?
- **AMOUNT OF SPECIAL EDUCATION** - Does the child need special education services for only some of the day? Most of the day? All of the day? Remember, many children can and do receive special education services within a regular education class.
- **TYPE OF PLACEMENT** - What type of special education service does the child need (for example, a resource room or itinerant support)? What type of special education "support" does she need (e.g., learning support, life skills support)?
- **LOCATION** - What school is recommended for the child? Can the services on the IEP be delivered in that school? Is there any reason the IEP cannot be implemented in the school the child would attend if not in special education? Is the placement as close to home as possible? The law has a preference (although not an absolute requirement) for the child to receive services in the class and school he or she would attend if he or she did not have a disability, and at a school as close to home as possible.

**IF NEEDED BY YOUR CHILD, HIS OR HER IEP MUST ALSO DESCRIBE:**

- **BEHAVIOR PROGRAMS** - Does your child have behaviors that interfere with her learning or the learning of other students? Does your child need a functional behavior assessment or a behavior plan in the IEP? If the child has emotional or behavior problems in school, what sets off those problems? What alternate skills need to be taught to help the child reduce challenging behaviors and increase appropriate ones? If problems do occur, how will they be handled? The IEP Team must consider and include in the IEP strategies to help students with behavior problems that interfere with their learning or the learning of others. The behavior components of IEPs must reflect individual students' needs and be based on positive - not negative (not punishment-focused)- approaches.

- **HELP FOR CHILDREN WITH LIMITED ENGLISH PROFICIENCY** - If the child is not fluent in English, the IEP Team must consider the child's language needs that relate to the IEP.
- **HELP FOR CHILDREN WITH VISUAL IMPAIRMENTS** - For a child who is blind or visually impaired, the IEP must provide for instruction in Braille and the use of Braille unless, after appropriate evaluation, the IEP Team determines that it is not appropriate.
- **HELP FOR CHILDREN WHO ARE DEAF OR HARD OF HEARING** - For a child who is deaf or hard of hearing, the IEP Team must consider the child's language and communication needs.
- **ASSISTIVE DEVICES AND SERVICES** - Does the child need special equipment or technology, such as a communication device or a special desk? Does the child - or do his or her teachers - need training on how to use assistive technology devices? Does the parent need training or supports?
- **VOCATIONAL PROGRAM** - If the child is nearing high school age, is vocational training appropriate?
- **EXTENDED SCHOOL YEAR (ESY)** - Does the child need a summer program to attain or maintain key skills? All children with a disability must be considered for ESY eligibility as part of their annual IEP meeting. **For children with especially severe disabilities, this consideration must take place before the end of March.**
- **ADAPTIVE PHYSICAL EDUCATION** - Are special gym classes needed?
- **TRANSITION** - If the child will turn 16 during the upcoming year (and sometimes for younger children, for example, those who are considering different types of high school settings) what skills will the child need for adult living? Are the needed skills being taught? Does the IEP contain measurable post-secondary goals based on age-appropriate transition assessments related to training, education, employment, and, where appropriate independent living skills? Does the IEP include transition services (including courses of study) needed to help the child achieve the

transition goals?

- **HEALTH CONCERNS** - Does the child have any medical or health problems that need special attention for the child to attend school or to learn properly? Districts do not have to provide medical treatment if the treatment is of a type that can be performed only by a physician. However, districts do have to arrange for medical evaluations if necessary to diagnose a child's disability or to determine what kind of special education or related services the child needs. And many services that can be provided by medically trained personnel - including nursing care and other "school health" services - must be provided when needed in school (although often the services are funded through Medical Assistance).

### **WHAT IF I DON'T AGREE WITH THE IEP OFFERED BY THE DISTRICT?**

After the IEP team develops the IEP, the school or school district should present the IEP to the family accompanied by a Notice of Recommended Educational Placement (NOREP). The Department of Education NOREP form can be viewed at:

[http://www.pattan.k12.pa.us/files/Forms/English/AnnNOREP\\_072205.pdf](http://www.pattan.k12.pa.us/files/Forms/English/AnnNOREP_072205.pdf). The NOREP offers the parent the option of approving the IEP and the proposed educational placement or disapproving the IEP and placement and choosing one of the dispute resolution options. If you disapprove the proposed IEP and placement in writing on the NOREP by checking "I do not approve," the old IEP will remain in effect while you use mediation, have an impartial hearing, or use other dispute resolution options to resolve your dispute with the school or school district. (For more information, see the section of this manual on "*How To Resolve Special Education Disputes*.")

You can ask the school district to make some changes while you work out the areas of disagreement. For example, you and the district could agree on the academic parts of the proposed IEP, but disagree about the amount or type of related services that your child needs or about the supports your child needs to succeed in a regular education class.

## **WHERE WILL YOUR CHILD GET SERVICES?**

### **DOES THE SCHOOL DISTRICT HAVE TO TELL ME THE SCHOOL WHERE MY CHILD WILL RECEIVE HER SPECIAL EDUCATION PROGRAM?**

The school district must inform the parent of the school where the special education program will be provided to the child. This information is listed in the "location" portion of the "Penn Data - Least Restrictive Environment" section (Section VIII) of the child's written Individualized Education Program (IEP). (See the section of this booklet entitled, "*Developing The Special Education Program*"). A student with a disability should be placed in the same school she would attend if she were not disabled unless her special education needs require that she be educated elsewhere. The school should also be as close as possible to the child's home. The law does not require that all children with disabilities attend their home school or that they attend the closest school - but these are factors that must be considered in determining which school should be offered to the child. If the school district (or charter school) is offering the family a program in the local Intermediate Unit, a private school, or other location outside the regular school building, that should be listed in the same section of the IEP.

### **WHAT KIND OF "PLACEMENT" DECISIONS DOES THE IEP TEAM MAKE, AND ON WHAT ARE THEY BASED?**

The IEP Team first develops the child's IEP, which includes a decision about how much time the child will spend in a regular classroom and how much time she will spend (if any) in a pull-out special education program. If the child needs some separate education to make educational progress, the team must decide what kind of separate program, and for how much of the school day, will best meet her education needs. Again, the law and good educational practice require that students with disabilities attend regular schools and classes whenever possible and that they be supported appropriately in those regular programs. Some examples of supports that can be helpful to a student with a disability in a regular class are special equipment (such as a modified desk or a communication device), a modified regular education curriculum, or help from a special or regular education teacher or

aide. In this way, the child is included and supported within the general student population and the general education curriculum.

The IEP Team also decides the *type of support* the child needs (for example, learning support, life skills support, autism support, etc). This decision is based on the child's primary learning need, that is, does the child most need to acquire academic skills (learning support); need to learn to control behaviors that interfere with her learning while acquiring academic skills (emotional support); because of significant cognitive disabilities, need to learn basic life skills (life skills support), and so on. The Team then decides the *type of service* the child needs (for example, itinerant, resource, part-time, or full-time), which in essence is a decision about how much of the child's school day should be spent receiving special education services. The IEP Team's final determination is what school (location) should be offered to the child; the location decision follows and is based on the Team's decisions about the child's education and special education needs. The IEP Team that makes placement decisions must include a school district staff person knowledgeable about placement options.

After the IEP has been developed for the child, the family is given a "Notice of Recommended Educational *Placement*" (NOREP) that includes the IEP Team's decisions on these "placement" issues. The "placement" listed on the NOREP usually does not include the school or "location" at which the program will be offered (as noted above that information is listed in the IEP). But the NOREP does list the type of special education service and the type of educational support program the school or district is offering the child. So, for example, for a child with mental retardation, the recommended type of service could be itinerant support in a regular classroom. For a child with an autism spectrum disorder, the type of support could be an autism support class, and the type of service could be "full-time."

Like all special education decisions, where a child will be educated must be based on the child's individual abilities and needs as described in the child's IEP and evaluations. A school district cannot refuse to place a child in a regular classroom, for example, solely because space is not available, merely to serve the school district's administrative convenience, or solely because of the category or

severity of the child's disability. (For example, the school district cannot say that all children with autism must be educated in a full-time autistic support class even though an individual child might succeed in a part-time learning support setting or regular classroom with supplementary aids and services.) A school district also cannot remove a child from an age-appropriate regular classroom solely because the child needs modifications to the general education curriculum.

## **WHAT PLACEMENT OPTIONS ARE AVAILABLE?**

Each school district must ensure that its students have access to a *continuum* of regular and special education programs, including regular education classes with support services from a special educator or other staff, part-time and full-time special classes in regular schools, programs operated by the local Intermediate Unit, and, for children whose needs cannot be met in a public program, appropriate private schools. Pennsylvania law also requires that schools and school districts offer a range of special education services and special education support programs.

## **ARE THERE RULES THAT LIMIT CLASS SIZE OR THE AGE RANGE OF THE STUDENTS IN THE CLASS?**

Wherever the child is placed, the child must be in a class and school serving students of the same age range as the child. The maximum age range allowed in classrooms that contain students with disabilities is 3 years for grades K-6, and 4 years for grades 7-12, unless the IEP Team decides that an exception is appropriate for a particular child and explains its decision in the IEP. (See the section of this booklet entitled, "*Developing The Special Education Program.*")

State law also sets out the maximum number of children that can be on a special education teacher's roster in the various types of special education support programs (for example, learning support, life skills support, and emotional support).

For the text of the regulation, visit:

[www.pacode.com/secure/data/022/chapter14/S14.142.html](http://www.pacode.com/secure/data/022/chapter14/S14.142.html). A school district can exceed the numbers in these regulations only with the approval of the Department of Education, and after a process that gives parents, teachers, and others a chance to comment on the proposed changes.

## DO PARENTS HAVE A SAY IN MAKING PLACEMENT AND LOCATION DECISIONS?

The IEP Team, which makes placement and location decisions, includes the parent. Moreover, parents must be notified in writing - on a Notice of Recommended Educational Placement (NOREP) - of: the offered placement, the reason for that offer, what other options were considered, and why those options were rejected. If the parent agrees with the offered IEP and placement, she should check "I approve" on the NOREP. If the parent disagrees with the offer, she should check "I do not approve" on the NOREP and select one of the options for resolving disputes, which range from a meeting with school district officials to a "Due Process" Hearing.

If the parent wants to challenge the offered placement through the special education hearing process, the parent must do more than check the box on the NOREP for a Due Process Hearing - the parent must also file a request for a hearing with the school district and the state's Office of Dispute Resolution. (For more information on each of the options listed on the NOREP, including how the special education hearing system works, see the section of this booklet entitled, "*How To Resolve a Special Education Disputes.*")

If the child will be receiving special education services *for the first time*, the school district cannot start services without the parent's written agreement; if you don't sign and return the NOREP, special education will not begin. If the child is already receiving special education services, and the school district is proposing to change the placement or some aspect of the child's IEP in a way that the parent does not like, the parent must check the "I do not approve this recommendation" box on the NOREP and give it to the school district within 10 calendar days. The school may implement the change if the form is not returned in time. (If you lose the NOREP form, you can give the school district a letter stating your disapproval.) If the parent disapproves of the school district's proposal, depending on the option the parent then chooses, the next step will be a meeting with the school district, mediation (if the school district agrees), or a special education hearing.

Even if the parent misses the 10-day deadline for disapproving the school district's proposal, she can still challenge the proposed placement or other aspect of the child's IEP through the procedural safeguard system. *But, in the meantime, the school district can implement its proposed change and the child will have to stay in the new program or placement until the hearing and appeals have been completed with a result favorable to the family.*

### **WHAT IS A PARENT'S CHANCE OF SUCCEEDING THROUGH THE SPECIAL EDUCATION HEARING SYSTEM IN CHALLENGING THE SCHOOL DISTRICT'S OFFER OF A PARTICULAR SCHOOL?**

In most cases, if the parent agrees that the IEP that is being offered to the child (including the type of service and type of special education support program) meets the child's needs; if that IEP can be provided at the proposed location; and if the child will be educated in the "least restrictive" setting appropriate to the child's needs, the parent will probably not have a legal basis for refusing to accept the school that is being offered by the school district. But some other issues that a parent can raise are whether the offered location is as close to home as possible, and whether the child's IEP could be implemented in her home school (unless there is a disability-related reason why another location is needed).

## SCHOOL DISCIPLINE AND STUDENTS WITH DISABILITIES

### HOW CAN DISCIPLINE PROBLEMS BE AVOIDED?

When the IEP Team develops a child's Individualized Education Program, it must consider whether the child has behaviors that hurt the child's or other students' ability to learn. If so, the Team must decide whether there are positive behavioral interventions, supports, and other strategies that should be included in the child's IEP. Continuing behavior problems often indicate that a child's IEP is not appropriate and needs to be changed.

If a parent suspects that behavior problems are preventing her child from succeeding at a public charter school or in a school district program, she should write to the principal and request an IEP Team meeting. If the child attends a school district program, and the school district does not respond promptly to the request for an IEP meeting, the parent can request a "pre-hearing conference." The pre-hearing conference must be held within 10 calendar days of the school district's receipt of the parent's written request. If an IEP meeting or other meeting with the charter school or school district does not resolve the problem, other options include mediation (with the agreement of the school district) or a special education "Due Process" hearing. (For more information on these options, see the section of this booklet entitled, "*How To Resolve Special Education Disputes.*")

At the meeting, the family should discuss the problems the child has been having, suggest changes that might help, and ask the school staff for suggestions. The family can request that the child receive a "functional behavioral assessment" (an evaluation of the events that trigger the child's misbehaviors) and that a Behavioral Intervention Plan be developed and included in the child's IEP. Issues to discuss may include: how the teacher could be a more successful "manager" of the classroom; whether there are behavioral support services such as counseling or a crisis intervention strategy that would help; whether there are approaches that would *prevent* disruptive behaviors; and whether the teacher is gathering on-going

data to help develop and implement appropriate approaches and to determine whether the student is making progress. The parent should make sure that the behavior plan in the child's IEP is based on positive measures designed to help, not punish, the student. For more information on assessing students' behavioral needs and developing appropriate behavior plans, visit [www.pattan.k12.pa.us/teachlead/Behavior.aspx](http://www.pattan.k12.pa.us/teachlead/Behavior.aspx).

### **WHEN SHOULD THE PARENT GET NOTICE THAT THE CHARTER SCHOOL OR SCHOOL DISTRICT HAS DECIDED TO TAKE DISCIPLINARY ACTION AGAINST HER CHILD?**

When a school decides to take a disciplinary action against a child (including any suspension, move to an alternative school, or change in classroom setting), it must give the parent written notice of the decision and attach a copy of the "Procedural Safeguard Notice" that explains the student's and family's legal rights.

*If the proposed disciplinary action is a "change in placement,"* the family should also receive a Notice of Recommended Educational Placement or NOREP. (For more on which disciplinary actions are considered to be a "change in placement" keep reading). The NOREP tells the family how the school or school district is proposing to discipline the child and why, gives you information on what other options the school or school district considered, and gives you the opportunity to agree or disagree with the proposal. If you disagree, you can request mediation, a special education hearing, or other options.

### **CAN STUDENTS WHO ARE RECEIVING SPECIAL EDUCATION BE TRANSFERRED TO A DIFFERENT OR SPECIAL SCHOOL, SUSPENDED, OR EXPELLED FROM SCHOOL FOR SCHOOL-RELATED MISBEHAVIOR?**

When the school district is proposing to expel a student, to transfer a student with a disability to another school (in Pennsylvania often called alternative schools for "disruptive students"), or to suspend the student, the student may be entitled to legal protections. To see if these protections apply, you must first figure out if the discipline the school is proposing counts as a "change in

placement."

### **Students with Mental Retardation:**

Any suspension, expulsion, or transfer of a student with mental retardation to another school is considered a change in placement - even a one day suspension.

### **Students with Other Disabilities who Attend Public Schools**

Any suspension or transfer of these students to another educational setting (including an alternative school) for more than 10 school days in a row (in Pennsylvania this is considered an expulsion), or for more than a total of 15 school days in the school year, is a change in placement. This means that if a school district has already suspended your child two times this school year for seven days each (a total of 14 days), then the next time the school wants to suspend your child it is a change in placement (because it will reach the 15 day mark).

### **Students with Other Disabilities who Attend Charter Schools**

If a public charter school proposes to expel a student, to suspend a student for more than 10 school days in a row, or has imposed a "pattern" of suspensions, then the action is considered a "change in placement." The law does not explain exactly how many suspensions add up to a "pattern." If your child has been repeatedly suspended, don't hesitate to tell the charter school that you think there has been a "pattern" and that you think that the rules for a change in placement must be followed. If the charter school doesn't agree, you can request a mediation session or a special education hearing. (See the section of this booklet entitled, "*How To Resolve Special Education Disputes*").

### **If the Proposed Discipline is NOT a Change in Placement:**

The public school or charter school may discipline your child on the same

basis as it disciplines students without disabilities. (For information on the disciplinary rules that apply to all students, see ELC's Fact Sheet entitled, "*School Discipline in Pennsylvania*" and other ELC publications on this subject. Philadelphia students have special rights and a separate fact sheet. All of ELC's fact sheets and manuals on school discipline can be obtained from [www.elc-pa.org](http://www.elc-pa.org), or you can call our office at 215-238-6970 for a copy).

### **If the Proposed Discipline IS a Change in Placement:**

Within 10 school days of a charter school's or school district's decision to change the child's placement, it must convene a meeting to determine whether the child's misconduct was a "manifestation" of the child's disability. In the meantime (while you are waiting for the meeting), the school may not transfer your child to a new school setting or force you to keep your child at home unless the child's misbehavior falls under one of the "special circumstances" - that is, it involved drugs, guns, or serious injury to another person; we discuss "special circumstances" in more detail below.

### **What happens at the "manifestation" meeting?**

Within 10 school days of a charter school's or school district's decision to "change the placement" of a child, the parent, and any members of the IEP Team that the parent and the local educational agency decide are needed, must meet to review: information from the child's file, the child's IEP, teacher observations, and information from the parent to determine if the child's misconduct was a manifestation of her disability. The questions the team must ask after looking at this information are:

- Was the misbehavior caused by, or directly and substantially related to, the child's disability?
- Was the misbehavior a direct result of the school's failure to follow the child's IEP?

If the answer to either question is "yes" then the team must conclude that the child's misbehavior was a manifestation of her disability.

**What happens if the Team concludes that my child's behavior WAS a "manifestation" of her disability?**

If the school and the family agree that the student's misbehavior was a manifestation of the student's disability, the student **CANNOT** be suspended, expelled or transferred to a new school setting as punishment for the misbehavior (unless the child's misbehavior falls under one of the "special circumstances" discussed below). In addition, if the school or school district has not previously done so, the IEP team must conduct a functional behavioral assessment. The school must also either develop or review and revise the child's behavior intervention plan.

**What happens if the team (including the parent) concludes that the child's conduct was NOT a "manifestation" of her disability?**

The school or school district can discipline the child the same way it disciplines students who do not have disabilities, which can include a long-term transfer to a new school or an alternative school, or even an expulsion by the local School Board. (To review the procedures that apply to the suspension and expulsion of all students, see the ELC Fact Sheet entitled, "*School Discipline in Pennsylvania*" and other publications on this subject.) However, even if the child is expelled from school she must still receive special education services (more below).

**What happens if my child's misbehavior constitutes "special circumstances"?**

"Special Circumstances" is misbehavior that involves drugs, weapons, or the infliction of serious bodily harm to another person at school or a school-related activity. If your child's misbehavior involves one of these "special circumstances," the school district or charter school can immediately move your child to an alternative educational setting for up to 45 school days **even if the IEP team**

**that meets later decides that the misbehavior was a “manifestation” of the student’s disability.**

For example, if your child has mental retardation and a teacher finds a marijuana joint in your child’s pocket, the school district or charter school can immediately transfer your child to an alternative school for up to 45 days. The IEP team must still meet to decide whether the misbehavior was a “manifestation” of the child’s disability. If the team decides that it was a manifestation, it must conduct a functional behavior assessment and/or revise your child’s behavior plan, but your child can still be forced to stay in the alternative school for the rest of the 45 days.

**What happens if the rest of the Team decides that the child’s conduct was NOT a manifestation of her disability and the parent disagrees?**

The parent can request a special education hearing to challenge this decision. The hearing must be concluded within 20 school days, and the Hearing Officer must reach a decision within 10 school days. If the Hearing Officer agrees with the parent, he can order that the child should return to the previous placement (where the child was before the misbehavior occurred). If the Hearing Officer disagrees with the parents, the child must remain in the alternative setting for the rest of the 45 days.

**Are there other ways that my child with a disability can be forced to transfer to (or to stay longer at) an alternative school without my permission?**

Remember, a school district or charter school can always transfer a child with a disability to an alternative school if the parent agrees to the change on a NOREP. If the parent won’t agree, a school district or charter school can ask a Hearing Officer to transfer the child to another school or an alternative school for up to 45 school days. The school or school district will have to prove to the Hearing Officer that permitting the child to remain in the current placement is dangerous. (The test is whether keeping the child in his current setting “is substantially likely to result in injury to the child or to others.”) If the Hearing

Officer agrees with the school or school district, the child must remain in the alternative educational setting until the Hearing Officer changes his mind or the end of the 45 day period, whichever happens first (unless, of course, the parent and the school reach a different agreement).

If your child has already been transferred to an alternative school for 45 days because her misbehavior involved one of the "special circumstances" outlined above, a school district can ask a Hearing Officer to order that she remain in that setting for another 45 days if the school district can show that returning her to her old placement is dangerous, using the procedure outlined above.

**If my child has been suspended, expelled, or sent to another educational placement, is she still entitled to receive education and special education services?**

State law provides that any student who is suspended has the right to make up the school work she misses. This rule applies even if the suspension is so short that it doesn't count as a "change in placement."

If a school district or a charter school "changes the educational placement" of a child with a disability, the school must continue to provide her with educational services sufficient for her to participate in the general education curriculum and progress towards meeting her IEP goals. This is true even when the child is in an alternative school or has been expelled. The child is also entitled to a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the misbehavior and prevent its recurrence.

**What if I believe my child has a disability, but she has not yet been identified by the school or school district? Is she entitled to any of these special protections?**

The law extends the same protections to a student when the district "had

knowledge," *before the student's misconduct*, that the child had a disability - even if the student didn't have an IEP. The law says that a school district or a charter school is considered to have such "knowledge" if: "the parents have expressed a concern in writing to the child's teacher or school supervisory or administrative personnel that the child needs special education; the parent has requested an evaluation; or the teacher or other school personnel has expressed specific concerns about the pattern of behavior demonstrated by the child directly to the director of special education or other supervisory personnel of the agency." If the student does not meet this standard, she can be punished in accordance with the rules that apply to all students. However, if the parent requests an evaluation during the disciplinary period, the school district or charter school must conduct the evaluation quickly. (In the meantime the child can be suspended, expelled, or transferred).

It is important to note that a student will not be entitled to the special education protections when the parent has not allowed the school district or charter school to evaluate the child, has refused special education services, or when the school district has already conducted an evaluation and found that the child does not have a disability.

**Can the school or school district report my child with a disability to the police?**

Special education law does not stop a charter school or school district from reporting a crime to law enforcement authorities. Subject to federal laws on the confidentiality of student records, if the child has a disability the charter school or school district must forward the child's discipline and special education records to those authorities.

**Do the same rules apply when a child is "suspended" from the school bus or is placed in in-school suspension?**

The same rules that apply to out-of-school suspensions apply to in-school suspensions if the student will be removed from her special education program or

placement. A proposed suspension from the school bus is also subject to the same rules as a proposed out-of-school suspension if transportation is listed on the student's IEP.

### **Does the law prohibit any forms of discipline?**

State law prohibits public school districts from ever using the following types of discipline for students with disabilities: corporal punishment, punishing a student for behavior that is an outgrowth of the student's disability, using "noxious" substances (for example, pepper sauce or mace), withholding meals, fresh air, or water, serial suspensions, electric shock, locking or keeping the student in a room, space, or box from which he or she cannot easily leave, and any treatment that is demeaning.

### **What happens if the parent cannot reach agreement with school officials?**

If the family and school officials cannot agree on any of the issues discussed in this section, for example, what should be in the child's behavior program; whether the misbehavior was a "manifestation" of the child's disability; whether the district had "knowledge" that the child had a disability before the misbehavior; or whether there is a safety issue that justifies putting the child in an alternative setting over the family's objection, the parents can use the Special Education Procedural Safeguard System described in the section of this booklet entitled, "*How To Resolve Special Education Disputes.*"

## HOW TO RESOLVE SPECIAL EDUCATION DISPUTES

### WHEN MUST A FAMILY BE GIVEN A PROCEDURAL SAFEGUARDS LETTER?

Once a year, the public charter school or school district must provide the family with a "Procedural Safeguards Notice" that sets out in detail all of the child's and family's procedural rights—including how to request a mediation session or a special education hearing to dispute a decision that the school or school district has made. The family must also be given a Procedural Safeguards Notice when the family first requests that a child be evaluated, when the school or school district has requested an initial evaluation, the first time that school year the parent requests a special education hearing, and when the parent requests a copy of the Procedural Safeguards Notice.

### WHEN MUST A SCHOOL GIVE A FAMILY WRITTEN NOTICE OF WHAT IT IS PROPOSING (OR REFUSING) TO DO?

A parent must be notified in writing when a school or school district wants to evaluate or re-evaluate a child; believes that a child is (or is not) eligible for special education services; proposes to change a child's disability classification; or proposes a change in the child's program or a "change in placement." A suspension or expulsion of a child with a disability for more than 10 school days at a time or for more than 15 school days in the school year is a "change in placement." (See the section of this booklet entitled, "*School Discipline and Students with Disabilities*"). The school or school district must also send the parent a written notice if it refuses the parent's request to do any of these things.

The written notice is usually called a "Notice of Recommended Educational Placement" or NOREP. The NOREP explains what the district is proposing or refusing to do, what other options the district considered, and why those options were rejected. The NOREP must also describe any evaluations, assessments, records, or reports on which the school district is relying.

## WHAT SHOULD I DO WHEN I RECEIVE A NOREP FROM MY CHARTER SCHOOL OR SCHOOL DISTRICT?

The NOREP has several "boxes" in which you can indicate whether you approve or disapprove of the school district's proposal, and, if you disapprove of it, the reason for your disapproval and what you want to happen: a meeting with the school district, a Pre-Hearing Conference, mediation, or a Due Process Hearing (note that a Pre-Hearing Conference is not an option for parents of students in charter schools). If the parent agrees with the school or school district's proposal, she should check the "I approve" box. If the parent disagrees with the proposal, she should check the "I do not approve" box. If the parent wants to have a special education hearing to resolve a dispute, it is no longer enough for a parent to check "I do not approve" box and the box requesting a Due Process Hearing. To request a hearing, the parent must also send a hearing request or "Complaint" to the school or school district and to Office of Dispute Resolution operated by the Pennsylvania Department of Education. See more about requesting a special education hearing below.

If the child is to be evaluated or to receive special education services *for the first time*, the school district cannot evaluate the child, identify the child as in need of special education, or implement the proposed program and placement without the parent's written agreement at each stage of the process. If the parent refuses to agree to an evaluation (or won't respond to an evaluation request), the school district can request a hearing and ask a Hearing Officer to compel the evaluation; but, a parent's refusal to allow the child to begin receiving special education services cannot be overridden by a Hearing Officer at a special education hearing. *A parent has less control if the child is already receiving special education services*, and the school or school district is proposing to change the child's disability classification, program, or placement.

If the child is already receiving special education services, the school or school district must still give the family a NOREP that describes the proposed change and supporting information. If the parent agrees with the change and checks the "I approve" box, the school or school district can implement the proposed change. If the parent disagrees with the proposal, but does not check

the "I do not approve" box on the NOREP, after 10 calendar days the school district may assume that the parent has agreed and may implement the change. Even if the parent misses this deadline, she can still challenge the placement or other aspect of the child's program through the procedural safeguard system described in this section. But, in the meantime, the school or school district can implement its proposed change and the child will have to stay in the new program or placement until the hearing and appeals have been completed with a result favorable to the family. Telling the school or school district that you don't agree isn't enough - you are only protected if you check the "I do not approve" box on the NOREP and request a hearing.

## WHAT SHOULD I DO FIRST IF MY CHILD'S PROGRAM IS NOT WORKING?

A parent may not agree with the evaluation, IEP, or placement offered to a child. Before using any of the "dispute resolution" options described below, the family should try to resolve the conflict with the school or school district. Even when a special education program has been well planned and implemented, there are times when things just do not work. For example, the child may not be making progress in academic areas, may continue to have serious behavior problems in school, or may not have progressed in a life skills program. Here are some steps a parent can take to help improve the situation:

Talk with the child's teacher or other school staff, either by phone or, if possible, in person. Find out if the teacher sees the same problems and if the teacher can think of any changes in the classroom that might help. Ask to see any assessments that have been done and copies of the child's work and test results. Are all services on the child's IEP being provided? For public school students, is the class over the number of students permitted by state law? Are there certain subjects or times of day that seem particularly hard for the child in class? Are the teaching strategies working for the child? Does the child need a "functional behavioral assessment" to identify more effective ways of dealing with behaviors that interfere with the child's learning and interrupt the class? Are there ways the family can help by working with the child at home?

Write to the principal and request an IEP Team Meeting to discuss whether changes in the child's IEP would help. Keep a copy of the letter. At the IEP Team Meeting, the family can raise many of the same issues that it discussed with the teacher and other staff. The family can also explore whether the goals in the IEP (and the short-term objectives for lower functioning children) need to be changed; whether the child is making the progress that was expected; whether additional or more frequent related services are needed; and any other areas of concern about the child's program and placement.

When you meet with the school staff, here are some things to consider:

- If no one seems to have the answers, perhaps the child needs to be re-evaluated. An instructional evaluation may identify better strategies to help teach the child, or a behavior assessment might show what changes are needed to the behavior program. *Remember, all needed evaluations must be done without cost to the family. (See the section of this booklet entitled, "Evaluating Your Child" for more information on evaluations.)*
- If a new evaluation will be needed, ask to sign the "Permission to Evaluate" form at the meeting or shortly afterwards. Remember, the school district has 60 school days, and a charter school 60 calendar days, from when the parent signs the Permission to Evaluate form to complete a new evaluation and give the parent the evaluation report, and a school district has 60 school days from when it receives a parent's written request for a re-evaluation to complete the re-evaluation and give the parent the Re-evaluation Report.
- Try to reach agreement on any changes that can be made to the child's program and IEP on a short-term basis while re-evaluations are being done or a hearing is being held. Do not rely on what the charter school or school district *says* it will provide to your child. The IEP is like a contract - the school or school district is only required to give your child the services and supports that are written in the IEP. So, if the school

or school district promises you something, and you want to make sure the promise is legally enforceable, ask them to write it in the IEP. (See the section of this booklet entitled, "Developing Your Child's Special Education Program" for a discussion of what belongs in an IEP.)

- If you anticipate problems at the IEP meeting, consider IEP Facilitation. IEP Facilitation is a new service offered by the Pennsylvania Department of Education's Office of Dispute Resolution (ODR). IEP facilitators can sometimes help schools and families resolve difficult problems relating to a child's IEP. IEP Facilitators are not Hearing Officers and cannot make decisions if the parties continue to disagree. But sometimes a neutral party at the IEP meeting can improve communication, which can lead to a good outcome. For more information on IEP Facilitation, check the ODR website at <http://odr.pattan.net/mediation/IEPFacilitation.aspx>, or call ODR at 1-800-222-3353.

### **IF I HAVE TRIED TO REACH AGREEMENT WITH THE CHARTER SCHOOL OR SCHOOL DISTRICT BUT HAVE NOT BEEN SUCCESSFUL, WHAT ARE MY OPTIONS?**

Your options include filing a Division of Compliance (DOC) complaint, "mediating" the dispute with the school or school district, requesting a Pre-Hearing Conference (except for children in charter schools), or requesting a special education or "Due Process" hearing. The mediation and hearing processes described below are designed to resolve disagreements about the child's eligibility for special education, the types or amounts of services that should be included in an IEP, and other questions that involve disputed "facts." The DOC complaint system, on the other hand, should be used when parents believe the charter school or school district is not meeting clear legal obligations it owes to the child or family. All of these options are discussed below.

### **WHEN SHOULD I FILE A DOC COMPLAINT?**

If the parent believes that her child is not getting the services already

listed on the IEP, the school or school district is not complying with timelines or procedures, or the school or school district is otherwise violating the child's *legal rights*, she should file a complaint with the State's Division of Compliance, Monitoring, and Planning (DOC). The family must file the complaint within a year of the legal violation. If the parent wants the school or district to provide extra services to make up for what the child missed, she should ask for "compensatory education services" in her DOC complaint. If the parent is seeking reimbursement for money she had to spend to purchase services that the school or school district should have provided to the child, that request should also be listed in the DOC complaint.

A parent should *not* file a DOC complaint if she believes that her child's special education program is inappropriate or inadequate in some way. For example, if a parent believes her child needs three hours of physical therapy, but the school is only offering two hours, the parent should ask for mediation or a special education hearing. The complaint process will not resolve disputes about the appropriateness of a child's IEP - mediation or a special education hearing must be used to resolve such disputes.

To file a DOC complaint, the family can send DOC a letter explaining their concerns and attach copies of any relevant documents, such as the child's IEP. (A copy of DOC's complaint form is included in the Appendix.) DOC has 60 calendar days to investigate the complaint and issue a written report deciding whether the law has been violated and what is needed to correct the problem (called "corrective action"). DOC is supposed to follow up to assure that all "corrective action" has been completed. The letter should be sent to:

Division of Compliance, Monitoring and Planning  
Pennsylvania Department of Education  
Bureau of Special Education  
333 Market Street  
Harrisburg, PA 17126-0333

Parents can also call DOC's Special Education ConsultLine at 1-800-879-2301

if they have questions concerning their child's special education program or special education law. (If calling from outside Pennsylvania, dial 717-541-4960 ext. 3332.) The ConsultLine also assists parents with the complaint process, and may refer the parent to outside agencies and support services.

## **WHEN SHOULD I USE MEDIATION?**

Mediation can be very helpful for families. It offers a quick and informal method for resolving disputes. If the parent and the school or school district agree to mediate, a "mediator" is assigned by the Office of Dispute Resolution—this person does not work for the school district and has training on how to help people reach agreements when they are not seeing eye-to-eye. The mediator will schedule a mediation session within 7 to 10 days of receiving the request. One benefit of mediation is that all discussions that take place at the mediation session are confidential and cannot be used by the school, school district or the parent in a later special education hearing or a court proceeding regarding the same problem. So, you should not worry about saying "the wrong thing" at the session.

The mediator will meet with each side separately, and then both sides together, to help find a resolution. Neither the school/school district nor the parent can bring an attorney to the mediation session; this helps to keep the mediation process informal. If the school or school district and parent reach an agreement, it should be put in writing and will be legally enforceable. If the agreement requires a change in the child's IEP, the school or school district will convene a meeting to make necessary revisions. For more information on mediation, check out the ODR website at <http://odr.pattan.net/>. You can download the mediation request form from that site. If you do not have access to a computer or the internet, call 1-800-992-4334.

You can also request mediation on the NOREP if you have checked the "I do not approve box." You then have a choice of checking the box for mediation, checking the box for a hearing, or checking both boxes. If the parent only checks the box for mediation, the timeline for scheduling a special education hearing does not begin to run. If you check both boxes and file a hearing request (see below for

how to file a hearing request) the timelines for the hearing will start running while the mediation takes place. In addition, if the problem is not resolved at the mediation session, and you already requested a hearing, the family will not be required to attend a "resolution session" before a hearing can be scheduled. (See discussion below for further information on resolution sessions).

## **WHEN SHOULD I REQUEST A PRE-HEARING CONFERENCE WITH MY SCHOOL DISTRICT?**

Families can ask the school district convene a Pre-Hearing Conference (PHC) to discuss a problem. To request a PHC, the parent can disapprove of the NOREP and check the box for a PHC, or the family can write to the principal and request a "PreHearing Conference." (Keep a copy of the NOREP or the letter.) If the school district agrees to meet with the family (it is optional), it must schedule the Pre-Hearing Conference within 10 calendar days of the date it receives your written request. If the school does not agree to meet with you, you may have to request a hearing or mediation. If an agreement is reached at the PHC that includes changing a child's IEP services or placement, the new services or new placement must begin within 10 school days of the meeting. The parent has 5 calendar days to change her mind and cancel any agreement reached at the PHC. Pre-Hearing Conferences do not apply to public charter schools.

Although there may be cases where a PHC is useful, because of changes in federal law there is now less reason for the parent to choose this option. If the parent attends a PHC and later requests a special education hearing the parent will still be required to attend another meeting with the school district - called a preliminary meeting or resolution session - before a hearing will be scheduled. (The only way around this new requirement is if the school district agrees with the parent, in writing, to skip the resolution session).

## **HOW DO SPECIAL EDUCATION HEARINGS WORK?**

*How do I request a hearing?*

A parent can request a special education hearing to resolve her dispute with the charter school or school district. The same rules that apply to the parent if she is requesting the hearing apply to the school or school district if it is the party requesting a hearing. Even if you have checked the box on a NOREP offered by the school district requesting a "Due Process Hearing," you have not made a valid request for a hearing until you send a "complaint" or hearing request to the school district, with a copy to ODR at: 6340 Flank Drive, Suite 600, Harrisburg, PA 17112-2764. ODR's fax number is (717) 657-5983, and the e-mail address is [odr@pattan.k12.pa.us](mailto:odr@pattan.k12.pa.us).

***What information must a special education hearing request contain?***

A special education hearing request or "Complaint" must contain the following information (in as much detail as possible):

- The child's name, home address (or available contact information if the child is homeless) and the name of the school;
- An explanation of the problems (including the facts relating to the problems); and,
- When possible, your suggestions as to how the problem might be solved.

If the school or school district thinks the parent's hearing request does not have the required information, it has 15 calendar days to argue to a Hearing Officer that the request is "insufficient," that is, it does not have the required information. If this occurs, the Hearing Officer has 5 calendar days to decide whether the request is sufficient, and the Hearing Officer must immediately notify the parties in writing. If the Hearing Officer rules that a request is not sufficient, no hearing will be scheduled based on the request.

Before you write your hearing request, think carefully about the problems that you want the Hearing Officer to decide. The Hearing Officer is only allowed to decide issues that you include in your Complaint. If you forget to mention a problem that you want resolved at the hearing, you will have to get permission from

the other side or the Hearing Officer to "amend" your request (see below), and the hearing timelines will start all over again.

***Can I ask for a hearing at any time?***

A parent must request a hearing within 2 years of the date that the parent either knew or should have known about the problems listed in the Complaint. The 2-year limit does not apply if the parent was prevented from requesting a hearing because the school or school district specifically misrepresented that the problem was solved, or because the school or school district did not give the parent information about the problem that it was required to provide under the law. If the problems have been on-going for more than 2 years, you may still request a hearing but the award you will be given (if you win) may be limited.

***Can I amend a hearing request?***

A parent can "amend" a hearing request only if the school or school district agrees in writing and is given a chance to resolve the complaint through a resolution meeting (see below), or if the Hearing Officer permits the amendment, which must be more than 5 calendar days before the special education hearing occurs. The timelines for convening and concluding a special education hearing begin again when the amended complaint is sent to the school or school district and to ODR.

It is not yet clear whether a family whose Complaint is found to be "insufficient" will be required to amend their Complaint or whether they can start over by filing a new hearing request, and if so, whether the time limit (2 years) will apply to the first or the second version of the Complaint. That will probably not be clear until after the federal regulations interpreting the new federal special education law are finalized (and maybe not even then). If you are facing that situation, you can contact the Education Law Center for help.

***Does the school or school district have to reply to my hearing request?***

If the school or school district has not given the parent a NOREP explaining the reasons and support for the actions that the parent is complaining about, it must send the parent a NOREP within 10 calendar days of receiving the hearing request. If the school or school district provided a NOREP to the parent before the hearing request was filed, it must give the parent a written response to the issues in the hearing request within 10 calendar days of receiving the request.

***What happens after the hearing request and the school district's response?***

Within 15 calendar days of receiving the hearing request, the school or school district must schedule a "preliminary meeting" or "resolution session." A resolution session is a meeting of the parent and IEP Team members with specific knowledge of the facts in the hearing request. The meeting must also include someone from the school or school district with decision-making authority. Any agreement reached at this meeting must be put in writing and is legally enforceable; the agreement can be cancelled by either side within 3 business days. A resolution session is not required if a mediation session has been held concerning the dispute. The parent and the school or school district can also make a written agreement to skip the resolution session, but such an agreement will not speed up the scheduling of the hearing.

The resolution session and mediation options are designed to help the parties avoid the need for a hearing. But in most cases, especially if the parent has not unreasonably delayed the convening of a resolution session and 30 calendar days have gone by after the parent submitted her hearing request, if the parent is not satisfied with the school's or school district's response, the process and timelines for scheduling the hearing begins.

***What rules apply at the hearing?***

The family has the right to bring an attorney to the hearing. The family may also bring and seek the advice of non-lawyers with special knowledge or training about the problems of children with disabilities at the hearing (for example, an ELC "Buddy"). The family can have access to the child's school records before the

hearing. The family (or the school) may ask the Hearing Officer to order a person to attend the hearing as a witness (for example, if the family wants to ask questions of a specific school employee at the hearing, that person can be required to attend and testify).

The family and school officials must exchange a list of all documents and witnesses that they intend to use at the hearing, as well as copies of all evaluation reports that may be used at the hearing, at least 5 business days before the hearing is scheduled to begin. If you don't provide this information when required, the Hearing Officer can prevent you from using the documents or witnesses at the hearing. The Hearing Officer may not be an employee of the school or school district.

### ***What happens at the hearing?***

The family will have a chance to explain the child's situation to the Hearing Officer, to present witnesses and experts, and to question school personnel under oath. The family will want to show why the current or proposed evaluation, program, or placement of the child is not appropriate and what services would be appropriate.

For example, the family may want to show the Hearing Officer copies of the child's IEP or past report cards and progress reports to show that the child has not made much progress. The family may also want to use an outside "expert," such as a certified school psychologist or other evaluator, to discuss what's wrong with the current situation and what improvements are needed. The school district will also have an opportunity to introduce documents and the testimony of school personnel. Each side gets to "cross-examine," that is, to ask questions of the other side's witnesses.

If the parties settle the dispute before the hearing, they can ask the Hearing Officer to put the resolution "on the record." However, such agreements will not be enforced by the Hearing Officer or by the Division of Compliance since DOC will only enforce a Hearing Officer's decisions reached after the hearing has

been concluded. The only way to enforce a settlement agreement is to go to court.

### ***What happens next?***

Once the timeline for scheduling the hearing begins, the Hearing Officer must make a written decision based on the information gathered at the hearing within 45 calendar days. The Hearing Officer can choose to extend this time at the request of either party (or refuse to extend this time).

### ***If we lose at a hearing, can the Hearing Officer's decision be appealed?***

The hearing decision can be appealed by either side to a Special Education Appeals Panel. A list of the issues on appeal (called "exceptions") and any brief that the parent chooses to file must be received by ODR within 15 calendar days of the date the Hearing Officer's decision is received by the parent's lawyer or the parent if she is not represented by an attorney. *The critical date is when the exceptions are received by ODR - not when they are sent.* The Appeals Panel decision must be completed within 30 calendar days. (These timelines also apply when a school or school district chooses to appeal a decision of a Hearing Officer.)

### ***Who pays for the family's attorney?***

Remember, you do not have to have an attorney to use the hearing process; you can go to the hearing by yourself. While it may seem scary to go to a hearing without an attorney, ask yourself what you have to lose if you go to a hearing on your own. You may not win everything you want, but you might win all or some of what you want. Even if you lose the hearing, you will know that you've given it your best shot.

If the family chooses to use an attorney at the hearing, and it ultimately wins the case through a decision of the Hearing Officer (not by a settlement before the hearing), the family may be eligible to be reimbursed by the district for the attorney's fees and experts' costs. The family cannot be reimbursed for

the time the attorney spends at an IEP conference, unless the conference is held as a result of the hearing.

## A REVIEW OF KEY TIMELINES

Some of the deadlines described in this booklet are in calendar days, others are in schools days (that is, days in which the schools are open), and a few are in business days (Monday through Friday except for holidays). If your public charter school, early intervention agency, or school district is not following a required timeline, contact the Special Education Director or other official and discuss the problem. If your child has missed services because of the delay, you should ask your school, school district, or early intervention provider to provide "compensatory education" to make up for services that your child missed.

If you can't resolve the problem promptly, you can file a complaint with the Bureau of Special Education, the Division of Compliance, Monitoring, and Planning, 333 Market Street, Harrisburg, PA 17126-0333, or you can contact the Special Education ConsultLine at 1-800-879-2301. (You can get a copy of the Division of Compliance's (DOC) complaint form from our website at [www.elc-pa.org](http://www.elc-pa.org)). You can also request mediation or a Special Education Hearing. For a detailed explanation of all of the procedures mentioned in this section, see the section of this booklet on "How To Resolve Special Education Disputes".

### THE PRE-SCHOOL SYSTEM (for children ages 3 to 5)

#### Evaluations

A first or "initial evaluation" of a child must be completed, and a written report presented to the parent, within 60 calendar days of the parent's signing of the early intervention preschool agency's "Permission to Evaluate" form granting the agency permission to evaluate the child. Re-evaluations must be completed, and a written report presented to the parent, within 60 calendar days of the school district receiving the parent's written request for a re-evaluation. Even if the parent does not request a re-evaluation, the school district must re-evaluate the child at least once every 2 years.

## **Individualized Education Programs (IEPs)**

A meeting to develop the child's program (IEP) must be held within 30 calendar days of the issuance of the first evaluation report. A child must begin receiving the services in her IEP within 14 calendar days of the parent's approval of the IEP. Children in the preschool system must have their IEPs reviewed by an IEP Team at least once a year. If the services listed in the IEP are changed at this annual meeting, the child must begin receiving the new services no later than 14 calendar days after the new IEP is completed.

## **SPECIAL EDUCATION FOR SCHOOL-AGE CHILDREN**

### **Evaluations**

For initial evaluations, a student must be evaluated, and a written report presented to the parent, within 60 school days of the parent's providing written consent for the evaluation by signing the school district's "Permission to Evaluate" form (for students attending a public charter school, the deadline is 60 calendar days). The school district must give the family the evaluation report at least 10 school days before the IEP Team meeting, although the parent can, in writing, waive this 10-day rule to combine the evaluation report meeting with the IEP Team meeting. Children receiving special education services must be re-evaluated every 3 years unless the parent and the school district agree to waive this re-evaluation. Students with mental retardation must be re-evaluated every 2 years. A parent can also request a re-evaluation of their child at any time, but the school district does not have to agree to complete more than one re-evaluation in a year.

## **Individualized Education Programs (IEPs)**

A meeting with the parent to develop the student's program (IEP) must be held within 30 calendar days of the issuance of the initial evaluation report. (There is no specific timeline for holding an IEP meeting after a re-evaluation.) The child must start receiving the services in the IEP no later than 10 school days

after the parent has approved the IEP and has signed the Notice of Recommended Educational Placement (NOREP). A child's IEP program must be reviewed and, if necessary revised, every year. New services in the revised IEP must also begin no later than 10 school days after the parent has approved the changed IEP.

## TIMELINES FOR DISPUTE RESOLUTION

Of course, before using one of these options, the parent should always talk with the agency staff and, whenever possible, meet in person. However, if after reasonable efforts to resolve the problem the parent is still dissatisfied, here are some of the options for resolving disputes and the applicable timelines.

***The Pre-Hearing Conference:*** A parent can ask her school district to convene a pre-hearing conference (PHC) whenever she believes that her school district is not meeting her child's special needs - for example, if she thinks the child's evaluation was inadequate or her program is not designed for her to make reasonable progress. Pre-Hearing Conferences do not apply to public charter schools (although, of course, parents of charter school students are free to request a meeting with school officials at any time).

The school does not have to agree to a parent's request for a PHC, but if it does agree then it must hold the PHC within 10 calendar days of the school's receipt of the request. If an agreement is reached at the PHC that includes changing a child's IEP services or placement, the change must be implemented within 10 school days. The parent has 5 calendar days to change her mind and cancel any agreement reached at the PHC.

A parent can skip the PHC and request either mediation or a special education hearing (the parent may have to do so if the school refuses to hold a PHC). If the parent requests a special education hearing, the school and family will be required to participate in another meeting (called a "resolution session") before the hearing can be held- unless the parent and the school agree in writing to waive this resolution session or agree to go to mediation. *The timeline for convening the special education hearing (30 calendar days) will **not** begin to run if the parent*

*requests a PHC but does not also request a hearing.*

**Mediation:** A parent can also request mediation. Mediation requires both parties - the charter school or school district and the parent - to agree to mediate. The Pennsylvania Office of Dispute Resolution (ODR) runs the mediation system. The ODR "casemanager" contacts the other party within 10 days of ODR's receipt of a request for mediation, and then sets a date, time, and place, for the mediation session. If the parent requests mediation, but does not request a special education hearing at the same time, the timelines for convening the hearing (30 calendar days) will **not** begin to run. If the parent requests a mediation session and a hearing at the same time, the time period for the hearing will begin to run while the mediation takes place (unless the parties agree to a time extension).

**Special Education Hearing:** A parent can request a special education hearing to resolve her dispute with the charter school or school district. The same rules that apply to the parent if she is requesting the hearing apply to the school or school district if it is requesting a hearing. The parent must request a hearing within 2 years of the date that the parent either knew or should have known about the problem(s) listed in their complaint. The 2-year limit does not apply if the parent was prevented from requesting a hearing because the school or school district specifically misrepresented that the problem was solved or if the school or school district did not give the parent information about the problem that it was required to give under the law.

To request a hearing, the parent must send a "complaint" to the school or school district and to the Office of Dispute Resolution. The law requires that certain information be included in the "complaint." The school or school district has 15 calendar days to argue to the Hearing Officer that the parent's Complaint is "insufficient" and does not have the required information. If a "sufficiency" challenge to the complaint is made, the Hearing Officer has 5 calendar days to decide whether the complaint is sufficient, and must immediately notify the parties in writing. If the Hearing Officer rules that a complaint is not sufficient, no hearing will be convened based on that complaint. There are rules about amending complaints.

If the school district has not given the parent written notice (called a Notice of Recommended Educational Placement) of the reasons and support for the actions that form the basis of the parent's complaint before the parent's complaint was filed, then it must send the parent a NOREP within 10 calendar days of receiving the complaint; the NOREP must cover the issues in the complaint. If the school district provided a NOREP to the parent before the complaint was filed, it must give the parent a written response to the issues raised in the parent's complaint within 10 calendar days of receiving the complaint.

Within 15 calendar days of its receiving the complaint, the school district must schedule a "preliminary meeting" or "resolution session," unless the parties agree to waive this meeting or agree to engage in mediation. A resolution session is a meeting with key district staff, including someone from the school or school district with decision-making authority. Any agreement reached at this meeting must be put in writing and is legally enforceable, but the agreement can be cancelled by either side within 3 business days.

If the charter school or school district and the parent has not resolved the problem within 30 calendar days of the school district receiving the complaint, the timelines for scheduling the hearing begin. The hearing must be completed and a decision must be issued within 45 calendar days unless the Hearing Officer grants an extension at the request of a party. The parties must exchange certain types of information about the evidence that will be used at the hearing at least 5 business days before the hearing.

**Appeals of Hearing Officers' Decisions:** A Hearing Officer's decision can be appealed to a Special Education Appeals Panel. A list of the issues on appeal (called "exceptions") and any brief that the parent chooses to file must be received by ODR within 15 calendar days of the date the Hearing Officer's decision is received by the parent's attorney or the parent if they are unrepresented. The critical date is when the papers are received by ODR - not when they are sent. The Appeals Panel decision must be completed within 30 calendar days. (These timelines also apply when a school or school district chooses to appeal the decision of a Hearing Officer.)

**Complaints to the Division of Monitoring, Compliance and Planning:** The State Department of Education, Division of Monitoring, Compliance and Planning has 60 calendar days to investigate and resolve a written complaint from the parent who believes their child's rights under the special education laws have been violated. For example, a parent can file a complaint with DOC against the school district for violations of the timelines set out in this section. The complaint must be filed within one year of the violation. If DOC finds that a child's right to an appropriate education has been violated, it will order compensatory education.

## SAMPLE LETTER REQUESTING AN EVALUATION

Your Address

Your Phone Number

Date

Principal's Name

Name of Your Child's School

School Address

Dear Principal:

I am the parent of \_\_\_\_\_, whose date of birth is \_\_\_\_\_.

My child has not been doing well in school and I am therefore requesting a comprehensive multidisciplinary evaluation to determine whether my child needs special education services, and, if so, what services are needed.

I would like to participate with the rest of the IEP Team in the review to determine what data and testing are needed. I'd also like to know when the testing (if any) will be held, and whether any meetings will be scheduled so that I can attend.

I understand that the evaluation must be completed, and a written report given to me, within 60 school days of my consent to the evaluation (note: 60 calendar days for students in public charter schools). Please send me, as soon as possible, a permission to evaluate form to sign so that we can begin the process. [Or, I'd like to come to the school and sign the form immediately].

Should you have any questions or problems with this request, please contact me.

Thank you.

Sincerely,

Your Name \_\_\_\_\_

**KEEP A COPY OF THIS LETTER FOR YOUR FILE. WE RECOMMEND THAT YOU HAND-DELIVER THIS REQUEST TO THE PRINCIPAL, OR THAT YOU SEND IT CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

## SAMPLE LETTER REQUESTING A RE-EVALUATION

Your Address

Your Phone Number

Date

Principal's Name

Name of Your Child's School

School Address

Dear Principal:

I am the parent of \_\_\_\_\_, whose date of birth is \_\_\_\_\_.

I feel that my child is not making progress in his/her special education program. I am particularly concerned about the area(s) of \_\_\_\_\_. In order to better understand the problem and the type and amount of services that may be needed, I am requesting that my child be reevaluated.

I would like to participate with the rest of the IEP Team in the review to determine what data and testing are needed. I'd also like to know when the testing (if any) will be held and whether any meetings will be scheduled so that I can attend. Please forward to me as soon as possible the permission to evaluate form to sign. I understand that the re-evaluation must be completed, and the written report given to me, within 60 school days of your receipt of this letter. Please send me, as soon as possible, a permission to evaluate form to sign so that we can begin the process. [Or, I'd like to come to the school and sign the form immediately].

Thank you.

Sincerely,

Your Name \_\_\_\_\_

**KEEP A COPY OF THIS LETTER FOR YOUR RECORDS. WE RECOMMEND THAT YOU HAND-DELIVER THIS LETTER TO THE PRINCIPAL OR THAT YOU SEND THE REQUEST CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

***Remember that your school district must reevaluate your child every 3 years (unless you agree otherwise), when the agency thinks a reevaluation is needed, or when a parent or teacher requests a reevaluation. If your child has mental retardation she should be reevaluated every 2 years. You can request additional reevaluations, but the school district is only required to conduct a maximum of one reevaluation each year.***

# SAMPLE LETTER REQUESTING AN INDEPENDENT EVALUATION

Your Address  
Your Phone Number

Date

Principal  
Your Child's School  
Address of your child's school

Dear Principal:

I am the parent of \_\_\_\_\_, whose date of birth is \_\_\_\_\_.

I am requesting that the school district agree to pay for an independent evaluation of my child. I believe that the district's evaluation is not appropriate for the following reasons: \_\_\_\_\_  
\_\_\_\_\_. I believe the following type of independent evaluation is needed: \_\_\_\_\_.

Please forward to me the criteria that the school district uses to select its evaluators for this type of evaluation. I would also appreciate a list of the evaluators that you would recommend (although I understand that I do not have to select someone from the list to evaluate my child).

I would appreciate it if you would contact me at your earliest convenience to let me know whether the school district will pay for this independent evaluation. I understand that if the school district turns down my request, it must immediately arrange for a Special Education Hearing. If you choose to pursue a hearing, please notify me when the school district will file a complaint with the Office of Dispute Resolution requesting that a hearing be scheduled, and when the resolution session will be convened. *[Note: A parent can also request that the public charter school or school district participate in a mediation session to resolve the dispute; if you mediate the dispute, and it doesn't work out, you can still have a hearing, and you don't have to also have a resolution session].*

Thank you.

Sincerely,  
Your Name

Cc: Superintendent

**KEEP A COPY OF THIS REQUEST FOR YOUR FILE. WE RECOMMEND THAT YOU EITHER HAND-DELIVER THIS REQUEST TO YOUR PRINCIPAL OR SEND IT CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

# SAMPLE LETTER REQUESTING A SPECIAL EDUCATION DUE PROCESS HEARING

Your Address  
Your Phone Number

Date

Principal  
Your Child's School  
School Address

Dear Principal:

I am the parent of \_\_\_\_\_, whose date of birth is \_\_\_\_\_.  
My child is a student in the \_\_\_\_\_ grade.

I hereby request a Special Education Due Process Hearing concerning my child's special education program (or evaluation, placement, or other issue). In order to complete my request, I am providing the following information:

**My child and I live at** [if your child lives at a different address, include the student's address also; if you are homeless, provide any contact information that is available].

\_\_\_\_\_  
\_\_\_\_\_.

**My reasons for disapproving the school district's recommendation are** [List all of the problems that you have with your child's special education program that you would like to be discussed at the hearing (it may be difficult to add issues later). Be sure to include all facts that explain the problems - see example below.]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

(For example: I am rejecting the offered IEP for my daughter because it proposes a separate special education classroom. I believe that my daughter can succeed educationally if she is placed in a regular classroom with supports. My daughter had a successful experience in a regular preschool, and she needs typically developing classmates to help her learn to speak and behave appropriately. My daughter also needs speech therapy, and the school district won't agree to provide it, etc.)

**My proposed solution(s) to the problem(s) are** [If you have a proposed solution list it here, or say

that you don't know how to fix the problem.]

---

---

(For example: I think my daughter would do well in a regular 1<sup>st</sup> grade class if she had an aide to help with recess, and a special education teacher to help her with math and to help her teacher change the curriculum to take account of her learning needs and levels. My daughter also needs two hours/week of speech therapy, etc.)

I am requesting that the Hearing be Open/Closed and held during the Day/Evening.

I would appreciate receiving copies of all my child's records prior to the hearing and as soon as possible.

Thank you.

Sincerely  
Your Name

cc: Office for Dispute Resolution,  
6340 Flank Drive, Suite 600  
Harrisburg, PA 17112-2764

School Superintendent

**IMPORTANT NOTE:**

**BEFORE MAKING A REQUEST FOR A SPECIAL EDUCATION DUE PROCESS HEARING, PLEASE REVIEW THE SECTION OF THIS BOOKLET CALLED "HOW TO RESOLVE SPECIAL EDUCATION DISPUTES." THAT SECTION EXPLAINS YOUR OPTIONS WHEN YOU DISAGREE WITH THE DECISION OF A SCHOOL DISTRICT OR A PUBLIC CHARTER SCHOOL. YOU CAN USE THIS LETTER TO ASK FOR A SPECIAL EDUCATION HEARING AT ANY TIME. OFTEN A FAMILY MAKES A REQUEST FOR A HEARING BY DISAPPROVING A SCHOOL OR SCHOOL DISTRICT PROPOSAL ON A NOTICE OF RECOMMENDED PLACEMENT (NOREP) AND CHECKING THE BOX FOR A SPECIAL EDUCATION DUE PROCESS HEARING. IF YOU REQUEST A HEARING ON THE NOREP, OR FILL OUT THE HEARING REQUEST FORM ON THE ODR WEBSITE, YOU MAY NOT HAVE PROVIDED ALL OF THE INFORMATION REQUIRED FOR A HEARING REQUEST. THEREFORE, WE RECOMMEND THAT YOU ALSO SEND THE CHARTER SCHOOL OR SCHOOL DISTRICT THIS LETTER. MAKE SURE THAT YOU SEND A COPY OF THE COMPLETED LETTER TO THE OFFICE OF DISPUTE RESOLUTION. KEEP A COPY FOR YOUR RECORDS.**

PENNSYLVANIA DEPARTMENT OF EDUCATION  
BUREAU OF SPECIAL EDUCATION  
CONSUMER REQUEST INTAKE FORM

CONSUMER INFORMATION

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

HOME PHONE \_\_\_\_\_ WORK PHONE \_\_\_\_\_

RELATIONSHIP TO STUDENT       PARENT/GUARDIAN     ATTORNEY  
 PARENT/ADVOCATE     ADVOCATE  
 OTHER

SCHOOL DISTRICT OF RESIDENCE \_\_\_\_\_

STUDENT INFORMATION

NAME \_\_\_\_\_ DATE OF BIRTH \_\_\_/\_\_\_/\_\_\_ AGE \_\_\_\_\_

IS THE STUDENT CURRENTLY IN SCHOOL?       YES       NO

NAME OF SCHOOL \_\_\_\_\_

WHERE IS THE STUDENT'S CURRENT PROGRAM? \_\_\_\_\_  
(E.G. IU, DISTRICT, REGION, APS)

YOU CAN USE THIS FORM TO FILE A COMPLAINT WITH PDE. TO DO SO, FILL OUT THIS FORM AND RETURN IT TO THE FOLLOWING ADDRESS WITH *COPIES* OF ANY RELEVANT DOCUMENTS AND CORRESPONDENCE. USE THE BACK OF THIS FORM AND/OR ADDITIONAL SHEETS TO BRIEFLY DESCRIBE YOUR CONCERN AND WHAT YOU THINK IS NECESSARY TO REMEDY THE PROBLEM, INCLUDING WHETHER YOU ARE REQUESTING COMPENSATORY EDUCATION (MAKE UP) SERVICES, AND RETURN FORM TO: PDE/BSE, DIVISION OF COMPLIANCE MONITORING AND PLANNING, 333 MARKET STREET, 7TH FLOOR, HARRISBURG, PA 17126-0333.

PLEASE CHECK ALL THE OPTIONS THAT APPLY TO ENABLE US TO ASSIST YOU.

I WOULD LIKE TO:

- BE CONTACTED BY THE SPECIAL EDUCATION CONSULTLINE TO DISCUSS MY CONCERNS AND REMEDY OPTIONS. CONSULTLINE (800) 879-2301
- SPEAK WITH A BUREAU OF SPECIAL EDUCATION ADVISOR, DIVISION OF COMPLIANCE MONITORING AND PLANNING, REGARDING MY CONCERNS.  
BSE (717) 783-6913
- REQUEST THE MEDIATION PROCESS TO ADDRESS MY CONCERNS. OFFICE FOR DISPUTE RESOLUTION (800) 222-3353
- FILE A FORMAL COMPLAINT.

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

CRP \_\_\_\_\_  
(Internal Use Only)  
Updated 9/16/03

## **ADVOCACY AND SUPPORT GROUPS**

### **ABOARD (Advisory Board on Autism & Related Disorders)**

800-827-9385

[www.aboard.org](http://www.aboard.org)

### **THE ARC OF PA**

800-692-7258

717-234-2621

[www.thearcpa.org](http://www.thearcpa.org)

### **AUTISM SOCIETY OF AMERICA-PA CHAPTER**

610-358-5256 (Phila. & Suburbs)

412-856-7223 (Pittsburgh)

[www.asaphilly.org](http://www.asaphilly.org)

### **CHILDREN WITH ATTENTION DEFICIT DISORDERS (CHADD)**

800-233-4050

301-306-7070 (National Office)

[www.chadd.org](http://www.chadd.org)

### **CONNECT EARLY INTERVENTION**

800-692-7288

### **EASTER SEAL SOCIETY**

717-741-3891

[www.visiteasterseals.org](http://www.visiteasterseals.org)

### **EDUCATION LAW CENTER**

215-238-6970 (Phila.)

412-391-5225 (Pittsburgh)

[www.elc-pa.org](http://www.elc-pa.org)

**EPILEPSY FOUNDATION**

800-887-7165

[www.efsepa.org](http://www.efsepa.org)

**LEARNING DISABILITIES ASSOC. OF PA**

412-334-0224

[www.ldaamerica.org](http://www.ldaamerica.org)

**YOUR LOCAL TASK FORCE**

There is a Task Force in each Intermediate Unit in the State. For information on the Task Force in your area, call the State Task Force Office at 800-360-7282

**MENTAL HEALTH ASSOC. IN PA**

215-751-1800 (SE PA)

[www.mhasp.org](http://www.mhasp.org)

**MENTAL HEALTH ASSOC. - ALLEGHENY COUNTY**

412-391-3820

[www.mhaac.net](http://www.mhaac.net)

**MENTOR PARENT PROGRAM**

888-447-1431 (NW and Rural PA)

[www.MentorParent.org](http://www.MentorParent.org)

**MUSCULAR DYSTROPHY ASSOC.**

800-572-1717

[www.mdaua.org](http://www.mdaua.org)

**PARENT EDUCATION NETWORK**

800-522-5827

717-600-0100

[www.parentednet.org](http://www.parentednet.org)

**PARENT INVOLVED NETWORK (PIN)**

800-688-4226

(helps families whose children have emotional problems)

**PA INITIATIVE ON ASSISTIVE TECHNOLOGY (PIAT)**

215-204-1356

[www.temple.edu/instituteondisabilities](http://www.temple.edu/instituteondisabilities)

**PA PARENT AND CAREGIVER RESOURCE NETWORK**

888-5-PARENT (572-7368)

[www.ppcrn.org](http://www.ppcrn.org)

**PA PROTECTION & ADVOCACY**

800-692-7443

717-236-8110

[www.ppainc.org](http://www.ppainc.org)

**TOURETTE SYNDROME SOCIETY**

800-990-3300

717-337-1134

[www.patourettesyndrome.org](http://www.patourettesyndrome.org)

**UNITED CEREBRAL PALSY**

215-242-4200 (Phila.)

717-761-6129

[www.ucpphila.org](http://www.ucpphila.org)

## USEFUL WEBSITES

**ADHDNews:** <http://www.adhdnews.com/>

Excellent website for information and resources about ADHD. Site has e-mail discussion group for parents of children with ADHD.

**Council for Exceptional Children (CEC):** <http://www.cec.sped.org/>

The CEC is dedicated to improving educational outcomes for individuals with exceptionalities, students with disabilities, and/or the gifted. The website provides information about the educational rights of children with disabilities, and it offers an on-line discussion forum for CEC members.

**The Council of Parent Attorneys and Advocates (COPAA):**

<http://www.copaa.net/>

COPAA is an independent, nonprofit, tax-exempt organization of attorneys, advocates, and parents established to improve the quality and quantity of legal assistance for parents of children with disabilities. COPAA's site includes links to other websites of interest, including a link to EDLAW, which maintains a list of attorneys who represent parents throughout the United States. EDLAW's address is: <http://www.edlaw.net/service/attorneys.html>

**IDEA Practices:** <http://www.ideapractices.org/>

This site is maintained by four projects funded by the U.S. Department of Education's Office of Special Education and Rehabilitative Services and it provides a wealth of information about special education law and practice. Contains links to disability-specific sites.

**LD OnLine: Learning Disabilities Information & Resources:**

<http://www.ldonline.org/>

Excellent site for basic and in-depth information about a wide range of learning disabilities. Offers a free electronic newsletter to provide updates about issues involving children with learning disabilities.

**Office of Special Education and Rehabilitative Services (OSERS):**

<http://www.ed.gov/offices/OSERS/>

OSERS, an office in the U.S. Department of Education, supports programs that assist in educating children with special needs, provides for the rehabilitation of youth and adults with disabilities, and supports research to improve the lives of individuals with disabilities. OSERS' website includes a link to a document entitled "A Guide to the Individualized Education Program" that can be downloaded off the Internet.

**Online Asperger Syndrome Information and Support (O.A.S.I.S.):**

<http://www.udel.edu/bkirby/asperger/>

Provides lots of information about Asperger Syndrome, links to other PDD/Autism web sites, and information about support groups for parents of children with Asperger Syndrome.

**Pennsylvania Department of Education (PDE):** <http://www.pde.state.pa.us>

Contains links to all of PDE's Basic Education Circulars (policy statements), Intermediate Unit web pages, and school district web pages.

**Pennsylvania Training and Technical Assistance Network (PaTTAN):**

<http://www.pattan.k12.pa.us/>

PaTTAN offers assistance to school personnel in the area of Effective Behavior Support and other areas. Types of support available include information, training and technical assistance on conducting Functional Behavioral Assessments, designing positive behavior support plans, and systems level interventions. PaTTAN has posted many publications and links on its website.

You can also access the PA annotated forms used by school districts and charter schools, such as the IEP, NOREP, and Procedural Safeguards Notice.

**University of Kentucky Behavior Home Page:**

<http://www.state.ky.us/agencies/behave/homepage.html>

Provides useful information about working with children with mental health needs.

**Wright's Special Education Law:** <http://wrightslaw.com/>

Excellent site operated by an attorney who represents parents in special education matters. Provides updates of recent court decisions from around the country, along with basic information about special education law.