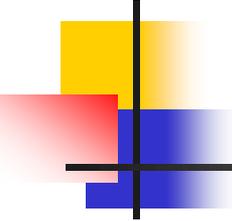


# Education Laws Impacting ELL Students: *What Families Need to Know*

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Education Law Center

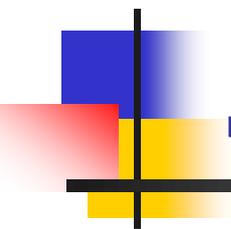
[www.elc-pa.org](http://www.elc-pa.org)



# Today's Training

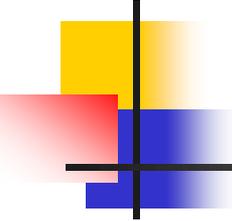
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- PA Laws & Policies You Need to Know
  - Child's Right to an Education
  - Enrollment & School Stability
  - Rights of English Language Learners
  - Special Education
  - School Discipline
  - Graduation
- Question and Answers



# **ENROLLMENT**

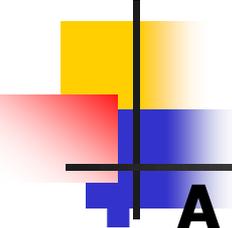
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# Child's Right to an Education

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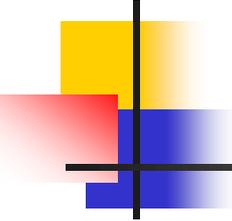
- All children in Pennsylvania have the **right to a free public school education.**
- Immigrant and refugee students do not need a social security number, visa, or any other documents pertaining to immigration status to enroll in Pennsylvania public schools.
- **In fact, schools may not ask about the immigration status of students as part of the enrollment process.**



# Compulsory Attendance

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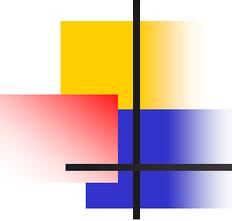
- **A child has the right *to attend school* from age 6 (possibly younger) to high school graduation *or* until the end of the school term in which the child turns 21, whichever comes first.**
- **A child is required to attend school or participate in an approved education program from age 8 (or Kindergarten) until his/her 17 birthday under state law.**
- **However, in Philadelphia a child must attend school beginning at age 6 or may be home schooled.**
- Enrolling a child in a charter school, a licensed private or parochial school, or an approved homeschooling program satisfies the school attendance requirement.



# Exceptions to Compulsory School Attendance

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- “Work Release” Exception
  - If a child is 16 and is “regularly engaged in any useful and lawful employment or service during the time the public schools are in session,” then he or she is not required to attend school. The student must hold an “employment certificate issued according to law.” Usually school districts issue these work papers.
- Other Limited Exceptions



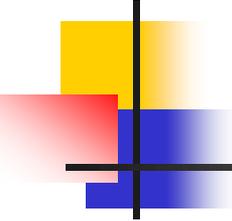
# Who can enroll a student in school?

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- A parent
- A school district resident (grandmother, aunt, uncle, family friend)

OR

- any other person having “charge or care of the child”

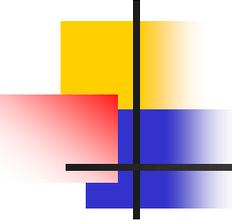


# What You Need to Enroll a Child in School

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- “4 in the Door”:
  - Proof of a child’s age
  - Proof of a residence in the school district
  - Proof of a child’s immunizations
  - Act 26 Affidavit

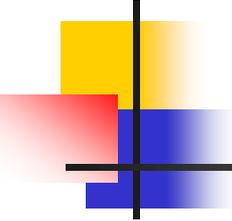
- 22 PA Code § 11.11



# Proof of Age

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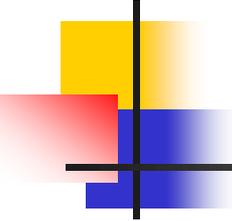
- Acceptable documentation:
  - birth certificate
  - notarized copy of birth certificate
  - **notarized statement** from the parents or another relative indicating date of birth
  - a valid passport
  - baptismal certificate or a copy of the record of baptism—  
notarized or duly certified and showing the date of birth
  - a prior school record indicating the date of birth



# Proof of Residence

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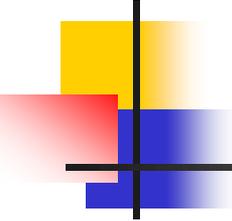
- Acceptable documentation includes:
  - A deed or a lease
  - A current utility bill
  - A current credit card bill
  - A property tax bill
  - Vehicle registration
  - Driver's license
  - A notarized statement signed by resident saying where he lives
  - Mail addressed to the resident at the home address



# Proof of Immunizations

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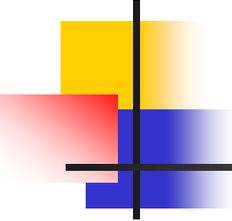
- Acceptable documentation includes:
  - a child's immunization record
  - A written or verbal assurances from a medical office that the required immunizations have been administered or that a required series is in progress
  - A written statement or verbal assurances from a former school district where a student was that the required immunizations have been completed (with records to follow).



# Act 26 Affidavit

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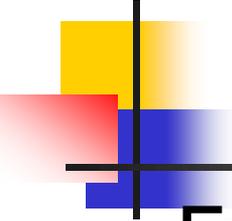
- A sworn statement attesting to whether the student has been or is suspended or expelled for offenses involving drugs, alcohol, weapons, infliction of injury or violence on school property must be provided to the school.



# Home Language Survey

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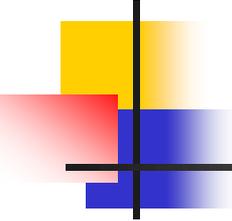
- All students who are enrolling in school for the first time must be given **a home language survey.**
- Enrollment of the student may not be delayed in order to administer the Home Language Survey.
- **This is intended to help students receive what they need in school.**



# Home Language Survey

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- Explain to parents why districts require it:
  - Federal law requires that **schools must communicate with parents in their preferred language**, as indicated by the home language survey
  - It is the school district's responsibility to provide for translation (written) and/or interpretation (oral) services. In order to do this, the district must know a preferred mode of communication.



# When a Child Lives with a Resident Adult other than a Parent

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- A child **may attend school** in the home school district if the child lives with an adult other than their parent if:
  - The adult has legal custody of the child
  - **OR if all of the following conditions are met:**
  - The adult supports the child without personal compensation or gain.
    - Personal compensation does not include SSI, TANF, pre-adoptive or adoptive support, public or private health insurance, child support payments
  - The child lives with the adult all year round
  - The adult agrees to be responsible for child's education

# How Long Should It Take to Enroll a Child?

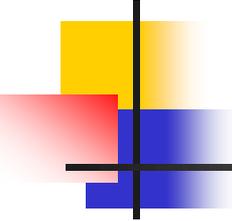


- School must enroll a child the **next business day or within 5 business days** of receiving the documents.

See 22 Pa. Code § 11.11(b)-(c).

- Children who are homeless **must be immediately enrolled** even without documents.
- Children who are homeless are also entitled to stay in their prior school.

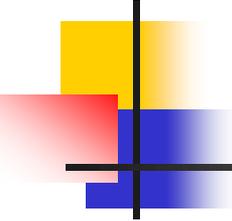
- Delays in obtaining education records cannot delay school attendance.
- The fact that a child needs to be evaluated for special education services or to determine the appropriate grade placement or class schedule cannot delay enrollment.



## Enrollment Rules in Discipline Cases

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- A school district cannot refuse to enroll a child based on the child's disciplinary record.
- It is only if a child is currently expelled for a weapons offense, that the district may assign a child to an *alternative assignment* for the length of the expulsion.



# Resolving Enrollment Disputes

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- Talk to the school enrollment office, then principal, then district
- If that doesn't work, a family can contact:

Dan Iser

School Services Unit Office of Elementary and Secondary Ed

Pennsylvania Department of Education

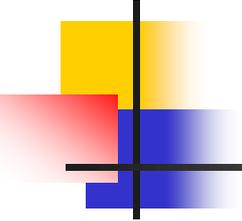
333 Market Street

Harrisburg, PA 17126-0333

Phone: 717.783.8088 | Fax: 717.214.4389

[diser@pa.gov](mailto:diser@pa.gov)

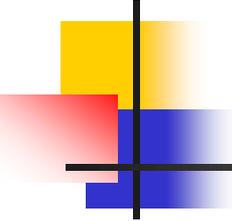
- Complaint may be filed by mail, e-mail, or phone.
- Sample complaints on ELC website; also copy ELC.



# TIPS For Parents: Anticipate Challenges

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- Maintain enrollment documents
- Keep all school records – report cards, IEPs
- If a child is in high school, talk to the school about credits needed to graduate.
- Ask to talk to a guidance counselor or other person to help the child make a smooth transition by ensuring appropriate placement, access to school activities, language issues etc.

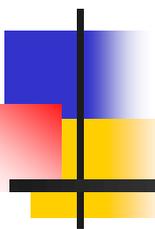


# Enrollment Recap

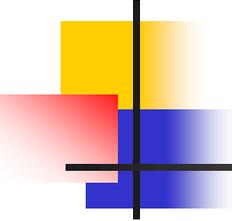
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- Rules on residency/enrollment for immigrant and refugee students are **the same** as for other students
- Four in the Door to Register:
  - Proof of Age
  - Proof of Residency
  - Proof of Immunizations
  - Act 26 Form
- Schools must provide translation/interpretation if needed as part of the enrollment process
- Immigration status is irrelevant, and schools may not ask!

# English Language Learners (ELLs)



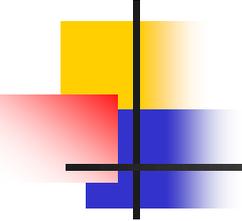
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# Defining Terms

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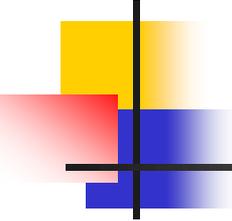
- “ELLs” are English language learners, or students whose dominant language is not English.
- “ESL” is “English as a Second Language” or “ESOL” “English for Speakers of Other Languages,” which is a service that ELLs need in school.



# What You Should Know

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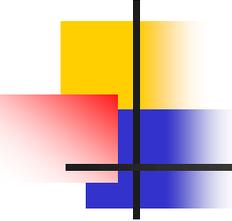
- English Language Learners have a legal right to:
  - Complete a “home language survey”
  - Be tested to determine ability level
  - Be accommodated for instruction & tests
  - Be evaluated to ensure a child is making progress
  - Receive ESL (English as a Second Language)
    - 2-3hrs (no English);
    - 2hrs (beginner);
    - 1-1.5 hrs (intermediate)
    - 1 hr (advanced)



# Learning English

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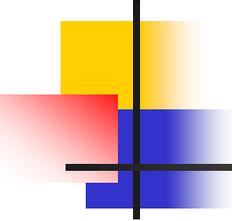
- *Every* ELL has a legal right to *daily* planned instruction in English as a Second Language (ESL) that is appropriate to a child's English abilities.
- Schools must test a child's English proficiency and then place a child in an appropriate ESL level.
- ESL teachers need a special certificate, but need not be bilingual.



# Learning academic content

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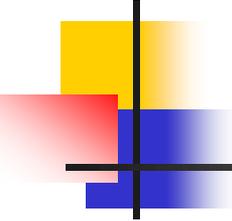
- English language learners have a right to *comprehensible* instruction in all content areas, separate from the ESOL classes (social studies, science, math, etc.)
- One option: bilingual instruction. Rare in PA.
- More common: instruction in English. In this situation, teachers must *adapt* content and instructional methods to needs of ELLs – a challenge for many teachers and districts.



# Ongoing assessment

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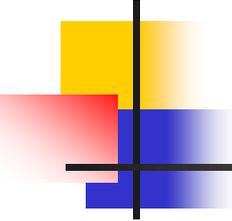
- ELLs must be periodically assessed to determine English language proficiency.
- Assessments in content areas must be adapted, where necessary, to needs of ELLs.
- PSSA: Most ELLs must participate; accommodations are available (permissible accommodations are on PDE website).



# Equal access

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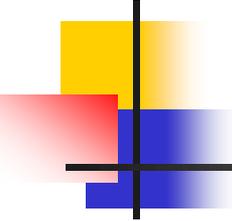
- ELLs have a right of equal access to all services offered to other students – such as specialized programs, school counseling, gifted education, vocational-technical programs, extracurricular activities.
- Schools must provide supports (such as professional development for teachers, ESL instruction, translation/interpretation, etc.) where needed.



# Communication with families

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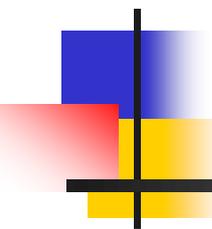
- Must be in family's preferred language.
- Oral (*e.g.*, when parent visits school, school conferences, meetings) and written (notices, forms).
- Family cannot be required to provide their own translator, or to use child in that role.
- Right to "translation" & "interpretation" where legal entitlement is implicated.



# Cultural sensitivity

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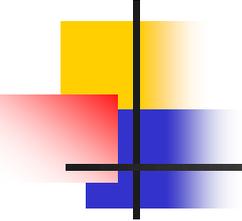
- Schools must learn about, and be respectful of, child's and family's background, culture, and customs.
- Schools must ensure that child and family do not face discrimination or mistreatment – from staff or other students – based on their background and culture.



# **Special Education**

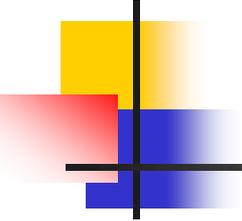
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# Overview of Rights Under the IDEA



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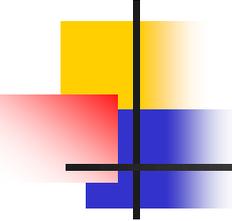
- Right to be identified as needing an evaluation
- Right to an Evaluation (and possibly IEE)
- **Free** Appropriate Public Education (FAPE)
  - Individualized Education Program (IEP)/Individualized Family Service Plan (IFSP)
- Placement in the Least Restrictive Environment (LRE)
- Procedural Safeguards
  - Notice & Right to Dispute Decisions



# IDEA is a “Right”

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- It is free
- IEP is the “contract”
  - If a service is listed on the IEP/IFSP, a child MUST receive it. No excuses.
  - Progress must be monitored
  - Right to consent and refuse services
  - Right to stop all services



# How to Request an Evaluation

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- Can be requested at any time
- Request must be in writing
- “Parent” must usually sign Permission to Evaluate (PTE)-Consent Form
- School District has **60 calendar days** (minus the summer) to complete evaluation and issue written Evaluation Report (ER)
- District also has a **CHILD FIND** duty

# Special Education Eligibility

- Mental retardation/
- developmental delays
- Hearing impairments
- Speech or language impairments
- Visual impairments
- Serious emotional disturbance

- Orthopedic impairments
- Autism
- Traumatic brain injury
- Specific learning disabilities
- Other health impairment

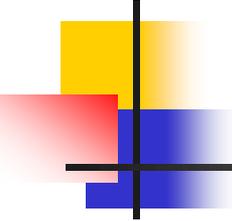


# Child Requires Help

Child must require special education (specially designed instruction) & related services



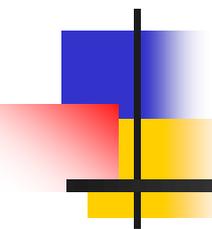
- If the child does not qualify but has a physical or mental impairment which substantially limits one or more major life activities, then the child may need an “accommodations plan” also called a “504 Plan” (e.g., diabetes, asthma etc.)



# English Language Learners and Special Education

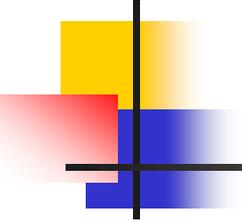
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- Being an English language learner is not a disability – but some English language learners do have disabilities and are entitled to an evaluation.
- There are special federal laws that protect all students with disabilities and entitle them to a “free appropriate public education” (“FAPE”)
- Procedural safeguards and protections, include translation and interpretation for families
- **Child MUST be evaluated within 60 days in the child’s native language.**



# **School Discipline**

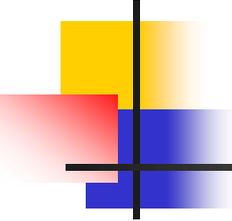
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# General Rules

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- Schools have wide discretion to “make reasonable and necessary rules”
- They can regulate student conduct during school AND coming to or from school.
- Schools may regulate out-of-school conduct only if it substantially disrupts school programs.
- Schools cannot punish students for conduct occurring OUTSIDE of school.

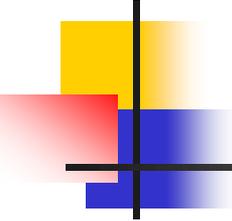


# Suspensions

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## Additional Requirements for Suspensions of 4-10 days

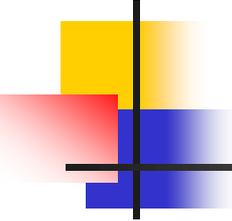
- Right to an **informal hearing**
- Right to notice of reasons for suspension & hearing time
- Right to question any witnesses present at the hearing
- Student can speak and produce witnesses
- Informal hearing must be held w/in first 5 days of suspension
- Suspensions are not appealable



# Expulsions

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- “Exclusion from school by the board of education for a period exceeding 10 school days and may be permanent expulsion from the school rolls.”
- All expulsions require a **formal hearing**.
- Student *remains* in “regular class” unless at informal hearing school finds student is a “threat.”
- Formal hearing can be in front of board panel but must be approved by majority vote of **full board**.

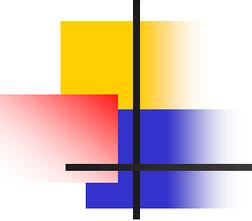


# Expulsions – Due Process

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Rights at the formal hearing include:

- Prior written notice
- Right to hire counsel
- Right to present witnesses, cross examine and testify
- Hearing must be recorded
- Written adjudication containing findings and reasons
- 30 days to appeal to the local court of common pleas (no automatic stay)

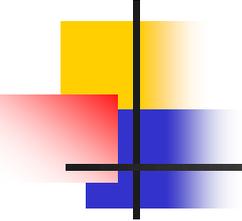


# Rights of Expelled Student

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## Obligations and Rights of an Expelled Student

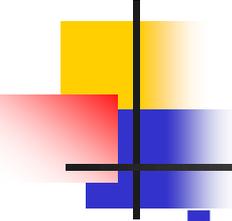
- If student is under 17, student must attend school. (This can be another public school, charter school, private school, home schooling.)
- If none of these can be arranged, parent must state so in writing within 30 days of date of decision.
- Then District must "**make provision for the student's education.**"



# Rights of Child with Disability in Discipline Process

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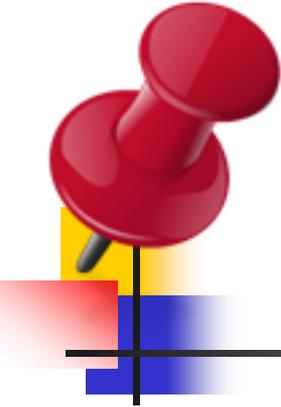
- A child cannot be disciplined *for a disability*
- A child has a right to a **manifestation determination review** if he has a “change in placement” --
  - Suspended for more than 10 school days in a row or 15 total school days in a school year
  - Transfer the student to an alternative school for more than 10 school days in a row OR child has intellectual disabilities.
- **Manifestation determination to decide whether conduct was related to or the result of child’s disability**
- **If so, child CANNOT be disciplined** unless offense involves drugs, weapons, or serious injury, then school can move the child for up to 45 school days without parent permission & even if behavior was caused by the student’s disability.
- The district must provide a FAPE to a child wherever she is.



# Other Education Rights

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- Right to Transfer to Another School
  - Victims of Violent Crimes at School
  - Students in Persistently Dangerous Schools *For more info: [http://www.pde.state.pa.us/svcs\\_students](http://www.pde.state.pa.us/svcs_students)*
- Right to Attend Charter School
- Right to Apply to Special Admit School
- Right to Title I tutoring, PSSA tutoring, equal access to vocational, career technical, AP, job corp. gifted, etc.
- TIP: Ask about DEADLINES



# Contact Information

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Maura McInerney

**Education Law Center**

1315 Walnut Street

Philadelphia, PA

215-238-6970 Ext. 316

[www.elc-pa.org](http://www.elc-pa.org)

[mmcinerney@elc-pa.org](mailto:mmcinerney@elc-pa.org)