



Education Law Center

Making sure that all of Pennsylvania's children
have access to quality public schools

THE RIGHTS OF GIFTED STUDENTS IN PENNSYLVANIA

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.

In Pennsylvania, public school students who are gifted have the right to special programs or services to help them reach their potential. A school district must provide gifted education that is individualized to the student and free of charge. This fact sheet covers the basic rules for gifted education, including the Pennsylvania regulations that were revised effective November 1, 2008, and provides sources for additional information and support. Please note that public charter schools are **not** required to provide gifted education services.

PENNSYLVANIA LAW DEFINES "MENTALLY GIFTED" AS:

Outstanding intellectual and creative ability, the development of which requires specially designed programs or support services, or both, not ordinarily provided in the regular education program. This term includes a person who has an IQ of 130 or higher or when multiple criteria as set forth in Guidelines from the Pennsylvania Department of Education indicate gifted ability. Determination of gifted ability may not be based on IQ score alone. A person with an IQ score lower than 130 may be admitted to gifted programs when other educational criteria in the profile of the person strongly indicate gifted ability. Deficits in a child's memory or processing cannot be the sole basis for concluding that a child is not gifted. Determination of mentally gifted shall include an assessment by a certified school psychologist. 22 Pa. Code § 16.21(d).

Each school district is required to locate and identify all students in the district who meet this definition of "mentally gifted."

THIS MEANS:

IF YOUR CHILD IS GIFTED, OR IF YOU THINK YOUR CHILD IS GIFTED, YOU HAVE:

THE RIGHT to request a free gifted evaluation by the District, with a limit of one request per school year. The request must be in writing, and the District must have a Permission to Evaluate form "readily available" for this purpose. If a parent orally asks for an evaluation, the District must give its Permission to Evaluate form to the parent within **10 calendar days**. The evaluation does not start until the parent provides her consent. The District then has **60 calendar days** (minus the summer months) to complete the evaluation.

THE RIGHT to a multidisciplinary evaluation of the child that is broad enough to look at the child's academic functioning, learning strengths, and educational needs. The evaluation team must include the parents, a certified school psychologist, one or more teachers, someone trained in evaluating gifted students, and people familiar with the student's educational and cultural background. Parents have the right to provide information about the child as part of the evaluation process. Any tests given to the student as part of the evaluation must be administered by a certified school psychologist in a way that is free from racial, cultural, or disability-based bias. IQ tests cannot be the only test used for students with limited English-proficiency or students of racial, linguistic, or ethnic minority backgrounds.

THE RIGHT to look over the results of the evaluation and other materials about your child. The written evaluation report from the District should include recommendations about your child's programming.

THE RIGHT to have the results of independent evaluations considered by the District.

THE RIGHT to written notice of whether or not the District finds that your child is gifted.

IF YOU AND THE DISTRICT AGREE THAT YOUR CHILD IS GIFTED, YOU HAVE:

THE RIGHT to a free, Gifted Individualized Education Plan (GIEP) for your child based on the written evaluation report developed within **30 calendar days** of the written report. The GIEP is a written plan that describes the present educational levels of your child and the annual educational goals and short-term learning outcomes for your child. It also describes the education services your child will get, including the location and frequency of those services.

THE RIGHT to work with a team of District officials to develop a GIEP. GIEP team members must include you (the parents), a teacher of the gifted, one or more of your

child's current teachers, someone from the District who knows about and has the authority to commit resources in the District (sometimes called the LEA representative), the child (at your discretion), and other individuals at the direction of either you or the District. Once you agree with the GIEP, the District must implement the GIEP within **10 school days** or at the start of the following school year if the GIEP is completed less than 30 days before the last day of school.

THE RIGHT to have the GIEP reviewed by the District and revised annually, or more often at your request.

THE RIGHT to have your child reevaluated by the District before a change in educational placement is recommended.

IF YOU AND THE DISTRICT DISAGREE ABOUT WHETHER YOUR CHILD IS GIFTED, OR IF YOU AND THE DISTRICT DISAGREE ABOUT THE PRESENT OR RECOMMENDED GIEP OR PLACEMENT OF YOUR CHILD, YOU HAVE:

THE RIGHT to request mediation before an impartial person who helps the parents and the District to resolve the dispute on their own. Contact the Office for Dispute Resolution at 1-800-222-3353 or go to <http://odr.pattan.net> for more information about the mediation process.

THE RIGHT to ask for a hearing before an independent Hearing Officer. The hearing must be held within **30 calendar days** of the request. Contact the Office for Dispute Resolution at 1-800-222-3353 or go to <http://odr.pattan.net> for more information about requesting a hearing.

THE RIGHT to appeal to the state court if you are unhappy with the Hearing Officer's decision.

IF NECESSARY, ALL NOTICES TO YOU FROM THE DISTRICT MUST BE READ OR PROVIDED TO YOU IN THE LANGUAGE YOU NORMALLY USE.

SOME "HOW TO DO ITS" FOR PARENTS OF GIFTED CHILDREN IN PENNSYLVANIA

IF YOU WANT YOUR CHILD TO BE CONSIDERED FOR A GIFTED PROGRAM:

WRITE to the principal of your child's school requesting a gifted evaluation. Be sure to explain why you believe your child is gifted and needs specially designed instruction. Send a copy to the Special Education Director for your District and keep a copy for yourself.

IF YOUR GIFTED EVALUATION IS NOT COMPLETED WITHIN 60 CALENDAR DAYS (MINUS THE SUMMER MONTHS):

CONTACT the principal or Director of Special Education and discuss this matter. If this does not resolve the problem, you can:

FILE a complaint with the Pennsylvania Department of Education by sending a letter expressing your concerns. Send your complaint to: Dr. Shirley Curl, Bureau of Special Education, 717-786-6361 or by e-mail at scurl@state.pa.us.

WRITE a letter to your principal requesting a Due Process Hearing. Send a copy of the letter to the Special Education Supervisor for your District and keep a copy for yourself.

IF YOUR CHILD IS ALREADY IN GIFTED EDUCATION, BUT YOU WANT HER PROGRAM OR PLACEMENT CHANGED IN SOME WAY:

WRITE to the principal and explain what you want changed or request a meeting with your child's GIEP team. Or, if you feel a change is needed but you're not sure what to suggest, you may write a letter requesting further evaluations of your child's progress.

REQUEST a Due Process Hearing if the District will not make the change that you request or will not perform further evaluations of your child.

IF YOUR CHILD'S SCHOOL IS NOT PROVIDING THE SERVICES LISTED ON HER GIEP:

CONTACT the principal and ask that your child receive all the services listed on the GIEP. If the problem continues, you may:

FILE a complaint with the Pennsylvania Department of Education (see above).

IF YOUR CHILD IS GIFTED AND HAS A DISABILITY THAT AFFECTS HER LEARNING:

Your child may be able to receive extra educational services and protections. If your child has a disability that entitles her to special education, the District must develop a single IEP which includes gifted programming and services. The procedures for special education students will apply. Contact the Disability Rights Network of Pennsylvania at 1-800-692-7443 for more information about the educational rights of children with special needs.

FOR MORE INFORMATION, YOU MAY WANT TO TRY THESE RESOURCES:

- Center for Schools and Communities' Gifted Education Website
www.pagiftededucation.info
(clearinghouse for news and resources for educators, parents and students on gifted education)
- Pennsylvania Association for Gifted Education (PAGE)
www.penngifted.org
PAGE's Helpline: 1-888-736-6443
(nonprofit advocacy organization dedicated to helping gifted learners, parents and educators)
- Pennsylvanians for the Education of Gifted Students (PEGS)
www.pagifted.org/portal/
(grassroots organization established by parents of gifted students to address the needs of the gifted child)
- Pennsylvania Department of Education's (PDE) Gifted Education Website
www.pde.state.pa.us/gifted_ed/site/default.asp
(provides links to Parents' Guide to Gifted Education, sample forms, and the State's Gifted Guidelines)
- The Pennsylvania Bar Association Lawyer Referral Service
1-800-692-7375
(for referrals to private attorneys who represent parents in gifted education cases)

Prepared by: *Education Law Center-PA (Rev.4/09)*
(215) 238-6970 (Philadelphia)
(412) 258-2120 (Pittsburgh)
www.elc-pa.org