Notice of Parental Rights for Gifted Students

Revised September 2010

This notice describes your rights and the procedures that safeguard your rights as found in Chapter 16 of the State Board of Education's Regulations (22 Pa Code § 16). These regulations require school districts to provide gifted education services to students who have been identified as gifted and in need of specially designed instruction. These services must be described in a Gifted Individualized Education Program (GIEP).

The information contained in this Notice is important to you and your child. Please take time to review it. If you need clarification, you can seek help from personnel in your school district. You also have the right to be informed of organizations that are established to assist parents in understanding their rights under these laws. A list of some of these resources follows.

Resources for Parent Assistance

Pennsylvania Department of Education

- Bureau of Teaching and Learning Support
  Division of Professional Development and Instruction 717-783-6583
- Bureau of Special Education
  Division of Compliance Monitoring and Planning 717- 783-6879

Pennsylvania Office for Dispute Resolution 717-541-4960

Pennsylvania Bar Association 800-932-0311
100 South Street
Harrisburg, PA 17101

Pennsylvania Association for Gifted Education (PAGE)

PAGE, Inc.
PAGE Helpline 888-736-6443
P.O. Box 15350 PAGE Website www.giftedpage.org
Pittsburgh, PA 15237

Pennsylvanians for the Education of Gifted Students, Inc. (PEGS)

PEGS, Inc. 717-464-4300
277 Millwood Road
Lancaster, PA 17603 Email contact: info@pegsgifted.org
PEGS Website www.pegsgifted.org

If you have a concern about your child's educational program, you may wish to contact your child's teachers, principal, or district administrators. This type of communication is often helpful in resolving concerns. You also have the right to initiate due process procedures as described in Section V of this notice.

NOTICE OF PARENTAL RIGHTS -- Gifted Student
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Section I: Prior Written Notice of Action/Refusal to Act

A. When Provided:

A school district must provide parents with written notice 10 school days prior to one or more of the following events:

1. The school district proposes to conduct an initial Gifted Multidisciplinary Evaluation (GMDE) or reevaluation of the student. Notices given under these circumstances are either the Permission to Evaluate or the Notice of Intent to Reevaluate.

2. The school district proposes or refuses to initiate or change the identification, evaluation or educational placement of the student. Notice given under these circumstances is the Notice of Recommended Assignment (NORA).

3. The school district proposes or refuses to make any significant changes in the student's Gifted Individualized Education Program (GIEP). Notice given under these circumstances is the Notice of Recommended Assignment (NORA).

B. Contents of Notice:

Prior written notices must be written in language understandable to the general public. If necessary, the content of notices must be communicated orally in the native language or directly so that parents understand the content of the notice.

Prior written notices must contain:

1. A description of the action proposed or refused by the school district, an explanation of why the school district proposes or refuses to take the action, and a description of any options the school district considered and the reasons why those options were rejected.

2. A description of each evaluation procedure, type of test, record or report the school district used as a basis for the district's action.

3. A description of other factors relevant to the school district's action,

4. A full explanation of the parental rights or procedural safeguards available to the parents or the student, including the right to an impartial hearing,

5. The address and telephone numbers of organizations that are available to assist the parents.

6. The timelines involved in conducting an evaluation, developing a gifted individualized education program (GIEP), and initiating a hearing.

7. A statement informing parents that an outside evaluation submitted by the parents must be considered.

Section II: When Prior Written Parental Consent Must Be Obtained

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

1. Conducting an initial Gifted Multidisciplinary Evaluation (GMDE) of a student;
2. Initially placing a gifted student in a gifted program; or
3. Disclosing to unauthorized persons information identifiable to a gifted student.

Section III: Parental Refusal to Give Consent

A school district may request (in writing) a due process hearing to proceed with an initial evaluation or an initial educational placement when the district has not been able to obtain consent from the parents of a student who is thought to be gifted.

A school district may also request (in writing) a due process hearing when a parent disagrees with the identification, evaluation or proposed educational placement or educational services for a student who is gifted.

Section IV: Independent Educational Evaluation

Parents have the right to obtain an independent educational evaluation at their own expense. The results of the independent evaluation must be considered by the school district in any decision made with respect to the provision of a gifted education.

Section V: Dispute Resolution Systems

When parents disagree with the school district's proposal, they have the following formal systems available to them for dispute resolution.

- **Mediation**

Mediation is a process in which parents and agencies involved in a dispute regarding special education for gifted students agree to obtain the assistance of an impartial mediator in attempting to reach a mutually agreeable settlement. There is no cost to the parties.

- Discussions occurring during the mediation session are confidential, and no part of the mediation conference is to be recorded.

- During a mediation conference the mediator will meet with the parties together in a joint session and individually in private sessions.

- The designated agency involved in the dispute must send a representative who has the authority to commit resources to the resolution agreed upon.

- Any agreement reached by the parties during the mediation process must be converted into writing and placed in the student's educational record.

- The written mediation agreement is not a confidential document, shall be incorporated into the student's GIEP, and is binding on the parties.

- The mediation agreement shall be enforceable by the Department of Education.

- A GIEP team shall be convened within 10 school days following the mediation agreement, to incorporate the mediation agreement into the GIEP where necessary.

- When the mediation conference results in a resolution of the 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

- **Impartial Due Process Hearing**

1. Parents may request an impartial due process hearing in writing concerning the identification, evaluation or educational placement of, or the provision of a gifted education to, a student who is gifted or who is thought to be gifted if the parents disagree with the school district's identification, evaluation or placement or the provision of gifted education to the student.

2. A school district may request a due process hearing in writing to proceed with an initial evaluation or an initial educational placement when the district has not been able to obtain consent from the parents or in regard to a matter in number one above.

3. The due process hearing will be conducted by and held in the local school district at a place reasonably convenient to the parents. At the request of the parents, the hearing may be held in the evening.

4. The due process hearing will be an oral, personal hearing and will be open to the public unless the parents request a closed hearing 5 days in advance of the hearing. If the hearing is open, the decision issued in the case will be available to the public. If the hearing is closed, the decision will be treated as a record of the student and will not be available to the public.

5. The decision of the hearing officer will include findings of fact, a discussion and conclusions of law. Although technical rules of evidence will not be followed, the decision will be based solely upon the substantial evidence presented during the course of the hearing.

6. The hearing officer will have the authority to order that additional evidence be presented.

7. A written transcript of the hearing will, upon request, be made and provided to the parents at no cost.

8. Parents may be presented by legal counsel and accompanied and advised by individuals with special knowledge or training with respect to students who are gifted.

9. A parent or parent's representative will have access to educational records, including tests or reports upon which the proposed action is based.

10. A party may prohibit the introduction of evidence at the hearing that has not been disclosed to that party at least 5 calendar days before the hearing.

11. A party has the right to present evidence and testimony, including expert medical, psychological or educational testimony.

12. The decision of the impartial hearing officer may be appealed to a court of compentent jurisdiction.

13. The Secretary may contract for coordination services in support of hearings conducted by local school districts. The coordination services will be provided on behalf of the school districts and may include arrangements for stenographic services, arrangements for hearing officer services, scheduling of hearings and other functions in support of procedural consistency and the rights of the parties to hearings.

14. If a school district chooses not to utilize the coordination services, it may conduct hearings independent of the services if its procedures similarly provide for procedural consistency and ensure the rights of the parties. In the absence of its own procedures, a school district that receives a request for an impartial due process must forward, without delay, the request to the agency providing coordination services.

15. A hearing officer may not be an employee or agent of a school district in which the parents or student resides, or of an agency which is responsible for the education or care of the student. A hearing officer must promptly inform the parties of a personal or professional relationship the officer has or has had with any of the parties.

16. The following timelines apply to due process hearings:

    (1) The hearing must be held within 30 calendar days after a parent's or school district's initial request for a hearing.

    (2) The hearing officer's decision must be issued within 45 calendar days after the parent's or school district's request for a hearing.

17. Each school district must keep a list of the persons who serve as hearing officers. The list must include the qualifications of each hearing officer. School districts must provide parents with information as to the availability of the list and must make copies of it available upon request.

Section VI: Student's Status During Proceedings

Unless the parents and school district agree otherwise, the student must remain in his or her present educational placement during the pendency of any administrative or judicial proceeding.

Section VII: Applicable Laws and Regulations

Refer to 22 Pa Code, Chapter 16: Special Education for Gifted Students.

Office for Dispute Resolution

MEDIATION REQUEST FORM

Mediation requested by:	**__Parent __ District __LEA**	**Date:**
Student's Name: Last Name, First name, Initial		-
	Student's Exceptionality:	
Student's School Building/Placement:		
School District (LEA):		
Superintendent: Last Name, First name, Initial		
School District Contact Person Last Name, Firist name, Initial		
Title: Supervisor, Director, CEO, etc.	**Phone No.:**	**Ext:**
Cell No.:	**Fax No.:**	**Email:**
Address: Street, P 0 Box, Room, etc.		
City / State / Zip		
Mother's First Name:	**Mother's Last Name:**	
Father's First Name:	**Father's Last Name:**	
Parent Address: Street, Apt No., PO Box, etc.		
City / State / Zip:	**Home Phone:** —	
Mother (work phone): - - **Ext.**	**Father (work phone):** - - **Ext.**	
Mother (cell phone): - -	**Father (cell phone):**	
Mother (Email):	**Father (Email):**	
Mother Fax: -	**Father Fax:** —	
Parent Name (if not living with student):		
Parent Address (if not living with student): Street, Apt No, PO Box, etc.		
City / State / Zip:		
INFORMATION ABOUT THIS MEDIATION: *Please provide a brief description of the dispute below in order to facilitate the scheduling of the mediation.*		
Parent Issues:		
School District (LEA) Issues:		
Has a Due Process Hearing also been requested for this student?	__Yes __No	

Save a copy of this form and EMAIL to ODR: www.@pattan.net

6340 Flank Drive, Harrisburg, PA 17112-2764
717-541-4960 • Toll Free 800-222-3353 (PA only) • Fax 717-657-5983 • TTY Users: PA Relay 711 «
www..pattan.net

Due Process Complaint Notice

Today's Date: - -	**Requested by:** __ Parent __District __LEA	
Name of Person Completing this Notice:	**Relationship to Student:**	**Phone:** — Ext

It is your responsibility to notify the opposing party of your request for due process by sending him/her a copy of this due process complaint notice at the same time it is filed with the. Office for Dispute Resolution.

Has the opposing party been provided a copy of this request? __Yes ___ No
If you require special accommodations to participate in the due process hearing, you must contact the LEA with your special needs

Student Information

Last Name:	**First Name:**	**Date of Birth: -**	
Exceptionality(ies): Click and then choose one from list:		Click and then choose one from list:	
LEA (Local Education Agency): Eg., School District		**School Building Student Attends:** Eg., ABC Elementary School	

Parent(s) Residing with Student **Last Name:** Parent's Last Name	**First Name:** Parent's First Name		**Relationship:** ❑ Mother , Father ? Guardian
Home Phone:	**Cell Phone:** -	**Work Phone:** Ext.	**F a x _**
Preferred method of written correspondence: ___U.S. Mail Email Fax			
Last Name: 2nd Parent at same address	**First Name:**		**Relationship:** Mother Father Guardian
- -	**Home Phone:** **Cell Phone:**	**Work phone Fax**	**Email:**
Preferred method of written cor espondence: U.S. Mail Email Fax			
Parent/Student Address: Street, PO Box, Floor, Apartment .#, etc. and City / State / ZIP			
Parent Attorney: Full Name of Attorney		**Attorney Phone:** - Ext	
Street, PO Box, Floor, Rm Number, etc.		Attorney Email:	
City 1 State I ZIP		**Attorney**	**Fax** —
Parent Not Residing with Student Last Name: Mother / Father not living w/student	First **Name:**		**Relationship:** Mother Father Guardian
Home Phone: - „	**Cell Phone:** , -	**Work Phone:** Ext	**Fax:** - - **Email:**
Preferred method of written correspondence: U.S. Mail Email Fax			
Parent Address: Street, PO Box, Floor, Apartment #, etc. and City / State / ZIP			
Parent Attorney: Full Name of Attorney		**Attorney Phone:** — Ext	
Address: Street, PO Box, Floor, Rm Number, etc.		**Attorney Email:**	
City / State / ZIP		**Attorney Fax:** - -	

Local Education Agency (LEA) Information

I. LEA Contact

Last Name:	**First Name:**	**Position Title:** Principal/Superintendent, etc.

Cell Phone: —	**Work Phone:** - , Ext	**Fax:** -	**Email:**

Address:
Street, PO Box, Floor, Room, etc.

City / State / Zip

Superintendent/CEO:

Last Name:	**First Name:**	**Position Title:** Superintendent, CEO, Administrator, etc.

Address: Street, PO Box, Floor, Room, etc.	**Phone:** - Ext
City / State / Zip	
LEA Attorney: Attorney's Full Name	**Attorney Phone:** - Ext
	Attorney Email:
Address:	**Attorney Fax:**
Street, PO Box, Building, Room, etc.	
City 1 State / Zip	

The Due Process Hearing will be held at the following address:
(Building Name, Address and Room Number/Name – to be completed by the LEA) Building Name, Street Address, Room, etc.

City / State / ZIP
Hearing Location Contact and Phone No.: Enter contact person & phone here

Information About the Due Process Complaint Notice

A. Does your issue pertain to a Hearing Officer Decision which has not been implemented?	❑ Yes ,
(if yes, the Bureau of Special Education will be notified, and will investigate the matter. Due Process is not available when the issue pertains to non-implementation of a Hearing Officer Decision.)	
B. Is this a request for an expedited hearing?	i ? Yes ,

If yes, please check one of the reasons below:
❑ Disciplinary (drugs/weapons) , ESY (Extended School

Check here if Student is in the ESY Target Group ?

C. The law states that a party may not have a due process hearing until a Due Process Complaint Notice is filed, which meets all of the legal requirements. An opposing party may challenge the sufficiency of the Due Process Complaint Notice if it is lacking sufficient information. You must describe the nature of the problem giving rise to this request for due process, including as many facts to support your position as possible. You must also provide a proposed resolution of the problem to the extent known and available to you. You may attach a separate sheet of paper if you need more space:

Nature of the problem: Please enter the nature of the problem here. If you do not have enough space, please continue in the next block on the next page.

Nature of the problem *(continued):* Continued from previous page.

Proposed Resolution: *Please type the proposed resolution to the problem below.*

if you know the opposing side's position on this matter, you may provide it here, although it is not required by law:

D. Prior to a due process hearing taking place, the law requires the parties to participate in a Resolution Session, unless both sides agree in writing to waive this requirement. Please complete the following information:

1. A Resolution Meeting to discuss these issues is scheduled for: **mm**.**dd**.**yyyy** (Date)
2, A Resolution Meeting was held on: **mm-dd-yyyy** (Date)
3. Participation in the Resolution Meeting was waived by both parents and the LEA in writing on: **mm-dd-yyyy** (Date)
4.In lieu of a Resolution Meeting, I am requesting mediation*. ¦

*** if #4 is checked, the ODR Mediation Case Manager will be in contact with the parties.**

Please save a copy of this form and MAIL, EMAIL or FAX a copy of this form to the opposing side.

Please EMAIL this form as an attachment to the **Office for Dispute Resolution:** odr@pattanmet.

You will be contacted by a Case Manager from ODR upon receipt of this Due Process Complaint Notice.

Additional information about due process is available by accessing the website at **odr.pattan.net** and the **Special Education Dispute Resolution Manual.**

Parents may also contact the ***Special Education ConsultLine,*** a Parent Help Line, for information on procedural safeguards and due process: 800-879-2301.