pennsylvania
OFFICE OF CHILD DEVELOPMENT AND EARLY LEARNING

Dear Parent:

Attached you will find two documents that provide information to you as a parent on yours and your child's rights related to Early Intervention Services.

1) The Problem Solving in Early Intervention Fact Sheet provides information on the steps you can follow if you have concerns or questions regarding your Early Intervention Services. This fact sheet provides a quick and easy way for you to gain information on problem solving processes that are available, including how you can file a formal written complaint.

2) The Procedural Safeguards Notice provides detailed information on rights such as confidentiality, parent consent, procedures for filing a complaint, mediation procedures and due process hearing procedures. This document is very helpful for explaining your families' rights in detail.

Please view this short video regarding the Procedural Safeguards Notice.

Should you have any questions about this information, please contact us.

Sincerely,

Dr. Abigail Leonard
Assistant Director of Student Services, Early Intervention Program
Capital Area Intermediate Unit, 15

Problem Solving in Early Intervention

First Steps in Problem Solving

Questions or concerns about Early Intervention (EI) programs and services should first be addressed by contacting your service coordinator (infant toddler EI program) or your EI representative (preschool EI program). You are encouraged to meet with staff at your EI program as a first step in resolving concerns.

This is likely to result in a more timely resolution. Any change that results from the meeting will be documented on the Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP). If you ask for a meeting to talk about your concerns, the meeting must be held within seven days of your request.

What if parents still have concerns?

You have five choices available to you if concerns persist. Any of these choices may be used at any time.

1) Contact the Bureau of Early Intervention Services and Family Supports

You may contact the Bureau of Early Intervention Services and Family Supports (BEISFS) by calling 717-346-9320. BEISFS can assist in resolving the concern before a more formal written complaint is filed.

A BEISFS Advisor will contact your child's EI program to determine if there can be an immediate resolution. If no immediate resolution is available, you can file a written complaint.

2) File a Written Complaint

You may file a written complaint to resolve concerns if you believe the EI program hasn't followed proper steps in the EI process.

BEISFS will investigate the complaint within 60 days.

If a concern is identified, a plan of correction will be developed within 30 days after the investigation.

3) IFSP/IEP Facilitation

A state process, not required under the Individuals with Disabilities Education Act. You may ask for IFSP/IEP facilitation, a voluntary process that can be used when parents and EI staff agree that a neutral person would help to achieve a successful IFSP/IEP meeting. This is a less formal way to resolve disagreements than more formal proceedings such as due process. **You can get more information from your service coordinator or preschool EI representative or by contacting the Office for Dispute Resolution at 1-800-222-3353 or https://odr-pa.org/.**

4) Mediation

You may use mediation when there is a disagreement about a child's evaluation or services on the IFSP or IEP, such as the choice of a service, how often a service is provided, or where a service takes place. In mediation, everyone agrees to work together with a mediator, a person trained to help resolve concerns without taking sides. Mediators don't make "decisions," but help parties come to an agreement. Mediation is offered at no cost, is informal, and happens quickly.

You can get more information about mediation by contacting the Office for Dispute Resolution at https://odr-pa.org/ or 1-800-222-3353.

5) Due Process Hearing

You may request a due process hearing, a more formal process for resolving disagreements about EI services, such as the choice of service, how often a service is provided, or where a service takes place. These are formal hearings at which all sides can present witnesses, including experts.

There are some differences in due process for families with infants and toddlers, and those with preschool age children.

Parents with infants and toddlers under three years of age

You may request a hearing, and the hearing officer will set a date and send a notice to you. If there is a problem with the date, the hearing can be rescheduled. The hearing must be held, and a decision reached within 30 days.

Parents with preschool children three to five years of age

If you request a hearing, you and your preschool EI representative will be required to meet before a hearing takes place to resolve disagreements at the local level through a resolution meeting. Both parties can agree to waive the resolution meeting in writing, or they may agree to try mediation. If the preschool program does not hold a local resolution meeting within 15 calendar days, you may ask the hearing officer to move forward with the due process hearing. The hearing must be held, and a decision reached within 45 days.

For more information on due process hearings, you can contact your preschool EI representative or call the Office for Dispute Resolution at 1-800-222-3353 or visit https://odr-pa.org/.

*An EI representative could be your EI teacher, therapist, or service coordinator.

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OFFICE OF CHILD DEVELOPMENT AND EARLY LEARNING

PROCEDURAL SAFEGUARDS NOTICE EARLY INTERVENTION

BUREAU of EARLY INTERVENTION SERVICES AND FAMILY SUPPORTS
717-346-9320

CONNECT (Information Service for Early Intervention) 800-692-7288
help@connectpa.net

The Individuals with Disabilities Education Act (IDEA), the Federal law concerning the education of children with disabilities, requires the Local Education Agency (LEA) to provide parents of a child with a disability with this notice containing a full explanation of the procedural safeguards available under the IDEA and the U.S. Department of Education regulations. A copy of this notice must be given to parents only once a year, or:
(1) upon initial referral or parent request for evaluation; (2) upon filing by parents of their first State complaint under 34 CFR §§300.151 through 300.153 and upon filing by parents of their first due process complaint under §300.507 in a school year; and (3) upon parent request. [34 CFR §300.504(a)]

For more information: the Office of Child Development and Early Learning, Bureau of Early Intervention Services and Family Supports can be contacted to describe the options that are available to parents; inform the parents of procedural safeguards; identify other agencies and support services; and describe available remedies and how the parents can proceed.

In addition to this Procedural Safeguards Notice, Early Intervention Programs should also provide a copy of the publication entitled, "Problem Solving in Early Intervention." This publication is available at www.pattan.net.

CONNECT personnel can be contacted by parents and advocates of children birth to school age with disabilities or children thought to be disabled to explain Early Intervention Services.

Additional contacts and Resources appear at the end of this notice.

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I. GENERAL INFORMATION

A. WHO IS A PARENT? (34 CFR §300.30)

THIS SECTION DESCRIBES WHO IS ABLE TO ACT AS A PARENT FOR PURPOSES OF SPECIAL EDUCATION DECISION MAKING.

A parent is a biological or an adoptive parent of a child; a foster parent; a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child; an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or a surrogate parent.

A surrogate parent must be appointed when no parent can be identified; the public agency, after reasonable efforts, cannot locate a parent; the child is a ward of the State under the laws of Pennsylvania, or the child is an unaccompanied homeless youth as defined by the McKinney-Vento Homeless Assistance Act, 42 U.S.C. Sec. 11434a(6). Public agencies must ensure that a person selected as a surrogate parent is not an employee of the State Educational Agency (SEA), the Lead Education Agency (LEA) or any other agency that is involved in the education or care of the child; has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and has knowledge and skills that ensure adequate representation of the child. The surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child and the provision of a free and appropriate public education (FAPE) to the child. The public agency must make reasonable efforts to ensure the assignment of surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

B. WHAT IS PRIOR WRITTEN NOTICE? (34 CFR §300.503)

THIS SECTION EXPLAINS WHAT, HOW, AND WHEN AN LEA MUST TELL YOU ABOUT ACTIONS IT PROPOSES OR REFUSES TO TAKE.

1. **When Notice Is Required**
   Your local education agency (LEA) – the entity responsible for providing a free appropriate public education to your child – must notify you in writing whenever it:
   a. Proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; **or**
   b. Refuses to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of FAPE to your child.
   c. Due process hearing, or an expedited due process hearing, initiated by LEA.
   d. Refusal of the LEA to agree to an independent educational evaluation (IEE) at public expense.
   e. Parents' revocation of consent for Early Intervention and related services.

   In Pennsylvania, prior written notice is provided by means of a LEA Prior Written Notice Form/Notice of Recommended Educational Placement. You should be given reasonable notice of this proposal or refusal so that if you do not agree with the LEA, you may take appropriate action. Reasonable Notice means ten days.
2. **Content of notice**
   The prior written notice must:
   1. Describe the action that your LEA proposes or refuses to take;
   2. Describe the parents' action for the revocation of special education and related services;
   3. Explain why your LEA is proposing or refusing to take the action;
   4. Describe each evaluation procedure, assessment, record, or report your LEA used in deciding to propose or refuse the action;
   5. Include a statement that you have protections under the procedural safeguards provisions in Part B of IDEA;
   6. Tell how you can obtain a description of the procedural safeguards if the action that your LEA is proposing or refusing is not an initial referral for evaluation;

7. Include resources for you to contact for help in understanding Part B of the IDEA;
8. Describe any other choices that your child's IEP Team considered and the reasons why those choices were rejected; **and**
9. Provide a description of other reasons why your LEA proposed or refused the action.

3. Notice in understandable language

a. The notice must be:
   1) Written in language understandable to the general public; **and**
   2) Provided in your native language or other mode of communication you use unless it is clearly not feasible to do so.
   3) If your native language or other mode of communication is not a written language, your LEA must ensure that:
      a) The notice is translated for you orally or by other means in your native language or other mode of communication;
      b) You understand the content of the notice; **and**
      c) There is written evidence that 1 and 2 have been met.

C. WHAT IS NATIVE LANGUAGE? (34 CFR §300.29)

1. *Native language*, when used with an individual who has limited English proficiency, means the following:
   a. The language normally used by that person, or, in the case of a child, the language normally used by the child's parents;
   b. In all direct contact with a child (including evaluation of a child), the language normally used by the child in the home or learning environment.
   For a person with deafness or blindness, or for a person with no written language, the mode of communication is what the person normally uses (such as sign language, Braille, or oral communication).

D. NOTICE BY ELECTRONIC MAIL (34 CFR §300.505)

If your LEA offers parents the choice of receiving documents by e-mail, you may choose to receive the following by e-mail:
1. Prior written notice;
2. Procedural safeguards notice; **and**
3. Notices related to a due process complaint.

E. WHAT IS PARENTAL CONSENT? (34 CFR §300.9)

THIS SECTION EXPLAINS WHAT INFORMED PARENTAL CONSENT IS AND WHEN YOU NEED TO PROVIDE IT, SO AN LEA MAY PROCEED AS PROPOSED IN THE NOTICE.

1. What is Parental Consent?

Consent means:
   a. You have been fully informed in your native language or other mode of communication (such as sign language, Braille, or oral communication) of all information about the action for which consent is sought;
   b. You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; **and** you understand that the consent does not negate (undo) an action that has occurred after you gave your consent and before you withdrew it.

2. Can the Parent Revoke Consent?

   a. Yes. You must submit written documentation to the LEA staff revoking consent for Early Intervention and related services;
   b. When you revoke consent for Early Intervention and related services, the LEA must provide you with Prior Written Notice;
   c. Early Intervention and related services cannot cease until the LEA provides you with Prior Written Notice;
   d. Prior notice is defined as ten calendar days;

e. LEA staff cannot use mediation or due process to override your revocation of consent;
f. The LEA will not be considered in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further Early Intervention and related services;
g. The LEA is not required to amend the child's educational records to remove any references to the child's receipt of Early Intervention and related services because of the revocation of consent.

F. WHEN IS PARENTAL CONSENT NEEDED?

1. Initial Evaluations (34 CFR §300.300)

a. General Rule: Consent for initial evaluation
Your LEA cannot conduct an initial evaluation of your child to determine whether your child is eligible under Part B of the IDEA to receive special education and related services without first providing you with prior written notice of the proposed action and without obtaining your consent as described under the heading ***Parental Consent***.

Your LEA must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability. Your consent for initial evaluation does not mean that you have also given your consent for the LEA to start providing special education and related services to your child.

b. Special rules for initial evaluation of wards of the State
Under Pennsylvania law, if a child is designated a ward of the state, the whereabouts of the parent are not known or the rights of the parent have been terminated in accordance with State law, therefore someone other than the parent has been designated to make educational decisions for the child. Consent for an initial evaluation should, therefore, be obtained from the individual so designated.

Ward of the State, as used in the IDEA, encompasses two other categories, so as to include a child who is:
1. A foster child who does not have a foster parent;
2. Considered a ward of the State under State law; **or**
3. In the custody of a public child welfare agency.

2. Consent for Initial Placement in Special Education (34 CFR §300.300)

Parental consent for services
Your LEA must obtain your informed consent before providing special education and related services to your child for the first time. The LEA must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time.

If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such consent, your LEA may not use the procedural safeguards (i.e. mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services as recommended by your child's IEP Team may be provided to your child without your consent.

If you refuse to give your consent for your child to start receiving special education and related services, or if you do not respond to a request to provide such consent and the LEA does not provide your child with the special education and related services for which it sought your consent, your LEA:
1. Is not in violation of the requirement to make FAPE available to your child for its failure to provide those services to your child; **and**
2. Is not required to have an IEP meeting or develop an IEP for your child for the special education and related services for which your consent was request.

3. Consent for Reevaluations (34 CFR §300.300)

Your LEA must obtain your informed consent before it reevaluates your child, unless your LEA can demonstrate that:

1. It took reasonable steps to obtain your consent for your child's reevaluation; **and**
2. You did not respond.

4. **What is Documentation of Reasonable Efforts to Obtain Parental Consent? (34 CFR §300.300)**
   Your LEA must maintain documentation of reasonable efforts to obtain parental consent for initial evaluations, to provide special education and related services for the first time, for reevaluation and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the LEA's attempts in these areas, such as:
   1. Detailed records of telephone calls made or attempted and the results of those calls;
   2. Copies of correspondence sent to the parents and any responses received; **and**
   3. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

5. **When is Consent Not Required Related to Evaluation?**
   Your consent is not required before your LEA may:
   1. Review existing data as part of your child's evaluation or a reevaluation; **or**
   2. Give your child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from all parents of all children.

6. **What If I Refuse to Consent to a Reevaluation?**
   If you refuse to consent to your child's reevaluation, the LEA may, but is not required to, pursue your child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your LEA does not violate its obligations under Part B of the IDEA if it declines to pursue the reevaluation in this manner.

   Your LEA may not use your refusal to consent to one service or activity to deny you or your child any other service, benefit, or activity.

7. **What If I Disagree With An Evaluation?**
   a. **Independent Educational Evaluations (34 CFR §300.502)**
      1) **General**
      As described below, you have the right to obtain an independent educational evaluation (IEE) of your child if you disagree with the evaluation of your child that was obtained by your LEA. If you request an IEE, the LEA must provide you with information about where you may obtain an IEE and about the LEA's criteria that apply to IEEs.
      2) **Definitions**
         a) *Independent educational evaluation* (IEE) means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of your child.
         b) *Public expense* means that the LEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you, consistent with the provisions of Part B of the IDEA, which allow each State to use whatever State, local, Federal and private sources of support are available in the State to meet the requirements of Part B of the Act.
      3) **Parent right to evaluation at public expense**
      You have the right to an IEE of your child at public expense if you disagree with an evaluation of your child obtained by your LEA, subject to the following conditions:
         a) If you request an IEE of your child at public expense, your LEA must, without unnecessary delay, either: (a) File a due process complaint to request a hearing to show that its evaluation of your child is appropriate; or (b) Provide an IEE at public expense, unless the LEA demonstrates in a hearing that the evaluation of your child that you obtained did not meet the LEA's criteria.
         b) If your LEA requests a hearing and the final decision is that your LEA's evaluation of your child is appropriate, you still have the right to an IEE, but not at public expense.

c) If you request an IEE of your child, the LEA may ask why you object to the evaluation of your child obtained by your LEA. However, your LEA may not require an explanation and may not unreasonably delay either providing the IEE of your child at public expense or filing a due process complaint to request a due process hearing to defend the LEA's evaluation of your child.
d) You are entitled to only one IEE of your child at public expense each time your LEA conducts an evaluation of your child with which you disagree.
e) LEA criteria
If an IEE is 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 that the LEA uses when it initiates an evaluation (to the extent those criteria are consistent with your right to an IEE).
Except for the criteria described above, a LEA may not impose conditions or timelines related to obtaining an IEE at public expense.

b. Parent-initiated evaluations
If you obtain an IEE of your child at public expense or you share with the LEA an evaluation of your child that you obtained at private expense:
1) Your LEA must consider the results of the evaluation of your child, if it meets the LEA's criteria for IEEs, in any decision made with respect to the provision of FAPE to your child; **and**
2) You or your LEA may present the evaluation as evidence at a due process hearing regarding your child.

c. Requests for evaluations by hearing officers
If a hearing officer requests an IEE of your child as part of a due process hearing, the cost of the evaluation must be at public expense.

G. CONSENT FOR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION (34 CFR §300.622)

Unless the information is contained in education records, and the disclosure is authorized without parental consent under FERPA, your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Except under the circumstances specified below, your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of Part B of the IDEA.

Your consent must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

If your child is in, or is going to go to, a private school that is not located in the same LEA you reside in, your consent must be obtained before any personally identifiable information about your child is released between officials in the LEA where the private school is located and officials in the LEA where you reside.

II. CONFIDENTIALITY INFORMATION

A. WHO HAS ACCESS TO CONFIDENTIAL INFORMATION RELATED TO MY CHILD? (34 CFR §300.611)

1. Related to the confidentiality of information, the following definitions apply:

a. *Destruction* means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

b. *Education records* means the type of records covered under the definition of "education records" in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).

c. *Participating agency* means any LEA, agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the IDEA.

d. ***Personally identifiable*** **(34 CFR §300.32)** means information that has:

1) Your child's name, your name as the parent, or the name of another family member;
2) Your child's address;
3) A personal identifier, such as your child's social security number or student number; **or**
4) A list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.

2. Access Rights (34 CFR §300.613)

a. Parent Access

The LEA must permit you to inspect and review any education records relating to your child that are collected, maintained, or used by your LEA under Part B of the IDEA. The participating agency must comply with your request to inspect and review any education records on your child without unnecessary delay or before any meeting regarding an IEP, or any impartial due process hearing (including a resolution meeting or a hearing regarding discipline), and in no case more than 45 calendar days after you have made a request.

Your right to inspect and review education records includes:

1) Your right to a response from the participating agency to your reasonable requests for explanations and interpretations of the records;
2) Your right to request that the participating agency provide copies of the records if you cannot effectively inspect and review the records unless you receive those copies; **and**
3) Your right to have your representative inspect and review the records.
    a) The participating agency may presume that you have authority to inspect and review records relating to your child unless advised that you do not have the authority under applicable State law governing such matters as guardianship, or separation and divorce.
    b) If any education **record includes information on more than one child**, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.
    c) On request, each participating agency must provide you with a **list of the types and locations of education records** collected, maintained, or used by the agency.

b. Other Authorized Access (34 CFR §300.614)

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the IDEA (except access by parents and authorized employees of the participating 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.

3. Fees

Each participating agency may charge a fee or copies of records (34 CFR §300.617) that are made for you under Part B of the IDEA if the fee does not effectively prevent you from exercising your right to inspect and review those records.

A participating agency may not charge a fee to search for or to retrieve information under Part B of the IDEA.

4. **Amendment of Records at Parent's Request (34 CFR §300.618)**
   If you believe that information in the education records regarding your child collected, maintained, or used under Part B of the IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the participating agency that maintains the information to change the information.

   The participating agency must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.

   If the participating agency refuses to change the information in accordance with your request, it must inform you of the refusal and advise you of the right to a hearing for this purpose.
5. **Opportunity for a Records Hearing (34 CFR §300.619)**
   The LEA must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.
   a. **Hearing Procedures (34 CFR §300.621)**
      A hearing to challenge information in education records must be conducted according to the following procedures for such hearings under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1233g (FERPA):
      1) The educational agency or institution shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent or eligible child.
      2) The educational agency or institution shall give the parent or eligible student notice of the date, time, and place, reasonable in advance of the hearing.
      3) The hearing may be conducted by any individual, including an official of the educational agency or institution who does not have a direct interest in the outcome of the hearing.
      4) The educational agency or institution shall give the parent a full and fair opportunity to present evidence to challenge the content of the child's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the child. The parent may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.
      5) The educational agency or institution shall make its decision in writing within a reasonable period of time after the hearing.
      6) The decision must be based solely on the evidence presented at the hearing and must include a summary of the evidence and the reasons for the decision.
   b. **Result of Hearing (34 CFR §300.620)**
      If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must change the information accordingly and inform you in writing. If, as a result of the hearing, the participating agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, you may place in the records that it maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the participating agency.

      Such an explanation placed in the records of your child must:
      1. Be maintained by the participating agency as part of the records of your child as long as the record or contested portion is maintained by the participating agency; **and**
      2. If the participating agency discloses the records of your child or the challenged portion to any party, the explanation must also be disclosed to that party.
   c. **Safeguards (34 CFR §300.623)**
      Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding your State's policies and procedures regarding confidentiality under Part B of the IDEA and FERPA.

Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who have access to personally identifiable information.

6. **Destruction of Information (34 CFR §300.624)**
   Your LEA must inform you when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to your child, and the information must be destroyed at your request.

   However, a permanent record of your child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

III. STATE COMPLAINT PROCEDURES (34 CFR §§300.151-153)

A. DIFFERENCE BETWEEN DUE PROCESS HEARING COMPLAINT AND STATE COMPLAINT PROCEDURES

The regulations for Part B of IDEA set forth separate procedures for State complaints and for due process complaints and hearings. As explained below, any individual or organization may file a State complaint alleging a violation of any Part B requirement by a LEA, the State Educational Agency, or any other public agency. Only you or a LEA may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child. While staff of the State Educational Agency generally must resolve a State complaint within a 60-calendar day timeline, unless the timeline is properly extended, an impartial due process hearing officer must hear a due process complaint (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45-calendar days after the end of the resolution period, as described in this document under the heading Resolution Process, unless the hearing officer grants a specific extension of the timeline at your request or the LEA's request. The state complaint or due process complaint, resolution and hearing procedures are described more fully below.

B. HOW CAN I FILE A STATE COMPLAINT? (34 CFR §300.153)

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

1. A statement that a LEA or other public agency has violated a requirement of Part B of the IDEA or its regulations;
2. The facts on which the statement is based;
3. The signature and contact information for the complainant; and
4. If alleging violations regarding a specific child, the name of the child and address of the residence of the child;
5. The name of the school the child is attending;
6. In the case of a homeless child or youth, available contact information for the child, and the name of the Early Intervention Program the child is attending;
7. A description of the nature of the concerns related to the child's IEP, including facts relating to the concerns; **and**
8. A proposed resolution of the problem to the extent known and available to the party filing the complaint at the time the complaint is filed.

The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received as described under the heading ***Adoption of State Complaint Procedures***.

The party filing the State complaint must forward a copy of the complaint to the LEA or other public agency serving the child at the same time the party files the complaint with the State Educational Agency.

Complaints should be sent to:
Office of Child Development and Early Learning
Bureau of Early Intervention Services and Family Supports
607 South Dr., 4th floor Rotunda
Harrisburg, PA 17120
Email: ra-ocdintervention@pa.gov

a. Procedures

1) Time limit of 60 calendar days after a complaint is filed to:

1. Carry out an independent on-site investigation, if the State Educational Agency determines that the investigation is necessary;
2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. Provide the LEA or other public agency with the opportunity to respond to the complaint, including, at a **minimum**: (a) at the option of the agency, a

proposal to resolve the complaint; and (b) an opportunity for a parent who has filed a complaint and the agency to agree voluntarily to engage in mediation

4. Review all relevant information and make an independent determination as to whether the LEA or other public agency is violating a requirement of Part B of the IDEA; and
5. Issue a written decision to the complainant that address each allegation in the complaint and contains: (a) findings of fact and conclusions; and (b) the reasons for the State Educational Agency's final decision.

2) Time extension; final decision; implementation

a) An extension of the 60 calendar day timeline may be granted only if: (a) exceptional circumstances with respect to the review and investigation of a particular complaint; or (b) the parent and the LEA or other public agency involved voluntarily agree to extend the time to resolve the matter through mediation or alternative means of dispute resolution, if available in the State. All parties will be informed in writing of the extension, the circumstances for the extension and the new timelines for resolution of the complaint.
b) The State Educational Agency's final decision shall contain effective implementation procedures, if needed, including: (a) technical assistance activities; (b) negotiations; and (c) corrective actions to achieve compliance.

3) Remedies for denial of appropriate services

In resolving a State complaint in which the State Educational Agency has found a failure to provide appropriate services, the State Educational Agency must address:

a) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child; and
b) Appropriate future provision of services for all children with disabilities.

4) State complaints and due process hearings

If a written State complaint is received that is also the subject of a due process hearing as described below under the heading ***Filing a Due Process Complaint***, or the State complaint contains multiple issues of which one or more are part of such a hearing, the State must set aside the State complaint, or any part of the State complaint that is being addressed in the due process hearing until the hearing is over. Any issue in the State complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described above. If an issue raised in a State complaint has previously been decided in a due process hearing involving the same parties (you and the LEA), then the due process hearing decision is binding on that issue and the State Educational Agency must inform the complainant that the decision is binding.

A complaint alleging a LEA's or other public agency's failure to implement a due process hearing decision must be resolved by the State Educational Agency according to the above described procedures.

IV. DUE PROCESS COMPLAINT PROCEDURES

A. HOW CAN I REQUEST A DUE PROCESS HEARING?

1. Filing a Due Process Complaint (34 CFR §300.507)

General

You or the LEA may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of your child, or the provision of FAPE to your child.

The due process complaint must allege a violation that occurred not more than two years before the date you or the LEA knew or should have known about the alleged action that forms the basis of the due process complaint.

SENDING THE DUE PROCESS COMPLAINT: Once you have completed the paper due process complaint form, or your letter/email, you can opt to do the following:

• Mail a copy to ODR at: Office for Dispute Resolution 6340 Flank Drive Harrisburg, PA 17112-2764.

OR

•If you have access to a scanner, email a copy of the form to ODR at: odr@odr-pa.org.

You must also provide copy of your due process complaint form to the Early Intervention Program.

If you have completed the online due process complaint form:

- **Send a copy of your due process complaint to the Early Intervention Program. This can be done by either:**
  • Printing out the email confirmation you received from ODR and sending it to the Early Intervention Program

  OR

  • Forwarding the ODR confirmation email to the Early Intervention Program.

Early Intervention Due Process Request Form is available online in a variety of languages through the following link:

Request Forms - Office for Dispute Resolution

The above timeline does not apply to you if you could not file a due process complaint within the timeline because:

1. The LEA specifically misrepresented that it had resolved the issues identified in the complaint; or
2. The LEA withheld information from you that was required to be provided to you under Part B of the IDEA.

Information for parents

The LEA must inform you of any free or low-cost legal and other relevant services available in the area if you request the information, **or** if you or the LEA file a due process complaint.

B. CONTENTS OF DUE PROCESS COMPLAINT (34 CFR §300.508)

1. General

In order to request a hearing, you or the LEA (or your attorney or the LEA's attorney) must submit a due process complaint to the other party. That complaint must contain all of the content listed below

and must be kept confidential. At the same time, you or the LEA – whichever filed the complaint – provides the due process complaint to the other party, a copy must be filed with the Office for Dispute Resolution (ODR).

2. **Content of the complaint**
   The due process complaint must include:
   a. The name of the child;
   b. The address of the child's residence;
   c. The name of the child's Early Intervention Program;
   d. If the child is a homeless child or youth, the child's contact information and the name of the child's school;
   e. A description of the nature of the problem of the child relating to the proposed or refused action, including facts relating to the problem; **and**
   f. A proposed resolution of the problem to the extent known and available to you or the LEA at the time.
3. **Notice required before a hearing on a due process complaint**
   You or the LEA may not have a due process hearing until you or the LEA (or your attorney or the LEA's attorney), files a due process complaint that includes the information listed above.
4. **Sufficiency of complaint**
   In order to proceed to a due process hearing, the complaint must be considered sufficient. The due process complaint will be considered sufficient (to have met the content requirements above) unless the party receiving the due process complaint (you or the LEA) notifies the hearing officer and the other party in writing, within 15 calendar days of receiving the complaint, that the receiving party believes that the due process complaint does not meet the requirements listed above.

   Within five calendar days of receiving the notification the receiving party (you or the LEA) considers a due process complaint insufficient, the hearing officer must decide if the due process complaint meets the requirements listed above and notify you and the LEA in writing immediately.

5. **Complaint amendment**
   You or the LEA may make changes to the complaint only if:
   a. The other party approves of the changes in writing and is given the chance to resolve the due process complaint through a resolution meeting, described below; **or**
   b. At any time, but no later than five days before the due process hearing begins, the hearing officer grants permission for the changes.

   If the complaining party (you or the LEA) makes changes to the due process complaint, the timelines for the resolution meeting (within 15 calendar days of receiving the complaint) and the time period for resolution (within 30 calendar days of receiving the complaint) start again on the date the amended complaint is filed.
6. **LEA response to a due process complaint**
   If the LEA has not sent a prior written notice to you, as described under the heading ***Prior Written Notice***, regarding the subject matter contained in your due process complaint, the LEA must, within 10 calendar days of receiving the due process complaint, send to you a response that includes:
   a. An explanation of why the LEA proposed or refused to take the action raised in the due process complaint;
   b. A description of other options that your child's IEP Team considered and the reasons why those options were rejected;
   c. A description of each evaluation procedure, assessment, record, or report the LEA used as the basis for the proposed or refused action; **and**
   d. A description of other factors that are relevant to the LEA's proposed or refused action.

   Providing the information in items 1-4 above does not prevent the LEA from asserting that your due process complaint was insufficient.
7. **Other party response to a due process complaint**
   Except as stated under the sub-heading immediately above, ***LEA response to a due process complaint***, the party receiving a due process complaint must, within 10 calendar days of receiving the complaint, send the other party a response that specifically addresses the issues in the complaint.

C. RESOLUTION PROCESS (34 CFR §300.510)

1. **Resolution meeting**
   Within 15 calendar days of receiving notice of your due process complaint, and before the due process hearing begins, the LEA must convene a meeting with you and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in your due process complaint. The meeting:
   a. Must include a representative of the LEA who has decision-making authority on behalf of the LEA; **and**
   b. May not include an attorney of the LEA unless you are accompanied by an attorney. You and the LEA determine the relevant members of the IEP Team to attend the meeting. The purpose of the meeting is for you to discuss your due process complaint, and the facts that form the basis of the complaint, so that the LEA has the opportunity to resolve the dispute.
   c. The resolution meeting is not necessary if:
      1) You and the LEA agree in writing to waive the meeting; **or**
      2) You and the LEA agree to use the mediation process, as described under the heading ***Mediation***.
2. **Resolution period**
   If the LEA has not resolved the due process complaint to your satisfaction within 30 calendar days of the receipt of the due process complaint (during the time period for the resolution process), the due process hearing may occur.

   The 45-calendar day timeline for issuing a final decision begins at the expiration of the 30-calendar day resolution period, with certain exceptions for adjustments made to the 30-calendar day resolution period, as described below.

   Except where you and the LEA have both agreed to waive the resolution process or to use mediation, your failure to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until you agree to participate in a meeting. If after making reasonable efforts and documenting such efforts, the LEA is not able to obtain your participation in the resolution meeting, the LEA may, at the end of the 30-calendar day resolution period, request that a hearing officer dismiss your due process complaint. Documentation of such efforts must include a record of the LEA's attempts to arrange a mutually agreed upon time and place, such as:
   1. Detailed records of telephone calls made or attempted and the results of those calls;
   2. Copies of correspondence sent to you and any responses received; and
   3. Detailed records of visits made to your home or place of employment and the results of those visits.

   If the LEA fails to hold the resolution meeting within 15 calendar days of receiving notice of your due process complaint **or** fails to participate in the resolution meeting, you may ask a hearing officer to order that the 45-calendar day due process hearing timeline begin.
3. **Adjustments to the 30-calendar day resolution period**
   If you and the LEA agree in writing to waive the resolution meeting, then the 45-calendar day timeline for the due process hearing starts the next day.

   After the start of mediation or the resolution meeting and before the end of the 30-calendar day resolution period, if you and the LEA agree in writing that no agreement is possible, then the 45-calendar day timeline for the due process hearing starts the next day.

   If you and the LEA agree to use the mediation process, at the end of the 30-calendar day resolution period, both parties can agree in writing to continue the mediation until an agreement is reached. However, if either you or the LEA withdraws from the mediation process, then the 45-calendar day timeline for the due process hearing starts the next day.
4. **Written settlement agreement**
   If a resolution to the dispute is reached at the resolution meeting, you and the LEA must enter into a legally binding agreement that is:
   a. Signed by you and a representative of the LEA who has the authority to bind the LEA; and

b. Agreement review period – If you and the LEA enter into an agreement as a result of a resolution meeting, either party (you or the LEA) may void the agreement within 3 business days of the time that both you and the LEA signed the agreement.

V. HEARINGS ON DUE PROCESS COMPLAINTS

A. IMPARTIAL DUE PROCESS HEARING (34 CFR §300.511)

1. **General**
   Whenever a due process complaint is filed, you or the LEA involved in the dispute must have an opportunity for an impartial due process hearing, as described in the ***Due Process Complaint*** and ***Resolution Process*** sections. In Pennsylvania, the due process system is administered by the Office for Dispute Resolution (ODR). (listed under ***Resources***)
2. **Impartial hearing officer**
   At a minimum, a hearing officer:
   a. Must not be an employee of the State Educational Agency or the LEA that is involved in the education or care of the child. However, a person is not an employee of the agency solely because he/she is paid by the agency to serve as a hearing officer;
   b. Must not have a personal or professional interest that conflicts with the hearing officer's objectivity in the hearing;
   c. Must be knowledgeable and understand the provisions of the IDEA, and Federal and State regulations pertaining to the IDEA, and legal interpretations of the IDEA by Federal and State courts; **and**
   d. Must have the knowledge and ability to conduct hearings, and to make and write decisions, consistent with appropriate, standard legal practice.

   Each SEA must keep a list of those persons who serve as hearing officers that includes a statement of the qualifications of each hearing officer.
3. **Subject matter of due process hearing**
   The party (you or the LEA) that requests the due process hearing may not raise issues at the due process hearing that were not addressed in the due process complaint unless the other party agrees.
4. **Timeline for requesting a hearing**
   a. **Time Limitations**
   You or the LEA must request an impartial hearing on a due process complaint within two years of the date you or the LEA knew or should have known about the issue addressed in the complaint. The due process complaint must allege a violation that occurred not more than two years before the date you or the LEA knew or should have known about the alleged action that forms the basis of the due process complaint.

   Exceptions to the timeline
   The above timeline does not apply to you if you could not file a due process complaint because:
   1. The LEA specifically misrepresented that it had resolved the problem or issue that you are raising in your complaint; **or**
   2. The LEA withheld information from you that it was required to provide to you under Part B of the IDEA.

B. HEARING RIGHTS (34 CFR §300.512)

1. **General**
   Any party to a due process hearing or an appeal, as described under the sub-heading *Appeal of decisions; impartial review* **has the right to:**
   a. Be accompanied and advised by a lawyer and/or persons with special knowledge or training regarding the problems of children with disabilities;
   b. Present evidence and confront, cross-examine, and require the attendance of witnesses;
   c. Prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five business days before the hearing;
   d. Obtain a written, or, at your option, electronic, word-for-word record of the hearing; **and**
   e. Obtain written, or, at your option, electronic findings of fact and decisions.

2. **Additional disclosure of information**
   At least 5 business days prior to a due process hearing, you and the LEA must disclose to all other parties all evaluations completed by that date and recommendations based on those evaluations that you or the LEA intend to use at the hearing.

   A hearing officer may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.
3. **Parental rights at hearings**
   You must be given the right to:
   a. Open the hearing to the public; **and**
   b. Have the record of the hearing, the findings of fact and decisions provided to you at no cost.

C. HEARING DECISIONS (34 CFR §300.513)

1. ***Decision of hearing officer***
   a. A hearing officer's decision on whether your child received FAPE must be based on substantive grounds.
   b. In matters alleging a procedural violation, a hearing officer may find that your child did not receive FAPE only if the procedural inadequacies:
      1) Interfered with your child's right to FAPE;
      2) Significantly interfered with your opportunity to participate in the decision-making process regarding the provision of FAPE to your child; **or**
      3) Caused a deprivation of an educational benefit.
   c. Construction clause
      None of the provisions described above can be interpreted to prevent a hearing officer from ordering a LEA to comply with the requirements in the procedural safeguards section of the Federal regulations under Part B of the IDEA (34 CFR §§300.500 through 300.536). None of the provisions under the headings: ***Filing a Due Process Complaint***; ***Due Process Complaint***; ***Model Forms***; ***Resolution Process***; ***Impartial Due Process Hearing***; ***Hearing Rights***; ***and Hearing Decisions*** (34 CFR §§300.507 through 300.513), can affect your right to file an appeal of the due process hearing decisions with a court of competent jurisdiction.
2. ***Separate request for a due process hearing***
   Nothing in the procedural safeguards section of the Federal regulations under Part B of the IDEA (34 CFR §§300.500 through 300.536) can be interpreted to prevent you from filing a separate due process complaint on an issue separate from a due process complaint already filed.
3. ***Findings and decision to advisory panel and general public***
   The SEA after deleting any personally identifiable information, must:
   a. Provide the findings and decisions in the due process hearing or appeal to the State Special Education Advisor Panel (SEAP); **and**
   b. Make those findings and decisions available to the public.

D. FINALITY OF DECISION; APPEAL; IMPARTIAL REVIEW (34 CFR §300.514)

Finality of hearing decision
A decision made in a due process hearing is final, except that any party involved in the hearing (you or the LEA) may appeal the decision to a court of competent jurisdiction.

E. TIMELINES AND CONVENIENCE OF HEARINGS (34 CFR §300.515)

1. **Timelines**
   The SEA must ensure that not later than 45 calendar days after the expiration of the 30-calendar day period for resolution meetings **or**, as described under the sub-heading ***Adjustments to the 30-calendar day resolution period***,
   a. A final decision is reached in the hearing; **and**
   b. A copy of the decision is mailed to you and the LEA.

2. ***Extensions of Time***
   A hearing or reviewing officer may grant specific extensions of time beyond the periods described above (45 calendar days for a hearing decision and 30 calendar days for a review decision) if you or the LEA make a request for a specific extension of the timeline. Each hearing involving oral arguments must be conducted at a time and place that is reasonably convenient to you or your child.

F. CIVIL ACTIONS, INCLUDING THE TIME PERIOD IN WHICH TO FILE THOSE ACTIONS (34 CFR §300.516)

1. **General**
   Any party (you or the LEA) who does not agree with the findings and decision in the SEA's decision has the right to bring a civil action with respect to the matter that was the subject of the due process hearing. The action may be brought in a district court of the United States without regard to the amount in dispute or in a State court of competent jurisdiction (a State court that has authority to hear this type of case). In Pennsylvania, the court of competent jurisdiction is the Commonwealth Court.
2. **Time limitation**
   The party (you or the LEA) bringing the action in a district court of the United States shall have 90 calendar days from the date of the decision of the SEA to file a civil action. The party bringing the action in the Commonwealth Court shall have 30 calendar days from the date of the decision of the SEA to file a civil action.
3. **Additional procedures**
   In any civil action, the court:
   1. Receives the records of the administrative proceedings;
   2. Hears additional evidence at your request or at the LEA's request; **and**
   3. Bases its decision on the preponderance of the evidence and grants the relief that the court determines to be appropriate.
4. **Rule of construction**
   Nothing in Part B of the IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under Part B of the IDEA, the due process procedures described above must be exhausted to the same extent as would be required if the party filed the action under Part B of the IDEA. This means that you may have remedies available under other laws that overlap with those available under the IDEA, but in general, to obtain relief under those other laws, you must first exhaust the available administrative remedies under the IDEA (i.e., the due process complaint, resolution meeting, and impartial due process hearing procedures) before going into court unless some specific judicial exception is available which renders exhaustion of administrative remedies futile.

G. ATTORNEY'S FEES (34 CFR §300.517)

1. **General**
   In any action or proceeding brought under Part B of the IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs:
   a. To you if you are considered the prevailing part.
   b. To a prevailing State Educational Agency or LEA, to be paid by your attorney, if the attorney: (a) filed a complaint or court case that the court finds is frivolous, unreasonable, or without foundation; **or** (b) continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; **or**
   c. To a prevailing State Educational Agency or LEA, to be paid by you or your attorney, if your request for a due process hearing or later court case was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to unnecessarily increase the cost of the action or proceeding.

2. **Reasonable Fees**
   A court awards reasonable attorneys' fees consistent with the following:

a. Fees must be based on rates prevailing in the community in which the action or hearing arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded.
b. Fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Part B of the IDEA for services performed after a written offer of settlement to you if:
    1) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing or State-level review, at any time more than 10 calendar days before the proceeding begins;
    2) The offer is not accepted within 10 calendar days; **and**
    3) The court or administrative hearing officer finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.
    4) Notwithstanding these restrictions, an award of attorneys' fees and related costs may be made to you if you prevail and you were substantially justified in rejecting the settlement offer.
c. Fees may NOT be awarded relating to any meeting of the IEP Team unless the meeting is held as a result of an administrative proceeding or court action. A resolution meeting, as described under the heading ***Resolution meeting***, is not considered a meeting convened as a result of an administrative hearing or court action, and also is not considered an administrative hearing or court action for purposes of these attorneys' fees provisions.
d. Fees also may not be awarded for a mediation as described under the heading ***Mediation***.

3. Reduction in Fees

The court reduces, as appropriate, the amount of the attorneys' fees awarded under Part B of the IDEA if the court finds that:

a. You, or your attorney, during the course of the action or proceeding, unreasonably delayed the final resolution of the dispute;
b. 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 similar skill, reputation, and experience;
c. The time spent and legal services furnished were excessive considering the nature of the action or proceeding; **or**
d. The attorney representing you did not provide to the LEA the appropriate information in the due process request notice as described under the heading ***Due Process Complaint***.

However, the court may not reduce fees if the court finds that the State or LEA unreasonably delayed the final resolution of the action or proceeding or there was a violation under the procedural safeguards provisions of Part B of the IDEA.

H. MODEL FORMS (34 CFR §300.509)

While the State Educational Agency (SEA) has developed model forms to help you file a due process complaint and a State complaint, the SEA or the LEA may not require you to use these model forms. In fact, you can use this form or another appropriate model form, so long as it contains the required information for filing a due process complaint or a State complaint.

VI. MEDIATION (34 CFR §300.506)

A. GENERAL

The SEA must make mediation available to allow you and the LEA to resolve disagreements involving any matter under Part B of the IDEA, including matters arising prior to the filing of a due process complaint. Thus, mediation is available to resolve disputes under Part B of the IDEA, whether or not you or the LEA have filed a due process complaint to request a due process hearing as described under the heading ***Filing a Due Process Complaint***.

B. PROCEDURAL REQUIREMENTS

The procedures must ensure that the mediation process:

1. Is voluntary on your part and the LEA's part;
2. Is not used to deny or delay your right to a due process hearing, or to deny any other rights you have under Part B of the IDEA; **and**
3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
4. The SEA must maintain a list of people who are qualified mediators and are knowledgeable in the laws and regulations relating to the provision of special education and related services. The SEA must select mediators on a random, rotational, or other impartial basis.
5. The State is responsible for the cost of the mediation process, including the costs of meetings.
6. Each session in the mediation process must be scheduled in a timely manner and held at a place that is convenient for you and the LEA.
7. **If you and the LEA resolve a dispute through the mediation process, both parties must enter into a legally binding agreement that sets forth the resolution and that:**
    a. States that all discussions that happened during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; **and**
    b. Is signed by both you and a representative of the LEA who has the authority to bind the LEA.
8. A written, signed mediation agreement is enforceable in any State court of competent jurisdiction (a court that has the authority under State law to hear this type of case) or in a district court of the United States.
9. Discussions that happened during the mediation process must be confidential. They cannot be used as evidence in any future due process hearing or civil proceeding of any Federal court or State Court of a State receiving assistance under Part B of IDEA.

Request Forms - Office for Dispute Resolution

Request Mediation PPA residents call: 800-222-3353; Non-PA residents call: 717-901-2145 TTY Users: PA Relay 711

C. IMPARTIALITY OF MEDIATOR

The mediator:

1. May not be an employee of the SEA or the LEA that is involved in the education or care of your child; **and**
2. Must not have a personal or professional interest which conflicts with the mediator's objectivity.

A person who otherwise qualifies as a mediator is not an employee of a LEA or SEA solely because he or she is paid by the agency to serve as a mediator.

VII. THE CHILD'S PLACEMENT PENDING MEDIATION AND DUE PROCESS (34 CFR §300.518)

A. GENERAL

THE CHILD'S PLACEMENT PENDING MEDIATION AND DUE PROCESS (34 CFR §300.518)
Once a due process complaint is sent to the other party, during the resolution process time period, and while waiting for the decision of any impartial due process hearing or court proceeding, unless you and the State or LEA agree otherwise, your child must remain in his or her current educational placement.

If the due process complaint involves an application for initial services under Part B of the IDEA for a child who is transitioning from being served under Part C of the IDEA to Part B of the IDEA and who is no longer eligible for Part C services because the child has turned three, the LEA may be required to provide the Part C services that the child has been receiving. Children are entitled to pendency – that is, the continuation of the services set forth in their IFSP – when a dispute arises when they are transitioning into the preschool Early Intervention program at age three (3) and the family requests a formal hearing to resolve the dispute. If the child is found eligible under Part B of the IDEA and you consent for the child to receive special education and related services for the first time, then, pending the outcome of the proceedings, the LEA must provide those special education and related services that are not in dispute (those which you and the LEA both agree upon)

RESOURCES

Disabilities Rights PA
800-692-7443 (Harrisburg)
215-238-8070 (Philadelphia)
412-391-5225 (Pittsburgh)
Email: intake@drnpa.org
www.drnpa.org

Hispanos Unidos para Ninos Excepcionales (HUNE)
Hispanics United for Exceptional Children
215-425-6203 (Voice)
www.huneinc.org

Office of Child Development and Early Learning (OCDEL)
Bureau of Early Intervention Services and Family Supports (BEIS/FS)
717-346-9320
Email: RA-ocdintervention@pa.gov
www.education.pa.gov (click on Early Learning then Early Intervention)

Pennsylvania Office for Dispute Resolution (ODR)
800-222-3353
Email: odr@odr-pa.org

Education Law Center
215-238-6970 (Philadelphia)
412-258-2120 (Pittsburgh)
www.elc-pa.org

Mission Empower
844-370-1529
Email: advocate@missionempower.org
www.missionempower.org

Parent Education and Advocacy Leadership (PEAL) Center
866-950-1040 (Toll-Free)
215-567-6143 (Voice)
412-281-4404 (Voice)
412-281-4409 (TTY)
Email: info@peal.org
www.pealcenter.org

Pennsylvania Training and Technical Assistance (PaTTAN)
Early Intervention Technical Assistance (EITA)
PaTTAN Harrisburg 800-360-7282 or 717-541-4960
PaTTAN East 800-441-3215 or 610-265-7321
PaTTAN Pittsburgh 800-446-5607 or 412-826-2336
www.pattan.net

THE OFFICE FOR DISPUTE RESOLUTION

Request Form

Mediation

IEP/IFSP/GIEP Facilitation

Service Information		
Today's Date:	Requested by: ☐Parent/Guardian ☐LEA (school district; charter; or IU) ☐ Parent Attorney ☐Infant/Toddler/Early Intervention ☐ LEA Attorney	
Name/Email of Person Completing this Form:	Relationship to Student:	Phone:
Please Check the type of service requested: ☐Mediation ☐IEP Facilitation ☐GIEP Facilitation ☐IFSP Facilitation (Early Intervention)		

Student Information	
Last Name:	First Name:
Date of Birth:	Exceptionality:
Name of School/Program:	

Parent/Guardian Information	
Parent/Guardian Names:	Second Parent or Parent not residing with the Student:
Address:	Address:
Home Phone:	Home Phone:
Work Phone:	Work Phone:

Cell Phone:	Cell Phone:
Email:	Email:

For Parent/Guardian Requests:
Will the parent be represented by an attorney at mediation? ☐ No ☐ Yes If yes, please provide the information below.
Attorney Name:
Attorney Email:
Attorney Phone:
Attorney Address:

LOCAL EDUCATION AGENCY (LEA) INFORMATION	
School District/Charter School/Agency Name:	
Address:	
Contact Name:	Position Title:
Phone:	
Fax:	
Email:	

Please provide a brief description of the issue(s) in dispute, and any proposed solutions to the problem.

Please complete this section if you are requesting any type of facilitation service.

☐ An IEP/IFSP/GIEP meeting is currently scheduled for:
(time, date location)

☐ An IEP/IFSP/GIEP1 meeting has not yet been scheduled.

For all requests, if there is additional information you would like to provide, please enter it here.

- Parents with questions about these services or other dispute resolution options may contact the Special Education ConsultLine at 800-879-2301 or 717-901-2146.
- Any birth-3 questions should be referred to OCDEL at 717-346-9320.
- On occasion, an ODR staff person may ask to attend any of these meeting for purposes of evaluating the service. Parties will be notified ahead of time, and any questions will be addressed at that time.
- Please save a copy of this form and MAIL, FAX or EMAIL a completed form to the Office for Dispute Resolution at:

6340 Flank Drive, Harrisburg, PA 17112-2764
717-901-2145 • Toll Free 800-222-3353 (PA only)
Fax 717-657-5983 • TTY Users: PA Relay 711
Email: odr@odr-pa.org

Due Process Complaint

A request for a due process hearing must be made in writing to both ODR and the school. The following form can be used.

*indicates a required field

Basic Information

☐ IDEA	☐ IDEA & Gifted Education	☐ Gifted Education	☐ Section 504
Today's Date:		Requested by: ☐ Parent ☐ LEA	
Name of Person Completing this Request:		Relationship to Student:	
Email of Person Completing this Request:		Phone:	
Hearing Preference: ☐ In Person ☐ Virtual			
If you require special accommodations to participate in the due process hearing, you must notify the LEA.			

Student Information

*First Name:	*Last Name:	
Date of Birth (MM/DD/YYYY):	Gender: ☐ Male ☐ Female	
Exceptionality: ☐ Autism ☐ Deaf-Blindness ☐ Developmental Delay ☐ Emotional Disturbance ☐ Gifted ☐ Hearing Impairment (including Deafness) ☐ Intellectual Disability ☐ Multiple Disabilities ☐ Not Eligible ☐ Orthopedic Impairment ☐ Other Health Impairment ☐ Protected Handicapped ☐ Specific Learning Disability ☐ Speech or Language Impairment ☐ Thought to have disabilities ☐ Thought to be gifted ☐ Traumatic Brain Injury ☐ Visal Impairment (including Blindness)		
*LEA (Local Education Agency) (e.g.: School District, Charter School, or Early Intervention Agency):	School Building Student Attends (e.g., ABC Elementary School):	
***Student Address**		
Street Address:		
Address Line 2:		
City:	State / Province / Region:	Zip / Postal Code:

Parent(s) Residing with Student

First Name:	Last Name:	Relationship: ☐ Mother ☐ Father ☐ Guardian
Home Phone:	Cell Phone:	Work Phone:
Email:		
Preferred Method of written correspondence: ☐ U.S. Mail ☐ Email		

Second Parent at Same Address:

First Name:	Last Name:	Relationship: ☐ Mother ☐ Father ☐ Guardian
Home Phone:	Cell Phone:	Work Phone:
Email:		
Preferred Method of written correspondence: ☐ U.S. Mail ☐ Email		

Parent Attorney (if represented):

Attorney Address

Street Adress:	
Address Line 2:	
City:	State / Province / Region:
Zip / Postal Code:	Country:
Attorney Phone: Ex: 000-000-0000 or 000-000-0000x000	Attorney Email:

Parent(s) Not Residing with Student

First Name:	Last Name:	Relationship: ☐ Mother ☐ Father
Home Phone:	Cell Phone:	Work Phone:
Email:		
Preferred Method of written correspondence: ☐ U.S. Mail ☐ Email		
Parent(s) Address		
Street Address:		
Address Line 2:		
City:	State / Province / Region:	
Zip / Postal Code:	Country:	
Parent Attorney (if represented):		
Attorney Address		
Street Address:		
Address Line 2:		
City:	State / Province / Region:	
Zip / Postal Code:	Country:	
Attorney Phone: Ex: 000-000-0000 or 000-000-0000x000	Attorney Email:	

Local Education Agency (LEA) Information

I. LEA Contact Person Information

First Name:	Last Name:	Position Title:
Cell Phone:	Work Phone:	Email:
Address		
Street Address:		
Address Line 2:		
City:	State / Province / Region:	
Zip / Postal Code	Country:	

II. Superintendent/CEO		
First Name:	Last Name:	Position Title:
Address		
Street Address:		
Address Line 2:		
City:	State / Province / Region:	
Zip / Postal Code:	Country:	
Phone:		

III. LEA Attorney	
Attorney Address	
Street Address:	
Address Line 2:	
City:	State / Province / Region:
Zip / Postal Code:	Country:
Attorney Phone:	Attorney Email:

IV. The due process hearing will be held at the following address:
(Building Name, Address and Room Number/Name – to be completed by the LEA)

Note: The hearing will be held at a time and place reasonably convenient to parents and the child involved. For gifted education cases, the hearing will be held in the school district at a place reasonably convenient to the parents and, at the request of the parents, may be held in the evening.

Information About the Due Process Complaint (IDEA Cases only)

A. Does your issue pertain to a hearing officer decision which has not been implemented? ☐ Yes ☐ No
(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's decision.)

B. Is this a request for a hearing based on a disagreement about:
☐ Discipline ☐ ESY (Extended School Year)

Check if student is in the ESY target group: ☐ Student is in the ESY target group

If the student is homeless according to the McKinney-Vento Homeless Assistance Act and their contact information or name of the school they are attending is different than above, please include the information here.

Information About Due Process Complaint (All Cases)

You may use this form to explain the nature of your dispute, or you may attach a separate piece of paper containing

*What is the dispute about? Please include facts in your description.
*How would you like to see this resolved? What are you seeking?
If you know the other side's position about this problem, please describe it here.

Resolution Meeting (IDEA Cases only)

Prior to a due process hearing taking place, if the parent filed the process complaint, the law (34 CFR §300.510) requires the parties to participate in a resolution meeting, unless both sides agree in writing to waive this requirement. Please completed the following information:

1. A resolution meeting to discuss these issues is scheduled for (Date MM/DD/YYYY):
2. A resolution meeting was held on (Date MM/DD/YYYY):
3. Participation in the resolution meeting was waived by both parties and the LEA in writing on (Date MM/DD/YYYY):
4. In lieu of a resolution meeting, I am requesting mediation. ☐ Yes ☐ No
If #4 is checked, an ODR mediation case manager will be in contact with the parties.

An ODR staff member will confirm receipt of complaint and provide case manager and hearing officer information.

Additional information about due process is available on the ODR website, www.odr-pa.org, or by calling the Special Education ConsultLine (800-879-2301).

Pennsylvania
Office of Child Development and Early Learning

Early Intervention Formal Complaint Form

There are multiple ways that you can file a complaint. You may use this form, send an email, or call 717-346-9320 to file your complaint verbally.

Please note, a complaint must be filed within one year of the date the alleged violation occurred.

This form is available in multiple languages.

An Early Intervention (EI) Advisor will contact you to discuss this complaint. Please check your preferred method of contact below:

☐ By phone

Please provide your number: _____

Best time during normal business hours to call: _____

☐ By email

Please provide your email: _____

Are you filing this complaint on behalf of a specific child? ☐ Yes ☐ No

If yes, please provide the name and address of the child:

Child's Name: _____

Address: _____

_____

Date of Birth: (optional) _____

School District: (optional) _____

If the complaint is being filed on behalf of a child or youth experiencing homelessness, please provide the available contact information:

Please provide the name of the Infant Toddler or Preschool EI program: _____

Name of Complainant: (optional) _____

Relationship to child: (optional)

☐ Parent/Guardian ☐ Attorney ☐ Advocate ☐ Community Organization ☐ Other

Please provide a statement that describes the violation/issue. Include a description of the nature of the problem (additional pages can be used, as needed):

Please list all of the facts that you would like to share about the problem (additional pages can be used, as needed):

Please suggest a solution to the problem (optional):

Did the violation/issue occur within the past year? If so, on or about what date?

The complaint must be signed for the Bureau of Early Intervention Services and Family Supports (BEISFS) to investigate. You must also send a copy of this complaint to the Infant Toddler or Preschool EI program you included above. By signing below, you are confirming that you have provided a copy of the formal complaint to the EI program.

_____ _____

Signature of Complainant Date

Please return the form to:

Office of Child Development & Early Learning
Bureau of Early Intervention Service & Family Supports
607 South Drive, 4th Floor
Harrisburg, PA 17120
E-mail: ra-ocdintervention@pa.gov
Fax: 717-346-9330