

Parents' Rights:

Understanding the Procedural Safeguards Notice

Parents of children who receive or who may be eligible for special education services have rights under a law called the Individuals with Disabilities Education Act (IDEA). This brochure provides a summary of those rights. The *Procedural Safeguards Notice* provides a more detailed explanation of those rights.

Local educational agencies (LEAs), which include school districts, charter schools, early intervention agencies, and intermediate units (IUs), must give parents a copy of the *Procedural Safeguards Notice* at least once each school year. Parents can also obtain a copy from their school at any time. The *Procedural Safeguards Notice* is available from the Pennsylvania Department of Education, Bureau of Special Education.

There are several organizations that can help parents understand their rights and how to navigate the special education system. For assistance, parents are encouraged to call any of the organizations listed on the back of this brochure.

Parents Have Rights

Some basic rights you have as a parent are:

- To have your child receive a free, appropriate public education (FAPE)
- To be a member of the team that develops your child's education program and to attend meetings about that program
- To understand every document you sign
- To know and understand your rights in the language you understand best
- To pursue other options if you disagree with your LEA

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DEPARTMENT OF EDUCATION
Bureau of Special Education
Pennsylvania Training and Technical Assistance Network

As a Parent, You Have the Right . . .

To Receive Prior Written Notice

You have a right to receive written notice called the *Notice of Recommended Educational Placement (NOREP)/Prior Written Notice* in the language you understand best before the LEA changes (or refuses to change) its decision about:

- Your child's eligibility for special education services
- Determining your child's disability
- What services your child will receive
- Where your child will receive services

To a Fair and Accurate Evaluation of Your Child

You have the right to ask your school to evaluate your child to see if your child has a disability and needs special education services in school. Your child must be assessed using tests and procedures that do not reach wrong conclusions because of your child's disability or ethnic background. For example, a test written in English should not be given to a child whose primary language is Spanish.

To Refuse to Consent

Your written permission is required for the LEA to evaluate your child for the first time, unless a special education hearing officer has ordered an evaluation. Even if the evaluation team decides that your child is eligible for special education services, you do not have to accept those services for your child.

To Receive an Independent Educational Evaluation (IEE)

If you think the school's evaluation was not done properly, you may want your own, independent, educational evaluation. You can ask the school to pay for an educational evaluation of your child by an approved evaluator who does not work for the LEA. However, if the district believes that an independent evaluation is unnecessary and a hearing officer decides that the school's evaluation is appropriate, you will pay for your own evaluation.

To Participate

You have the right to participate in developing an education plan for your child (called an Individualized Education Program or IEP). **You are an important part of the team that makes decisions about your child's education**. You have the right to share information and express your opinion at any team meeting or anytime you feel it will help your child's education. The team decides the kind and amount of services your child needs and where they will be provided. The team should include your child's teachers and school administrators. If you have concerns or ideas about your child's program, you should first talk to your child's teachers or other people who work with your child. Talking with the members of the team early on can often prevent problems later. Open, mutual communication between you and members of your child's team is encouraged in order to provide an appropriate program for your child.

To Mediate a Dispute

You can also ask for "mediation" to settle a disagreement with the school about your child's special education program. Mediation:

- Is overseen by a neutral party (the mediator)
- Is free
- Is voluntary on the part of the parents and the school
- Can be used without requesting a hearing or can be tried after a hearing is requested
- Can help you and school staff come to agreement

To Keep Your Child in the Same Program While You Are Waiting for Mediation or a Hearing to be Completed

If you or your school have requested mediation or a hearing, your child must "stay put" in his or her current program until the disagreement is resolved. That means that the school can't change the program until the mediation, hearing, and any court actions have ended.

To make sure your child "stays put," you **must:**

- Check the box on the *Notice of Recommended Educational Placement (NOREP)/Prior Written Notice* form that indicates that you request either mediation or a hearing; **and**
- Complete a *Due Process Complaint Notice* form. You can request this form from ODR or from your school. Send the form to the Office for Dispute Resolution in Harrisburg, and send a copy to your LEA. **Your child does not have**

"stay put" protection until you have filled out and "filed" your hearing request.

To Be Given a Hearing if You Disagree with the IEP the LEA has Offered for Your Child

You can ask for a hearing if:

- You believe that the IEP the LEA has offered your child does not meet his or her needs
- You believe that your child should be educated in a different place
- There is any other important point on which you and your LEA disagree (related to evaluation, identification, FAPE, or educational placement)

This hearing is called a due process hearing. You have the right to:

- Bring an attorney to the hearing (Pennsylvania state law does not permit nonattorney representation at a due process hearing)
- Communicate your opinion and have experts give their opinions
- Provide the hearing officer with important records
- Ask questions of the school's witnesses

A "hearing officer," provided at public expense, decides the case. If you disagree with the decision, you can ask a court to reverse it.

For more information about mediation, or to file a request for a due process hearing, call the Office for Dispute Resolution at 800-222-3353 or go to http://odr-pa.org.

To See and Keep Private Your Child's Education Records

You have a right to see all of your child's education records. You also have the right to prevent the LEA from sending the records to someone else without your written permission (with some exceptions). The school must give you a free copy of your child's IEP.

To File a Complaint Against Your LEA

If you believe your child's school has violated the law, you can file a written request (called a "complaint") for the Pennsylvania Department of Education to investigate. For example, you can file a complaint if your school fails to provide a service included in your child's IEP. Within 60 days of receiving the complaint, the Department must investigate and give you a written report with the results of its investigation and how it will address any problems it has found.

To Special Protections in School Discipline

Your child is expected to follow his or her school's code of conduct. However, children receiving special education services have certain rights when it comes to school discipline. Some rules a school must follow are:

- The IEP team must decide if the child's disability caused the misbehavior for which the school wants to discipline the child. This is called a **manifestation determination**. This decision must be made before the school can:
  - Suspend a student with an IEP for more than 10 school days in a row or 15 total school days in a school year
  - Exclude a child with an intellectual disability for any amount of time
- If the offense involved drugs, weapons, or serious injury to self or others, the school can move the child to a different school for nomore than 45 school days without parent permission, even if the behavior was caused by the student's disability. The district must provide an appropriate special education program for your child, although not necessarily in the same school setting.

Rules about the discipline of students with disabilities are complicated. You should talk to your school if you have questions about the process. You can also call one of the organizations listed at the end of this brochure if you would like more information about your rights.

To Remove Your Child from Special Education Programs

You can decide to withdraw your child with a disability from special education programs and related services at any time.

- You must request this **in writing** to your school
- The request includes every aspect of special education and related services from which you are withdrawing your child. It is "all or nothing."

In turn, the public agency (LEA/school):

- May not challenge your decision by taking you to due process
- May not continue to provide special education and related services to your child
- Must provide a *NOREP/Prior Written Notice* within 10 calendar days after receiving your written request before stopping the provision of special education and related services
- Is not required by federal or state regulation to amend your child's education records or to remove any references to receipt of special education and related services

To Know Your Rights if Your Child Attends a Private School

You can choose to educate your child at a private school. However, the school district is not required to pay private school tuition for your child with a disability if it is your choice to place your child in the private school.

Some exceptions to this rule are:

- You can ask a hearing officer to order a school district to pay for tuition at a private school if the school district did not provide your child with an appropriate special education program, and the private program meets your child's needs.
- You can request that the regional intermediate unit (IU) in which your child's school is located conduct an evaluation of your child. If your child is eligible for special education, you can:
  - Enroll your child in your local public school district to get services
  - Keep your child in the private school and he or she may be able to get some limited services (but not an IEP) from the IU, based upon the private school agreement regarding the use and availability of equitable participation (EP) funds. When EP funds are depleted, services are no longer required or provided under EP.

Additional Information

The Bureau of Special Education also publishes the ***Pennsylvania Parent Guide to Special Education for School Age Children***, which provides an overview of the special education process. Visit **www.pattan.net** for the Guide, special education forms, and other useful information.

To get more information about your rights or how to resolve disputes with your LEA, including how to request a hearing, contact the Bureau of Special Education's ConsultLine at 800-879-2301.

You can also contact the following organizations to learn more about your rights, receive training, or receive advocacy services.

Statewide Organizations

Bureau of Special Education ConsultLine
800-879-2301

The Arc of Pennsylvania
(Advocacy & Resources for Citizens With Cognitive, Intellectual, and Developmental Disabilities)
800-692-7258 www.thearcpa.org

Disability Rights Network of PA (DRN)
800-692-7443 (Toll-Free Voice) www.drnpa.org

Education Law Center
215-238-6970 www.elc-pa.org

Pennsylvania State Task Force on the Right to Education
800-446-5607 x6828 http://tinyurl.com/statetaskforce
(Each intermediate unit has a local task force)

Pennsylvania Training and Technical Assistance Network (PaTTAN)
800-441-3215 (King of Prussia) www.pattan.net
800-360-7282 (Harrisburg)
800-446-5607 (Pittsburgh)

Regional Advocacy Organizations

Hispanics United for Exceptional Children (HUNE, Inc.)
215-425-6203 (Voice) www.huneinc.org

Mission Empower
855-825-0788 www.missionempower.org

Parent Education and Advocacy Leadership (PEAL) Center
412-281-4404 (Voice) www.pealcenter.org
866-950-1040 (Voice)

The Public Interest Law Center of Philadelphia
215-627-7100 (Voice) www.pilcop.org