



## OVERVIEW OF THE SPECIAL EDUCATION PROCESS

**IMPORTANT:** ELC's publications are intended to give you a general idea of the law. However, each situation is different. If, after reading our publications, you have questions about how the law applies to your particular situation, contact us for a referral, or contact an attorney of your choice.

### THE INITIAL EVALUATION

If you think your child needs special education help, write to your principal and request an evaluation. If the School District thinks an evaluation is not needed, it must tell you in writing, give you a reason, and explain how you can challenge the decision. The evaluation should decide whether your child has a disability and requires special supports to learn, and what kind of programs and supports are needed. The District must finish the evaluation, and give you a written report, within **60 calendar days (minus the summer) of the date you sign the Permission To Evaluate (PTE) - Consent Form**. The School District must make the PTE - Consent Form "readily available." These rules also apply to students in public charter schools. Keep a copy of all papers you send or sign!

### TEAM EVALUATION AND REPORT

A Team (which includes you, usually a certified school psychologist, the child's regular teacher, and other IEP Team members) must use a variety of tests or strategies to evaluate your child. The child should be tested in the language most likely to give accurate information. All evaluations must be free to the family. The evaluation must determine whether the child is eligible for special services and decide what program needs the child's program has. Parents must get a copy of the Evaluation Report at least **10 school days** before the IEP Team

meeting (unless the family waives the **10-day period**). Even if the parent has not put the request in writing, if she asks a professional or administrator at the school to evaluate the child, within **10 calendar days** the person must give the parent a form, called a **Permission To Evaluate - Evaluation Request Form**, on which she can make a written evaluation request. These rules also apply to children who attend public charter schools.

## **REEVALUATIONS**

You can ask for a reevaluation at any time, but the School District is not required to do more than one reevaluation during a school year. The reevaluation must be finished, and the report given to you, within **60 calendar days (minus the summer) of the date the School District (or public charter school) gets your written permission**. The School District or the school must give the reevaluation report to the family at least **10 school days** before the IEP Team meeting. A child must be reevaluated every **3 years (every 2 years** for children with mental retardation). Unless the student has mental retardation, the parents can agree to waive the 3-year reevaluation. The reevaluation should decide whether the child still has a disability and the child's educational needs. This should include a review of whether the child has been making progress in the IEP goals, and which activities and strategies worked - and which didn't.

## **INDEPENDENT EVALUATIONS**

Results of private evaluations from the parents must be "considered" by the IEP Team (although the Team doesn't have to agree with the independent evaluator). If you believe the School District's or school's evaluation was badly flawed (for example, that more or different tests or evaluations are necessary, or that the evaluation did not provide enough information to develop a good IEP), you can ask the District or the public charter school to pay for an independent educational evaluation. If the School District or school refuses this request, it must ask that a special education hearing be scheduled to determine whether its refusal should be overruled.

## **INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

Within **30 calendar days** of when the Evaluation Report is finished, a meeting must be held to write the IEP. The IEP Team must meet at least **once**

**each year** while the child continues to receive special education services. The **IEP Team** must include the parents, the student, if appropriate (especially if transition planning is being discussed), a current special education teacher (and a regular education teacher if the child is or may be participating in a regular education program), a representative of the School District who is qualified to provide or supervise the provision of special instruction, knows about the general education curriculum and knows what resources are available, and someone who can explain what the evaluation tells the group about how the child should be taught. More people can be invited by the parents or the school or School District.

The IEP is the written "contract" between the parents and the school. It describes the special program and the type and amount of related services your child needs. The IEP must include annual goals that can be measured, short-term objectives for children with significant disabilities whose program is geared to different academic standards than other children, the type of special help your child will receive in the classroom, how your child's progress will be measured, the extent to which your child can participate in the general school curriculum, and whether the child can participate in state or district-wide academic achievement tests, with supports if needed, or whether the child will take a different test (called the PASA). The IEP must also list the school at which the services will be delivered.

When you approve the IEP, your child must start receiving the services in the IEP within **10 school days**. You can ask for an IEP meeting at any time - you do not have to wait until the next yearly meeting.

## **PLACEMENT**

Your child should receive special education services in regular education classes unless your child cannot make reasonable progress even with supports. Even if the child cannot attend regular classes full-time, the child can be assigned to special classes only for students with disabilities only if it is necessary for the child to succeed. So, if the child can succeed with help in a part-time resource room, the School District should not assign the child to a full-time pullout program. The same rules apply to public charter schools. Unless the student's needs require another school, the child should attend the same school he or she would have attended if the student did not need special services.

## NOTICE AND THE RIGHT TO CHALLENGE A SCHOOL DISTRICT DECISION

Whenever the School District or public charter school proposes or refuses to evaluate or reevaluate your child; decides your child is eligible for special education (or refuses to agree that your child needs special services); offers an IEP to your child (or refuses to include services that you think are necessary); or offers or refuses to offer a placement you think is necessary (including a regular classroom), the School District or public charter school should give you written notice (called a Notice of Recommended Educational Placement/Prior Written Notice or NOREP/PWN). The NOREP/PWN explains what the School District or school is proposing or which of your requests the district or the school is refusing to grant. The NOREP/PWN also gives you a place to agree or to disagree with the proposal or refusal and to ask for mediation or a hearing. If you think the School District or the school is not following the law, you can file a complaint with the State. For more information about the rights of children with disabilities, see ELC's website at the address listed below, or contact the Disability Rights Network at 800-692-7443.

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**Disability Rights Network of Pennsylvania (DRN), pursuant to the Developmentally Disabled Assistance and Bill of Rights Act, P.L. 101-496, and the P&A for Mentally Ill Individuals Act, P.L. 99-319. DRN is located at 1414 N. Cameron Street, Suite C, Harrisburg, PA 17103. Telephone: 800-692-7443 or 717-236-8110. Website: [www.drnpa.org](http://www.drnpa.org).**

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