Notice of Parental Rights for Gifted Students

Child's Name:

Date:

Dear ***Parent Name***,

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). 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 Plan (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 parent assistance resources can be found below.

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.

Sincerely,

Pennsylvania Department of Education
Bureau of Teaching and Learning
333 Market Street, 3rd Floor
Harrisburg, PA 17126-0333
717-705-6359

Bureau of Special Education
333 Market Street, 7th Floor
Harrisburg, PA 17126-0333
717-783-6134

Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
800-222-3353

Pennsylvania Office for Dispute Resolution (free for parents/guardians)
6340 Flank Drive
Harrisburg, PA 17112-2764
Special Education Consult Line: 800-879-2301 or (locally) 717-541-4960 ext. 3332
www.odr-pa.org

Pennsylvania Association for Gifted Education, Inc. (PAGE)
P.O. Box 312
Northampton, PA 18067
Helpline: 888-736-6443
www.giftedpage.org

Notice of Parental Rights

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;
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.

1. During a mediation conference the mediator will meet with the parties together in a joint session and individually in private sessions.
2. The designated agency involved in the dispute must send representative who has the authority to commit resources to the resolution agree upon.
3. Any agreement reached by the parties during the mediation process must be converted into writing and placed in the student's educational record.
4. The written mediation agreement is not a confidential document, shall be incorporated into the student’s GIEP, and is binding on the parties.
5. The mediation agreement shall be enforceable by the Department of Education.

6. A GIEP team shall be convened within 10 school days following the mediation agreement, to incorporate the mediation agreement into the GIEP where necessary.
7. 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.
8. Mediation may not be used to deny or delay a party's right to an impartial due-process hearing
9. Impartial Due Process Hearings
    a. 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.
    b. 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.
    c. 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.
    d. 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.
    e. 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.
    f. The hearing officer will have the authority to order that additional evidence be presented.
    g. A written transcript of the hearing will, upon request, be made and provided to the parents at no cost.
    h. 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.
    i. A parent or parent's representative will have access to educational records, including tests or reports upon which the proposed action is based.
    j. 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.
    k. A party has the right to present evidence and testimony, including expert medical, psychological or educational testimony.
    l. The decision of the impartial hearing officer may be appealed to a court of competent jurisdiction.
    m. 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.

n. 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.
o. 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.
p. The following timelines apply to due process hearings:
    i. The hearing must be held within 30 calendar days after a parent's or school district's initial request for a hearing.
    ii. The hearing officer's decision must be issued within 45 calendar days after the parent's or school district's request for a hearing.
q. 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.

Mediation Request Form

The Mediation Request Forms can be found on the Office for Dispute Resolution website.

- Mediation Request Form – English (PDF)
- Mediation Request Form – English – Online Submission
- Mediation Request Form – Spanish (PDF)
- Mediation Request Form – Spanish – Online Submission