

RESOURCES FOR PARENTS

If you have a child with mental retardation and/or emotional disturbance, he/she is entitled under the Pennsylvania Mental Health and Mental Retardation Act of 1966 and the Pennsylvania Mental Health Procedures Act of 1976 to the services of a local Mental Health/Mental Retardation (MH/MR) Center for an independent medical, psychological, and educational evaluation to be performed by a state-certified professional at no cost to you.

NAME/ADDRESS/PHONE NUMBER OF MENTAL HEALTH BASE SERVICE UNIT:

Turtle Creek Valley Mental Health, Homestead Office, 1800 West Street (Rear), Homestead, PA 15120 - (412) 462-9900

LOCAL CHAPTER OF THE PENNSYLVANIA ASSOCIATION FOR RETARDED CITIZENS:

Education Advocacy, ARC - Allegheny, 711 Bingham Street, Pittsburgh, PA 15203 - (412) 995-5000 Ext. 0

TOLL FREE PARENT ASSISTANCE LINES

BUREAU OF SPECIAL EDUCATION CONSULTLINE	800-879-2301
PARENT EDUCATION NETWORK	800-522-5827

LEGAL ASSISTANCE

PENNSYLVANIA BAR ASSOCIATION
BOX 186
HARRISBURG, PA 17108
800-932-0311

EDUCATION LAW CENTER OF PA
801 ARCH STREET, SUITE 610
PHILADELPHIA, PA 19107
215-238-6970

FREE MEDIATION SERVICES

OFFICE FOR DISPUTE RESOLUTION - MEDIATION SERVICES

800-992-4334

PROCEDURAL SAFEGUARDS NOTICE

***** SCHOOL AGE

SECTION I: PRIOR WRITTEN NOTICE

When prior written notice must be provided:

A school district/public agency must provide parents with prior written notice each time it proposes or refuses to initiate or change the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education (FAPE) to a child.

For example, prior written notice must be provided:

1. The first time a school district/public agency proposes or refuses to conduct an initial multidisciplinary evaluation;
2. Each time a school district/public agency proposes or refuses to conduct a reevaluation;
3. If the school district/public agency refuses to provide an independent educational evaluation at public expense;
4. If the school district/public agency proposes or refuses to change a child's educational placement, including any disciplinary exclusion which would constitute a change in educational placement;
5. If the school district/public agency proposes or refuses to make any significant change in a child's Individualized Education Program (IEP) and the provision of an appropriate program to a child.

What prior written notice must contain:

Prior written notices must be written in language understandable to the general public and, if appropriate, in the native language or other mode of communication of the parents. If necessary, the content of such notices must be communicated orally in the native language or directly so that the parents understand the content of the notices. Prior written notice must contain:

1. A description of the action proposed or refused by the school district, and explanation of why the school district/public agency proposes or refuses to take the action, and a description of any options the school district/public agency considered and the reasons why those options were rejected;
2. A description of each evaluation procedure, test, record, or report the school district/public agency used as a basis for the proposal or refusal;
3. A description of any other factors which are relevant to the school district/public agency proposal or refusal;
4. A full explanation of the procedural safeguards available to the parent;
5. A statement that the parents of a child with a disability have protection under procedural safeguards and, if the notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
6. Sources for parents to contact to obtain assistance in understanding these provisions;
7. A statement informing parents about the State complaint procedures, including a description of how to file a complaint and the timelines under those procedures.

SECTION II: PROCEDURAL SAFEGUARDS NOTICE

When a procedural safeguard notice must be provided:

1. At a minimum --
 - (1) Upon initial referral for evaluation;
 - (2) Upon each notification of an IEP meeting;
 - (3) Upon reevaluation of the child; and
 - (4) Upon receipt of a request for due process under Impartial Due Process Hearings.

Procedural Safeguards Notice

2. Upon the parent registering a due process complaint with respect to any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education to a child.

What a procedural safeguards notice must contain:

The procedural safeguards notice must include a full explanation of available procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so. It must be written in an easily understandable manner, describing the procedural safeguards available relating to:

1. Independent educational evaluation;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. Opportunity to present complaints;
6. The child's placement while due process proceedings are pending;
7. Procedures for students who are subject to placement in an interim alternative educational setting;
8. Requirements for unilateral placement by parents of children in private schools at public expense;
9. Mediation;
10. Due process hearings, including requirements for disclosure of evaluation results and recommendations;
11. State-level appeals (if applicable in that State);
12. Civil actions;
13. Attorneys' fees; and
14. State complaint procedure.

SECTION III: WHEN MUST PRIOR PARENTAL CONSENT BE OBTAINED

Parental consent must be obtained by the school district/public agency prior to:

1. Conducting an initial multidisciplinary evaluation of a student;
2. Conducting a re-evaluation of a student, except that such consent need not be obtained if the school district/public agency can demonstrate that it has taken reasonable measures to obtain this consent and the parent has failed to respond;
3. An initial placement in special education.

SECTION IV: PARENTAL REFUSAL TO GIVE CONSENT

If a parent refuses to give consent as described above, the school district/public agency may continue to pursue the evaluation and/or placement through mediation or a due process hearing if the school district/public agency believes that such an action is necessary for the student to receive an appropriate educational program.

SECTION V: INDEPENDENT EDUCATIONAL EVALUATION

Parents have the right to obtain an independent educational evaluation of their child. An independent evaluation is an evaluation by a qualified professional who is not an employee of the school district/public agency responsible for the child. The parents may request an independent educational evaluation at the school district's/public agency expense if they disagree with an educational evaluation completed by the school district/public agency. The school district/public agency must respond to the request within a reasonable time. However, the school district/public agency may initiate a due process hearing to show that its evaluation is appropriate. If the hearing officer decides that the evaluation is appropriate, the school district/public agency will not have to pay for the independent evaluation. Parents may, of course, get an independent educational evaluation at their own expense. If a parent requests an independent educational evaluation, the school district/public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the public agency may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.

Procedural Safeguards Notice

If parents obtain an independent educational evaluation at their expense, the results of the evaluation must be considered by the school district/public agency in any decision made with respect to the provision of a free appropriate public education to the child, and may be presented as evidence at a due process hearing regarding the child.

If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

The school district/public agency will provide, on request, information about where an independent educational evaluation may be obtained.

Whenever an independent evaluation is conducted at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the school district/public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

SECTION VI: DISPUTE RESOLUTION SYSTEMS

When disputes arise, parents have the following formal systems available to them for dispute resolution.

1. MEDIATION

Mediation is a voluntary process in which parents and school districts/public agency involved in a dispute regarding special education agree to obtain the assistance of a qualified impartial mediator. Mediation must be available, at a minimum, whenever a due process hearing is requested. This system can be accessed regardless of whether an impartial due process hearing has been requested. Essential requirements for mediation are described below. The Pennsylvania Department of Education's Bureau of Special Education maintains a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. Parents can receive information regarding Pennsylvania's mediation services by contacting the number listed in the "Resources for Parents."

- Mediation services are provided at no cost to the parent, including the costs of meetings with disinterested parties if the parties are required to obtain these services.
- Each session in the mediation process shall be scheduled in a timely manner and held in a location that is convenient to the parties.
- Discussions occurring during the mediation session shall be confidential, and no part of the mediation conference shall be recorded. Discussions occurring during mediation may not be used in any due process hearings or civil hearings that may occur at a later date.
- Parties involved in the mediation may be required to sign a confidentiality pledge prior to the start of the mediation process.
- The mediator may not be called as a witness in future proceedings.
- An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.
- When the mediation conference results in a resolution of dispute, each party shall receive an executed copy of the agreement at the conclusion of the mediation conference.
- Mediation may not be used to deny or delay a party's right to an impartial due-process hearing. The parents or the school district/public agency may immediately proceed to an impartial due process hearing.
- An individual who serves as a mediator may not be an employee of any LEA or any state agency, an SEA who is providing direct services to the child, and must not have a personal conflict of interest.
- The Mediation Agreement shall be enforceable by the Department of Education.

2. PRE-HEARING CONFERENCES AND IMPARTIAL DUE PROCESS HEARINGS

PRE-HEARING CONFERENCES: Although not a federal requirement, Pennsylvania state laws regarding special education allow parents to require a Pre-Hearing Conference before a formal due process request. The Pre-Hearing Conference is intended as an opportunity for the parent and school district/public agency to try to resolve disagreements about a student's identification, evaluation, program, and/or educational placement. It also gives the parties an opportunity to understand the reason for the other's position. In many cases, disputes are resolved by this process. Because a Pre-Hearing Conference is optional, a parent or school district/public agency may waive the right to a Pre-Hearing Conference and proceed to an Impartial Due Process Hearing. If a Pre-Hearing Conference is held, the following general requirements apply.

- The Pre-Hearing Conference will be scheduled within 10 school days from the date the school district/public agency receives a parent's request.
- The Pre-Hearing Conference will be chaired by the superintendent, early intervention representatives, or their designees.
- If an agreement is reached, the agreement will be implemented. If agreement is not reached, an impartial due process hearing will be arranged if requested.

IMPARTIAL DUE PROCESS HEARINGS:

- A parent or school district/public agency may initiate a hearing regarding the school district's/public agency proposal or refusal to initiate or change the identification, evaluation, or educational placement of the student or the provision of a FAPE.
- Parents requesting a due process hearing must notify the school district/public agency in writing of the nature of the problem with the school district's/public agency proposed or refused initiation or change of a child's educational placement, evaluation, identification, or the provision of FAPE, and any proposed resolution of the problem to the extent known and available. This notice is mandatory and the failure to provide it to the school district/public agency can diminish or extinguish a claim for attorney's fees and costs if the parents are represented by Legal Counsel.
- The hearing will be conducted by the school district responsible for the student's education.
- The school district/public agency must inform the parents of any free or low cost legal and other pertinent services available in the area if the parents request the information, or if the agency or parent initiates a due process hearing.
- A hearing may not be conducted by a person who is an employee of a public agency which is involved in the education or care of the student, or by any person having a personal or professional interest which would conflict with his or her objectivity in the hearing. (A person who otherwise qualifies to conduct a hearing is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.)
- Each school district/public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons. School districts/public agency shall provide parents with information as to the availability of the lists and shall make copies of the list upon request.
- A hearing should be held within 30 days after a parent or school district's initial request for a hearing.
- The school district/public agency shall ensure that a final hearing decision is reached and mailed to the parties within 45 days after the receipt of a request for a hearing, unless the hearing officer grants a specific extension at the request of either party.
- The decision of the hearing officer shall include findings of fact, discussion and conclusion of law. Although technical rules of evidence shall not be followed, the decision shall be based solely upon the substantial evidence presented at the hearing.
- The decision made in a due-process hearing is final, unless a party to the hearing appeals the decision under the procedures for impartial administrative appeal described below.

DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS:

At least five business days prior to a hearing, each party must disclose to all other parties, all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

If the evaluation or recommendations are not provided to the other party within five business days, a hearing officer may prohibit the information to be introduced without the consent of the other party.

DUE PROCESS HEARING RIGHTS:

Any party to a hearing has the right to:

1. Be represented by legal counsel and accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities;
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses;
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;
4. Obtain a written or, at the option of the parents, electronic, verbatim record of the hearing at no cost to parents;
5. Obtain written, or at the option of the parents, electronic, findings of fact and decisions at no cost to parents.
6. A parent's representative shall be given access to education records, including any tests or reports upon which the proposed action is based.
7. The hearing shall be an oral personal hearing and shall be closed to the public unless the parents request an open hearing. If the hearing is open, the decision issued in the case, and only the decision, will be available to the public. If the hearing is closed, the decision shall be treated as a record of the student or young child and may not be available to the public. Parents must be given the right to have their child present.
8. Each hearing must be conducted at a time and place that is reasonably convenient to the parents and child.
9. With regard to a disciplinary removal, an expedited hearing may be requested.
 - (a) Whenever a parent requests a hearing to dispute a district's determination that a child's behavior was not a manifestation of the child's disability;
 - (b) Whenever a parent requests a hearing to dispute a disciplinary exclusion which constitutes a change in educational placement;
 - (c) Whenever a parent requests a hearing to dispute a 45-day interim alternative educational setting ordered by school personnel; and
 - (d) Whenever a school district requests an expedited hearing to maintain that it is dangerous for a child to remain in the current placement;
 - (e) If an expedited hearing is conducted, the hearing officer's decision shall be mailed within 45 days of the public agency's

ADMINISTRATIVE APPEAL - IMPARTIAL REVIEW:

Any party aggrieved by the findings and decision in the hearing may appeal to a three-person panel appointed by the Pennsylvania Department of Education. If there is an appeal, the Appellate Panel Officers will do the following:

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1. Examine the entire hearing record.
2. Ensure that the procedures at the hearing were consistent with the requirements of due process.
3. Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the hearing rights described above apply.
4. Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official(s).
5. Make an independent decision on completion of the review.
6. Provide the parents a written or, at their option, an electronic copy of the findings of fact and decision.

Each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child.

The State Educational Agency shall insure that a final decision is reached in an administrative review and mailed to the parties within 30 days after the receipt of a request for a review, unless the reviewing official grants a specific extension at the request of either party. The decision made by the reviewing official is final, unless a party brings a civil action under the procedures described below.

CIVIL ACTION:

Any party aggrieved by the findings and decision made in an administrative review has the right to bring a civil action in State or Federal Court. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount of controversy.

CHILD'S STATUS DURING PROCEEDINGS:

During the pendency of any administrative or judicial proceeding regarding a due process complaint, unless the parents and school district/public agency agree otherwise, the student must remain in his or her present educational placement. If the decision of an Appellate Hearing Officer agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the school district/public agency and the parents.

If the hearing involves an application for initial admission to public school, the child, with parental consent, must be placed in the public school program until completion of all the proceedings whichever occurs first, unless the parent and the school district/public agency agree otherwise.

If a parent requests a hearing or an appeal regarding a disciplinary action (weapons, illegal drugs) to challenge the interim alternative educational setting or the manifestation determination the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of not more than 45 days.

AWARD OF ATTORNEY'S FEES:

In any action or proceeding brought under Part B of the Individuals with Disabilities Education Act, the court may award reasonable attorneys' fees to the parents or guardians of a child or youth with disabilities who is the prevailing party.

PROHIBITION OF ATTORNEY'S FEES:

The federal laws and regulations impose certain requirements upon parents and in some circumstances may limit attorney fee awards. Parents should consult with their legal counsel regarding these matters. The following are the federal regulations regarding this issue:

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Prior to a due process hearing, parents must provide written notice to the school district regarding their problem with the school district's proposed or refused initiation or change of a child's educational placement, evaluation, identification or the provision of FAPE.

In this notice, parents must also state facts relating to such problem and a proposed resolution of the problem to the extent known and available to the parents at the time. This notice is mandatory, and failure to provide it to the school can diminish or extinguish a claim for attorney's fees and costs if the parents are represented by Legal Counsel.

Attorney's fees may not be awarded and related costs may not be reimbursed in any action or proceeding for services performed subsequent to the time of a written offer of settlement to a parent if:

- (a) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;
- (b) The offer is not accepted within 10 days; and
- (c) The court or Administrative Hearing Officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

Attorney's fees may not be awarded relating to any meeting of the IEP team unless the meetings is convened as a result of an administrative proceeding or judicial action, or at the discretion of the State, for a mediation described in Sec. 300.506 that is conducted prior to the filing of a request for due process under Sections: 300.507 or 300.520-300.528.

An award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

The court reduces, accordingly, the amount of the attorneys' fees if the court finds that:

- (1) The parent, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;
- (2) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;
- (3) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
- (4) The attorney representing the parent did not provide to the school district the appropriate information in the due process complaint.

These reductions do not apply in any action or proceeding if the court finds that the State or local agency unreasonably protracted the final resolution of the action or proceeding.

SECTION VII: PARENTAL CLAIMS FOR TUITION REIMBURSEMENT

If the parents of a child with a disability, who previously received special education and related services under the authority of a school district/public agency, enroll the child in a private preschool, elementary, or secondary school without the consent of or referral by the school district/public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the school district/public agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the SEA and LEA's.

Parental claims for tuition reimbursement can be reduced or denied entirely:

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1. If a parent does not advise the school district/public agency at the last IEP team meeting prior to withdrawal of their child from school or at least ten business days prior to withdrawal of their child from school
 - a. That they are rejecting the school district's/public agency program and placement offer;
 - b. Their concerns with that offer; and
 - c. Their intent to enroll the child in a private school at public expense.

OR

2. If prior to withdrawal, the school district/public agency notifies the parents of its intent to evaluate with its reasons therefore, and the parents refuse to make their child available for such evaluation.

OR

3. If the court finds the parents acted unreasonably.

The cost of reimbursement may not be reduced or denied for failure to provide the notice if:

- The parent is illiterate and can not write in English;
- Complying with items 1-3 above would likely result in physical or serious emotional harm to the child;
- The school/public agency prevented the parent from providing the notice; or
- The parents had not received notice of the notice requirement.

SECTION VIII: RIGHTS REGARDING DISCIPLINE AND SUSPENSION

There are special rules in Pennsylvania for excluding children with disabilities for disciplinary reasons. When a student is excluded from school for more than 10 school days in a row or 15 total school days in any one school year, this will be considered a pattern, deemed a change in placement, and requires a prior written notice. The exclusion of a child with mental retardation for any amount of time is considered a change in placement and requires prior written notice. If parents do not agree with the change in placement on the NORA, the child remains in the existing placement until due process is completed, unless school officials take further action and go to court.

Changes in the new Individuals with Disabilities Education Act allow school officials to change a child's placement for up to 45 calendar days to an interim alternative placement without parental permission in school situations involving possession of a weapon, possession, or use of illegal drugs or the sale of controlled substance. In the new 45 days educational placement, the child must be able to receive the services in the IEP and continue to participate in the general curriculum. The new placement must also offer services to deal with the child's problem behavior so it does not occur again.

When a child's placement is changed for disciplinary reasons, the IEP team (including the parents) must meet to review the IEP to decide if it is appropriate and if it contains an appropriate plan, which addresses the child's problem behaviors. If no plan is included in the IEP, a functional behavioral assessment must be done and a behavior plan developed. A functional behavioral assessment takes a look at the child's behavior in the setting where the problems are occurring and analyzes what is happening to trigger and reinforce the inappropriate behaviors. It then outlines steps to reduce problem behaviors and replace them with appropriate ones. If a plan already exists, it must be reviewed and, if necessary, changed.

In addition, a "manifestation determination" must be conducted by the IEP team to decide if the child's behavior was caused by the child's disability or is a "manifestation" of the disability. In order to determine that a behavior was not a manifestation of the disability, the team must decide that the current IEP and placement are appropriate and have been put into place; that the child was able to understand the consequences of the behavior; and that the child could have controlled the behavior. Children with disabilities cannot be punished for behaviors that are related to, or are manifestations of, their disabilities.

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If the IEP team decides that the child's behavior was not related to the disability, the child's placement may be changed for disciplinary reasons. Parents have the right to ask for a due process hearing to challenge this decision. During the hearing, and any appeals, the child stays in the current placement unless the incident involved drugs or weapons, in which case the child stays in the interim alternative placement for up to 45 calendar days or to the end of due process, whichever occurs first. School officials and parents may ask for an expedited hearing on a due process hearing if they believe that the child is in danger to self or others in the current placement.

Anytime a child is given a disciplinary change in placement, or anytime a placement is changed for possession of weapons or drugs, school officials must still provide a free appropriate public education (including all services necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals identified on the child's IEP).

The law now contains certain protections for not yet eligible children who face disciplinary procedures. If school officials "knew or should have known" that a child was disabled, because of written requests from the parents for an evaluation; because teachers or other school personnel have expressed concerns about the behavior or performance of the child; or because the child's performance or behavior "demonstrates" a need for special services, the child is entitled to the protections given to children who already have been identified as eligible.

Nothing in special education law is to be construed to prohibit a school district/public agency from reporting a crime committed by an eligible student to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by an eligible student. A school district/public agency reporting a crime committed by an eligible student shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime. A school district/public agency reporting a crime may transmit copies of the child's special education and disciplinary records, only to the extent that the transmission is permitted by the Family Education Rights and Privacy Act. (See **Section X: Rights Pertaining to Education Records.**)

SECTION IX: SURROGATE PARENTS

Each school district/public agency shall ensure that an individual is assigned to act as a surrogate of a student when no parent or person acting as a parent can be identified or the school district/public agency, after reasonable efforts, can not locate parents. The school district/public agency must have a method for determining whether or not a student needs a surrogate parent, and for assigning a surrogate parent to the student.

The school district/public agency may select a surrogate parent in any way permitted under State law, but must ensure that a person selected as a surrogate is not an employee of a school district/public agency which is involved in the education or care of the student, has no interest that conflicts with the interest of the student he or she represents, and has knowledge and skills that ensure adequate representation of the student. (An individual is not disqualified as an agency employee from appointment as a surrogate parent solely because he or she is paid by the agency to serve as a surrogate parent. Determinations are made on an individual case-by-case basis.)

The surrogate parent may represent the student in all matters relating to the identification, evaluation, and educational placement of the student, and the provision of a free appropriate public education to the student.

SECTION X: RIGHTS PERTAINING TO EDUCATION RECORDS

The school district/public agency must permit parents to inspect and review all education records relating to their child with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to the child, which are collected, maintained, or used by the school district/public agency. The school district/public agency must comply with a request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the child, and in no case more than 45 days after the request has been made.

The parents right to inspect and review education records under this section includes:

1. The right to a response from the participating agency to a reasonable request for explanations and interpretations of the records;

2. The right to have a representative inspect and review the records; and
3. The right to request that the school district/public agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parents from exercising their rights to inspect and review the records.

The school district/public agency may presume that the parents have authority to inspect and review records relating to their child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

If any education record includes information on more than one child, the parents have the right to inspect and review only the information relating to their child or to be informed of that specific information.

The school district/public agency must provide parents, on request, a list of the types and locations of education records collected, maintained, or used by the agency.

FEES FOR SEARCHING, RETRIEVING, AND COPYING RECORDS:

The school district/public agency may not charge a fee to search for or to retrieve information under this part, but may charge a fee for copies of records which are made for the parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

RECORD OF ACCESS:

The school district/public agency must keep a record of parties obtaining access to education records collected, maintained, or used under this part (except access by parents and authorized employees of the participating school district/public agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

AMENDMENT OF RECORDS AT PARENT'S REQUEST:

If the parents believe that information in education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of their child, they may request the school district/public agency that maintains the information to amend the information. The school district/public agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the school district/public agency decides to refuse to amend the information in accordance with the request, it must inform the parents of the refusal and of their right to a hearing as set forth below.

The school district/public agency shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

If, as a result of the hearing, the school district/public agency decides that information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform you in writing.

If, as a result of the hearing, the school district/public agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parents of the right to place in the records it maintains on their child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the school district/public agency. Any explanation placed in a child's records under this section must be maintained by the school district/public agency as part of the records of the child as long as the record or contested portion is maintained by the school district/public agency; if the records of the child or the contested portion is disclosed by the school district/public agency to any party, the explanation must also be disclosed to the party.

SECTION XI: COMPLAINT PROCEDURES

Parents who believe that the educational rights of their child are being violated may file a complaint with the Bureau of Special Education, Pennsylvania Department of Education, requesting that this agency investigate the alleged violation. Requests for investigation must be in writing, and should be sent to:

Chief, Division of Compliance, Monitoring and Planning
Bureau of Special Education
Pennsylvania Department of Education
333 Market Street, 7th Floor
Harrisburg, PA 17126-0333

Parents may request a Consumer Complaint Form by calling the Bureau of Special Education's CONSULTLINE at 800-879-2301.

The Bureau of Special Education will investigate the complaint in a timely manner to determine whether the school district/public agency has failed to comply with State and/or Federal laws and regulations. The investigation may include obtaining additional written or oral information and an on-site visit. Except in extenuating circumstances, the Bureau of Special Education will complete the complaint investigation and issue a report of findings within sixty (60) calendar days.

If a written complaint is received that is also the subject of a due process hearing under or contains multiple issues, of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures.

If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties:

- The hearing decision is binding; and
- The SEA must inform the complainant to that effect.
- A complaint alleging a school district/public agency's failure to implement a due process decision must be resolved by the SEA.

An organization or individual may file a signed written complaint. The complaint must include:

1. A statement that a public agency has violated a requirement of Part B of the Act or of this part; and
2. The facts on which the statement is based.

The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received unless a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint is received.

SECTION XII: APPLICABLE LAWS AND REGULATIONS

22 Purdon's Statutes §5-501, 13-1371, 13-1372, 13-1373.1, 13-1374, 13-1376, and 13-1377, Pennsylvania School Code of 1949.

22 PA Code, Chapter 14, Regulations of the State Board of Education.

20 USC 1401 et seq., The Individuals with Disabilities Education Act (1997).

34 CFR, Parts 300-303, Rules and Regulations for Individuals with Disabilities Education Act.

DUE PROCESS HEARING REQUEST

REQUEST FOR A DUE PROCESS HEARING MUST BE FORWARDED TO THE OFFICE FOR DISPUTE RESOLUTION IMMEDIATELY AFTER RECEIPT OF THE REQUEST FROM THE PARENTS. IT IS IMPORTANT THAT BOTH SIDES OF THIS FORM BE FULLY COMPLETED. MAINTAIN A COPY OF THIS FORM FOR YOUR RECORDS.

Student's Name _____ Date of Birth _____

Student's Exceptionality _____

School District _____

School District Contact Person _____

Title _____

Address _____

Phone No. _____ Fax No. _____

School District Attorney/Representative _____

Title _____ Phone No. _____ Fax No. _____

Address _____

Parents(s) _____

Address _____

Phone No. (Work - Mother) _____ (Work - Father) _____

Home Phone No. _____ Fax No. (if available) _____

Parents' Attorney/Representative _____

Title _____ Phone No. _____ Fax No. _____

Address _____

INFORMATION ABOUT THIS HEARING:

The following information is needed in order to facilitate the scheduling of the hearing:

Brief Description of the Dispute _____

Parent Resolution _____

School District Position _____

School District Resolution _____

The hearing will be held at a time and place reasonably convenient for the parents.

Is a language other than English the dominant language of the parents? _____ Yes _____ No

If yes, identify language _____

Procedural Safeguards Notice

The school district is to provide a convenient location for the hearing. Please consider the needs of all individuals involved in the hearing, including accessibility for individuals with disabilities. This hearing will be held at the following address:

(Please enclose a map and/or directions for the Hearing Officer.)

Date Form Completed _____

SEND THIS FORM TO:

Office of Dispute Resolution
6340 Flank Drive, Suite 600
Harrisburg, PA 17112

**OFFICE FOR DISPUTE RESOLUTION
MEDIATION REQUEST FORM**

Mediation requested by: Parent _____ School District _____

Student's Name: _____ **Date of Birth:** _____

Male _____ Female _____ Student's Exceptionality: _____

Current Placement: _____

School District: _____

Superintendent: _____

School District Contact Person: _____

Title: _____

Address: _____

Phone No.: _____ Fax No.: _____

Parent(s) Name: _____

Address: _____

Phone No.: _____ Fax No. (if available): _____

Mother (work): _____ Father (work): _____

INFORMATION ABOUT THIS MEDIATION: The following information is needed in order to facilitate the scheduling of the mediation.

Brief description of the dispute:

Parent Issues _____

School District Issues _____

TO REQUEST MEDIATION, PLEASE CALL:

The Office for Dispute Resolution: 1-800-992-4334 (PA only) or (717) 541-4960

