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*Educational Decision Maker (EDM) Toolkit*

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**For Pennsylvania CASA Programs and Court-Appointed EDMs**

*Authored by the Education Law Center (ELC)  
and CASA of Philadelphia County*

*In Partnership with Impact100 Philadelphia*



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## Introduction

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Court-appointed Educational Decision Makers (EDMs) can have an enormously positive impact on the educational outcomes of children and youth in dependency system. Together with school personnel, child welfare professionals, and others, they can work to ensure that students who are in dependent care have school stability, achieve academic success, and have access to needed services.

This collection of “Tools” is intended to help Pennsylvania CASA programs train new EDM volunteers and to provide an ongoing resource for EDMs as questions and challenges arise in their work. The Toolkit provides checklists, suggestions, and resources to help EDMs address a range of education issues including enrollment, access to special education services, and school discipline.

The Toolkit is available on the web page of CASA of Philadelphia County: [www.casaphiladelphia.org](http://www.casaphiladelphia.org).

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## Acknowledgements

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**The Toolkit was written by staff of the Education Law Center and CASA of Philadelphia County.**

The Education Law Center-PA works to ensure that all children in Pennsylvania have access to a quality public education, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English language learners, and children experiencing homelessness. For more information about ELC, visit [www.elc-pa.org](http://www.elc-pa.org)

CASA of Philadelphia County is a non-profit that delivers personalized, integrated, child-centered advocacy for abused and neglected children in foster care through a diverse community of trained volunteers.

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*Made possible by the generous support of Impact100 Philadelphia.*

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## *Tool 1: What is an Educational Decision Maker (EDM)?<sup>1</sup>*

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### WHY THIS MATTERS

It is extraordinarily traumatic for a child to encounter neglect or violence, be adjudicated “dependent” or “delinquent” by a court, and be removed from the parents’ home and placed with a foster family, or placed in a juvenile justice facility, or other out-of-home placement. Many children in this situation find stability and safety at school. But all children need active, engaged adults to make education decisions on their behalf and to ensure that their schools meet their needs. An engaged adult is critical to protecting the educational rights of a child. That person must ensure that the child is in the appropriate grade, classroom and school, verify that credits transfer when the child changes schools, and protect a child’s rights to fairness in school discipline proceedings. In addition, if a young child has a developmental delay, the parent or other adult must protect the child’s right to appropriate “early intervention” (“EI”) services, and if the child is over age 3 and has a qualifying disability, to a “free and appropriate public education.” A consistent, engaged adult who makes education decisions helps guarantee that these children do not get left behind.

Unfortunately, many children in foster care—particularly those living in congregate care settings such as group homes, supervised independent living facilities, residential treatment facilities, and hospitals—often have no adult in their lives to serve in this role. This can be true of youth in the delinquency system as well.

Thankfully, school districts and juvenile courts in Pennsylvania both play essential—and legally mandated—roles to ensure that every child has an active and competent adult to address their educational needs:

### WHAT IS AN EDUCATIONAL DECISION MAKER?

Pennsylvania’s Juvenile Court Procedural Rules require judges to address the educational needs of all children—including but not limited to children with special education needs—during all court proceedings. In addition, the Juvenile Court Rules require a judge to appoint an adult “Educational Decision Maker” (EDM) if there is no parent or guardian available or when the appointment of an EDM

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<sup>1</sup> This is an excerpt from “Educational Decision Makers and Surrogate Parents in Pennsylvania” authored by ELC and the Juvenile Law Center available at [https://www.elc-pa.org/wp-content/uploads/2014/04/ELC\\_Fact-Sheet\\_Ed\\_DecisionMakers\\_4\\_15\\_14.pdf](https://www.elc-pa.org/wp-content/uploads/2014/04/ELC_Fact-Sheet_Ed_DecisionMakers_4_15_14.pdf).



is in the child’s “best interest.” If an EDM is appointed, that person trumps all others—including a surrogate parent that may be appointed by a school district for a child with disabilities. A judge must consider whether or not to appoint an EDM at every hearing. Before appointing an EDM, a judge must provide notice to the child’s parent or guardian and allow that person an opportunity to be heard in court. A judge should not appoint an EDM if the child has a parent who is competent, willing, and available to make education-related decisions and who is acting in the child’s best interest.

## WHAT DOES AN EDM DO?

If a judge appoints an EDM, that person is responsible for making all education decisions for the child, including special education and early intervention decisions. For example, the EDM should make inquiries and take appropriate actions concerning: signing permission slips and attending parent-teacher conferences, deciding whether the child should change schools if his/her living placement changes (school stability), protecting the child’s rights in school discipline proceedings, monitoring the child’s academic progress including ensuring that the child receives the education needed to meet state standards, accessing any needed remedial services, and preparing for the child’s transition to post-secondary education, employment, and independent living. When the child is or should be receiving early intervention or special education services, an EDM also makes all decisions relating to the child’s special needs, including: requesting an evaluation or re-evaluation, deciding whether a child under age 3 (including all children with substantiated cases of abuse or neglect) should be screened, developing the child’s Individualized Education Program (“IEP”) or Individualized Family Service Plan (“IFSP”), and determining the child’s educational placement. The EDM must make decisions consistent with the child’s best interests.

An EDM must meet with the child at least once and as often as is necessary to determine what education decisions are in the best interests of the child. The EDM must also make specific recommendations to the judge regarding the timeliness and appropriateness of the child’s educational placement, transition planning, and the services the child needs. The EDM may be asked to appear in court and testify, and must have the knowledge and skills to ensure that he or she will adequately represent the child.

## WHO CAN BE AN EDM?

An EDM should only be appointed by a court if there is no one parent, foster parent, or other caregiver to serve in this role. If possible, the person appointed as EDM should already know the child and have a good relationship with the child. It is important to consult the youth before appointing an EDM in his or her case and to carefully consider the child’s preferences.



## Who can be an EDM?

\*Ask the youth for their preference

\*Ideally, an EDM is someone who already knows the child or can build rapport

- ✓ Relative
- ✓ Previous foster parent
- ✓ Former teacher
- ✓ Coach or mentor
- ✓ Guardian ad litem (“GAL”) or the attorney representing the child, if attorney agrees
- ✓ Court Appointed Special Advocate (“CASA”), if the volunteer is willing

Courts should consider appointing CASA volunteers or GALs when there is no one else in the child’s life to fill this role. The EDM will be most effective if he or she *already* has or can build a trusting relationship with the youth. Here are some examples of who can be an EDM in Pennsylvania.

If the child is involved with the special education or early intervention system (*i.e.* receives special education or early intervention services or needs to be evaluated to determine eligibility for services), the appointed EDM must participate in all meetings and will act as the child’s parent in the early intervention or special education process. Under the IDEA, *decisions for a child who is or may be eligible for special education cannot be made by an employee of an agency that is involved in the education or care of the child.* Therefore, a school employee, the child’s caseworker, juvenile probation officer, or an employee that works for a facility in which the child is living cannot serve as the EDM for that child in the special education system. For children under age 3, a surrogate parent cannot be an employee of the lead agency or any other public agency or EIS provider that provides early intervention services, education, care, or other services to the child or any family member of the child.

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## THE ROLE OF SCHOOL DISTRICTS

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School districts have a special obligation to ensure that a child with a disability has an educational decision maker under the Individuals with Disabilities Education Act (IDEA) 20 U.S.C. § 1400 *et seq.* See 34 C.F.R. § 300. 519. This is a federal disability law that requires school districts to identify, evaluate, and provide a “free, appropriate, public education” to children who need special education or



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early intervention services. A child with a disability must have an active engaged parent or other authorized adult to participate in the special education proceedings and to make special education decisions. A school district must appoint such a decision maker, referred to as a “surrogate parent” within 30 days of determining that there is no birth or adoptive parent or other person authorized by the IDEA available to act on the child’s behalf in special education or early intervention matters.

## WHAT IS A SURROGATE PARENT?

Like other “parents” under the IDEA, a surrogate parent has the same right to make all of the special education or early intervention decisions that are usually made by the child’s biological or adoptive parents. Surrogate parents can review educational records, consent to evaluations, re-evaluations, and placements, request and participate in IEP and IFSP meetings, and challenge the recommendations of the agency by asking for mediation or requesting a hearing. Unlike an EDM who can also make general education decisions (like sign permission slips), *a surrogate parent does not have any rights outside of the special education or early intervention systems.*

An EI agency or a school cannot appoint a surrogate parent simply because an existing IDEA Parent (e.g. a birth parent, a person with whom the child lives who is acting as the parent, or a foster parent) disagrees with its proposed IEP, IFSP, or other proposal. If the agency believes that the parent or other IDEA Parent is not making good decisions for the child, it can request a hearing to challenge the decisions or it can work with the county children and youth agency, juvenile probation agency, or the court system to have an alternate EDM appointed. In all cases, a surrogate parent appointed by a school or an early intervention agency cannot have a professional or personal interest that conflicts with the interests of the child and must have knowledge and skills that ensure that he or she will adequately represent the child.

## WHAT MUST A SCHOOL DISTRICT DO?

If a child is or may be eligible for special education or early intervention services, the IDEA requires the child’s school district, charter school, cyber charter school or early intervention agency to ensure that the child has an active birth or adoptive parent or other person authorized by the IDEA **or a court** to make decisions for him or her. The person who is designated to act as the “parent” under the IDEA is entitled to participate in all of the meetings and make all relevant decisions. That person may be: a biological or adoptive parent; a foster parent; a family member with whom the child lives who is acting as a parent (such as a grandparent or stepparent); a guardian who is legally responsible for the child’s welfare (but not any employee of a child welfare agency); a surrogate parent assigned by the school district, charter school or the early intervention agency, or an ***individual authorized by a court to make education decisions for the child known as a court-appointed EDM.***

If the child has a “parent” under the IDEA (see list above), the school district cannot “appoint” that person as the child’s surrogate parent. Unlike a juvenile court judge, who can appoint a person as EDM to act in the best interest of the child even if the child has a parent, an EI agency or a school district cannot appoint another person to make decisions for the child if the child has an “IDEA Parent.” If a court has



appointed an EDM, the EDM makes education decisions for the child regardless of whether the biological/adoptive parent wants to serve in that role or whether there are other potential “parents” under the IDEA who are ready to serve that role. Under the IDEA, ***if a court has appointed an EDM, that person trumps all other potential “IDEA parents” including a surrogate parent*** appointed by a school district. A court-appointed EDM must be recognized as the child’s decision maker by a school district or early intervention agency.

If a court has not limited the biological/adoptive parent’s authority to make education decisions, the early intervention agency or school district must recognize that parent as the person authorized to make education decisions for the child so long as he or she is “attempting to act as the parent.” If the parent is not “attempting to act as the parent” (for example, is not responding to notices or attending meetings), and the child has a foster parent or one of the other potential “IDEA Parents” listed above, the EI agency or the school district must then treat that person as the child’s IDEA Parent and allow that person to participate in meetings, give or deny consent, and make early intervention or special education decisions for the child. The “IDEA Parent” can challenge the EI agency’s or school’s proposals through the mediation and due process hearing procedures as described later in this Toolkit.

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## *THE ROLE OF CHILD WELFARE AND JUVENILE PROBATION AGENCIES*

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Collaboration among child welfare and/or juvenile probation, schools, early intervention agencies, and courts is critical to ensuring that every child in the dependency and delinquency systems has a legally authorized and active educational decision maker. Child welfare and juvenile probation staff are often the first to identify the need for a surrogate parent or EDM and should bring this issue to the attention of the court or, if appropriate, the EI agency or school district. Child welfare and juvenile probation staff may also have the best insights into who should serve as an EDM and who will work well with a youth. Schools and EI agencies should ask the case workers and juvenile probation officers whether the court has already appointed an EDM for the child. Judges need to keep this issue on their radar. If a judicial decree or order appoints an EDM for a child eligible for special education or early intervention services, that person must be treated by the school district or EI agency in the same manner as the child’s parent with regard to education-related decisions and consent to screenings and services.





## **PRACTICE TIPS FOR SCHOOL DISTRICTS, EARLY INTERVENTION AGENCIES, CHILD WELFARE STAFF, JUVENILE PROBATION OFFICERS, JUDGES, AND ATTORNEYS**

**1. MAKE SURE THAT THERE IS AN AUTHORIZED ADULT WHO IS ACTIVELY MAKING DECISIONS FOR THE CHILD.** Make sure that each child has an active parent, EDM, or “IDEA Parent” (which could be a foster or surrogate parent) if the child is involved with the early intervention or special education systems. Be especially vigilant if the child is or might be eligible for special services and lives in a group home or other residential setting because such children do not have foster parents who can step into the IDEA Parent role. Also be alert if the child is in a homeless shelter.

**2. WHENEVER POSSIBLE, SUPPORT THE BIOLOGICAL/ADOPTIVE PARENT TO CONTINUE IN THIS ROLE.** Most children in out-of-home care return to live with parents who will need to work with the schools and advocate for their children. Even if another person—such as the foster parent—is temporarily assuming this role, the best practice is for the foster parent and the child welfare staff to keep the parent informed and engaged regarding all education decisions.

**3. ENSURE THAT COURT ORDERS ARE SPECIFIC.** A court order appointing an EDM should name a specific person, designate whether that person has the authority to make general education or special education decisions (or both), and make clear how long the appointment will last. *Remember, if the child is involved with the special education system, the person appointed cannot be a person who is an employee of an agency that is involved with the education or care of the child such as the child’s case worker or juvenile probation officer. For a child under age 3, the surrogate parent cannot be an employee of the lead agency or any other public agency or EIS provider that provides early intervention services, education, care, or other services to the child or any family member of the child.* The court must also provide the EDM notice of all hearings.

**4. TRY TO APPOINT SOMEONE WHO KNOWS THE CHILD.** It is important that, whenever possible, the EDM or surrogate parent be *someone known to the child* and who will make informed decisions in the best interest of the child. Having a specific person to suggest to the court or school district can also speed up the appointment process. Possibilities include: *Adult relatives* (even if the relative is not able to have the child live in his or her home, the relative may be involved in the child’s life and be the best choice for the child’s education advocate); *a child’s attorney or guardian ad litem*; or *another adult who knows the child* (perhaps a church member or family friend). Before suggesting, *make sure that you consult with all involved parties—especially the youth!*

**5. IN SOME CASES, THERE MAY NOT BE ANYONE IN THE CHILD’S LIFE WHO CAN SERVE IN THE EDM/SURROGATE PARENT ROLE.** In these circumstances it may be necessary to appoint a person who is not known to the child, such as a Court Appointed Special Advocate (CASA) volunteer (if available). *Courts, EI agencies, and school districts should maintain a pool of eligible and qualified EDMs and surrogate parents to assign to students with no one else in their lives to serve this role.*



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## *Tool 2: Education Assessment*

### *What Does a Student Need To Be Successful in School?*

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**THE CHALLENGE:** *Every student has unique educational needs resulting from his own school history, cultural background, learning style, strengths, weaknesses and interests. One of the first steps to promote true success in school is to recognize your student's unique needs.*

**This Tool will help you identify your student's educational needs and offer information and resources.**

Before trying to complete the education history, set aside some time to gather and review available information about your student, such as a student's report cards, progress reports, and Individualized Education Plan (IEP). Try to identify specific areas of concern. For example, "*My student is having trouble reading at grade level,*" "*My student is having behavior issues in class,*" "*My student is withdrawn*" or "*My student is having trouble keeping up in class.*" When possible, engage providers or family members who know your student to help with this process, to review and "talk through" education records and to engage in a conversation about what supports, programs and services are needed to help a student succeed.



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## *Education Checklist*

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### ENROLLMENT, SCHOOL STABILITY & CLASS PLACEMENT

- Is the child currently enrolled in school? Any truancy issues currently or in the past?
- Is school stability an issue now or may it be an issue in the near future? (How many schools has the child attended? Is changing schools in the child's best interest?)
- Is the youth being educated in the most appropriate and least restrictive school setting/placement with access to a full range of educational opportunities?

### ACADEMIC PROGRESS & NEED FOR INTERVENTIONS

- Does the child need additional supports in school (*e.g.*, remedial, tutoring, summer school, mental health services)
- What does the child need to be more engaged in school? (*e.g.*, areas of interest, clubs, subjects, extracurricular activities, job training corp., vo-tech, etc.)
- Are there any school discipline issues that need to be addressed?

### SPECIAL EDUCATION SERVICES & NEED FOR ACCOMMODATIONS IN SCHOOL

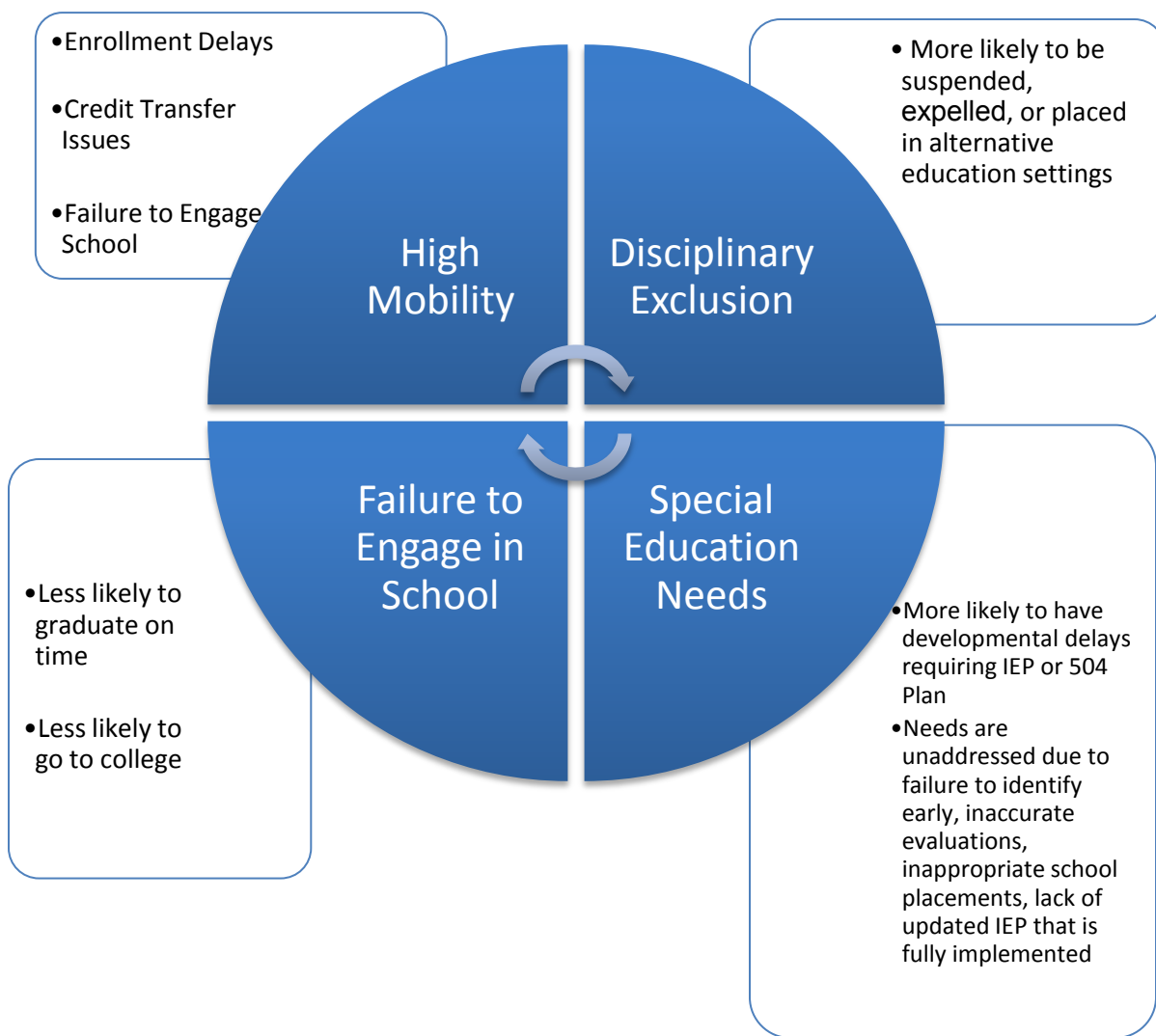
- Is there any evidence that the child needs to be evaluated for special education services?
- Is the current IEP enabling the child to make meaningful progress? Is it being followed? Does child have an appropriate transition plan (starts at age 14)?
- Does the child need to be re-evaluated?
- Does the youth need accommodations in school for a physical or behavioral condition? (*e.g.*, asthma, diabetes, ADHD, behavioral issues etc.)

### GRADUATION & TRANSITION PLANNING/ACCESS TO POST-SECONDARY

- Is the youth on track to graduate on time? Credits needed \_\_\_; senior project \_\_\_
- If the youth receives special education services, will she/he graduate through credits or IEP?
- Does the youth's Independent Living & 90-day transition plan adequately address the youth's education goals and needs?
- Has the youth been apprised of his/her options and financial opportunities to attend college? Who will assist the youth to access to post-secondary opportunities?



# Barriers to School Success for Youth in Foster Care



## *Education Assessment Tool*

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This screen is designed to identify a student's unique educational needs and can help a student receive the assistance she needs to be successful. The form will not be part of a student's education record or school file unless a parent decides to share it with the school.

Student's Name: \_\_\_\_\_

Student's date of birth: \_\_\_\_\_

Current grade level: \_\_\_\_\_

Name and address of where student attended school last year:

\_\_\_\_\_

\_\_\_\_\_

### **A. School History**

*Understanding where your student is coming from can help you decide what they need. Taking a short "education history" is a good place to start.*

- When did your student first attend school?  
\_\_\_\_\_
- How many schools has he/she attended?  
\_\_\_\_\_
- Did he/she participate in a preschool program or Head Start? What kind of program was it?  
\_\_\_\_\_
- Is English your student's first language? \_\_\_\_\_



(If not, see ELL box below and Attachment to this Tool)

Did your student ever receive any special services before starting school such as speech therapy, physical therapy, etc.?

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- When did your student first learn to read?

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- Has your student received or been evaluated for special education services?

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- Has your student ever been out of school for more than a week? If so, how long was s/he out of school? When? Why?

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- Does your student have a history of being absent and/or late for school (i.e., absent more than 3 days for reasons other than sickness/excused absence)?

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- Has your student struggled with any subjects in school? If so, which ones?

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- Has your student received any extra help in math, reading or another subject?

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- Has your student ever repeated a grade?

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- Has your student had any school discipline problems in the past? If so, what were the issues?



- 
- Has your student been bullied in school in the past?
- 

**B. Academic Needs**

*There are many reasons for school problems. But all students can be successful with the right help. Intervening now can make all the difference.*

- In general, does your student like school? \_\_\_\_\_
- How does your student do in school academically? How are your student's grades?  
\_\_\_\_\_
- Are there any subjects your student struggles with? If so, which ones?  
\_\_\_\_\_
- Do you know your student's reading and/or math level?  
\_\_\_\_\_
- How does your student do in math? What types of math problems was your student doing at his/her last school if you know?  
\_\_\_\_\_
- Do you think your student needs any extra help in math, reading or another subject?  
\_\_\_\_\_
- Do you know how your student scored on the state standardized test called the Pennsylvania System of School Assessment ("PSSA")? NOTE: The PSSA is the test is given to every Pennsylvania student in grades 3 through 8 and grade 11 to assess reading and math. Scores range from Advanced, Proficient, Basic or Below Basic.  
\_\_\_\_\_



- Is your student interested in vocational/technical instruction?

\_\_\_\_\_

➤ **IMPORTANT:** Many schools offer extra help through different school programs.

*Check all areas in which you think your student may need some extra help:*

- Reading                       Math                       PSSA/SAT Testing prep
- Credit Recovery               Biology                       Job Training/skills/inventory
- One-on-one tutoring\*\*    Mentoring                       Summer Programs

**\*\*NOTE:** Many studies show that **one-on-one tutoring** can make a big difference. Six months of tutoring can increase reading levels by 1.7 years! Ask your school and provider if one-on-one tutoring is available.

**Other:** \_\_\_\_\_

**C. English Language Learner**

*If your student is an English Language Learner (EL student), a school will give your student a Home Language Survey to determine his ability level in his native language and in English. The school can adjust your student’s classes to make sure he can understand what is being taught; evaluate progress; provide accommodations for testing and access programs; and provide extra support, if language is a barrier.*

- Is your student an English Language Learner?

\_\_\_\_\_

- What language is spoken at home?

\_\_\_\_\_

- How would describe your student’s English language ability level: *(Circle one)*

- Advanced
- Intermediate
- Beginner/Developing
- Entering/No English

NOTE: Schools must communicate with parents/caregivers in their native language and provide translation & interpretation services for important activities.





- Did your student receive “ESL” (English-as-a-Second Language) instruction at his/her last school?

\_\_\_\_\_

- What accommodations does your student need for tests or in class? \_\_\_\_\_
- Would you like the school to speak to you in a language other than English? \_\_\_\_\_  
If so, what language? \_\_\_\_\_

**D. Progress Toward High School Graduation**

*Graduating from high school takes planning. Know how many credits your student has and talk to your school about graduation requirements.*

- Do you know if your student is on track to graduate? How many credits does your student have right now?

\_\_\_\_\_

If your student receives special education services, will s/he graduate through credits or through an IEP? \_\_\_\_\_

Has your student received credit for all partial credits earned? (e.g., partially completed coursework, summer programs, boot camp, etc.)

\_\_\_\_\_

\_\_\_\_\_

Does your student need to recover credits s/he may have missed? Is your student able to work on a computer-based program to do this? Some schools will allow a student to take a test to demonstrate mastery of the subject.

\_\_\_\_\_

\_\_\_\_\_

- If your student is a senior, has your student identified a senior project s/he will complete to graduate?

\_\_\_\_\_



- What school will issue your student’s diploma?

\_\_\_\_\_

Does your student intend to take a GED test instead? If so, testing preparation programs are available. Talk to your school.

\_\_\_\_\_

**E. Post-Secondary Planning**

*It’s important to think about your student’s plans AFTER graduation, beginning early in your student’s high school years.*

- What is your student’s plan AFTER graduation from high school?

\_\_\_\_\_  
\_\_\_\_\_

- Does your student want to go college?

\_\_\_\_\_

- Does your student need to sign up for the SAT? (These fees are covered.)

\_\_\_\_\_

- Does your student need SAT tutoring to prepare for the test?

\_\_\_\_\_

- Does your student need help applying to college?

\_\_\_\_\_

- Is your student interested in a vocational program, career training program?

\_\_\_\_\_

- What employment options is your student considering?

\_\_\_\_\_

**F. Social Issues and Keeping Your Student Connected to School**

*Students who have some connection to school are more likely to stay in school. It’s important to identify a subject or activity your student is interested in that can give them that connection. It may be a school subject, a sport, music, drama etc.*



- Name some activities that your student enjoys, has participated in the past or has expressed an interest in such as a sport, school club or cause. Star the activities your student is most interested in.

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- Are there any social issues (e.g., bullying or trouble making friends) you are concerned about?

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- Has your student been bullied by other students or been accused of bullying other students? Many schools provide anti-bullying or positive behavior support programs. Also, ask about the school’s student assistance program.

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- Is your student currently having any discipline issues in school? Talk to a guidance counselor at school before this becomes an issue to see if your student needs a positive behavioral support plan in school.

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- Does your student relate well to adults? Would s/he benefit from a teacher/mentor relationship? Ask your school about mentorship programs.

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**G. Special Education**

*A student may need to be evaluated for special education services if s/he fails to make progress in school or is far behind in math or reading despite general intellectual ability, or if a student has a health impairment that is interfering with his/her ability to learn.*

- Has your student been evaluated for special education services?  
 No     Yes, found to be eligible\*     Yes, but found to be ineligible

**Tip:** Work with your school’s guidance counselor or other person to help your child handle social issues and allow her to feel at home in school. Address potential problems BEFORE they become discipline issues.



- Do you think your student may need to be evaluated for special education services now?

Yes    No

- If you think your student needs to be evaluated, what are your particular areas of concern? \_\_\_\_\_

\_\_\_\_\_

***NOTE: If you think your student needs to be evaluated, talk to the school's Special Education Director and request a "Permission to Evaluate" form.***



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## H. Need for Accommodations for a Disability

- Does your student have any condition such as asthma, diabetes, a physical disability, or mental or behavioral health issue that may require special accommodations in school?\*

No\*       Yes/Maybe\*\*

*\*If NO, you may skip these questions.*

*\*\*If YES/MAYBE, answer the questions below.*

**NOTE: If you think your student may qualify for an Accommodations Plan and needs to be evaluated, talk to the school's guidance counselor or school nurse and request a "Section 504 Permission to Evaluate" form.**

- Describe the condition requiring accommodation: \_\_\_\_\_  
\_\_\_\_\_
- What kind of accommodations does your student need (e.g., sitting closer to the front in class, taking breaks, bringing food to class, or using an elevator etc.)  
\_\_\_\_\_  
\_\_\_\_\_

NOTE: For more information regarding types of accommodations, visit [www.elc-pa.org](http://www.elc-pa.org).

- Did your student have a "Service Plan" or "504 Plan" at their last school?

Yes    No

If YES, do you have a copy of it?    Yes    No

Does a Service Plan need to be developed or updated?    Yes\*    No

*\*If YES, or if you are not sure, ask for a meeting with your school.*



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## *Tool 3: Ensuring School Stability Or Immediate Enrollment for Children in Care*

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Children and youth in foster care often change placements, causing them to change schools. This is extremely disruptive to their education and makes it difficult for them to develop supportive relationships. Frequent and unplanned school changes are associated with delays in children's academic progress, leaving highly mobile students potentially more likely to fall behind academically or, ultimately, to drop out of school.

Signed into law in December 2015, the *Every Student Succeeds Act* (ESSA) reauthorized the Elementary and Secondary Education Act of 1965 (ESEA). For the first time, ESSA embeds in federal law new provisions to ensure school stability and promote school success for youth in foster care. ESSA also ensures immediate enrollment for all students in foster care. ESSA also enhances collaboration between education and child welfare systems and seeks to improve educational outcomes for children in foster care through data collection.

### **Under ESSA:**

- Youth in foster care have a right to stay in the same school, with transportation if needed, unless it is in their best interest to change schools.
- Youth have a right to immediate enrollment and smooth transitions if and when they change schools.
- School districts must have a designated Foster Care Coordinator to support children in foster care.
- School districts must collaborate with child welfare agencies to support students in foster care.
- States must collect and publicly report disaggregated data regarding the academic outcomes of all children in foster care.



## SCHOOL STABILITY WORKSHEET: QUESTIONS TO CONSIDER WHEN MAKING A SCHOOL SELECTION DECISION

*Decisions regarding school selection should be made on a case-by-case basis, with special attention to the circumstances of each individual student.*

### PLANNING ISSUES

1. Is the current plan for the child to return to his/her school district where the student had been attending school?
- 

### IMPACT OF SCHOOL STABILITY

2. How many schools has the student attended over the past few years?
- 

3. How many schools has your student attended this year? How much time is left in the school year?
- 

4. How have school transitions affected your student emotionally, academically, and physically?
- 

5. How anxious is your student about changing schools?
- 

### EVALUATING THE CURRENT SCHOOL

6. How deep are your student's ties to his or her current school? Is there a teacher or staff member with whom your student is close at the current school?
- 



7. How is your student doing academically and socially in school?

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8. To what extent are the programs and activities at the current school better or worse than those available at the new school? Consider your student's special education, English Language Learner needs, etc.

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9. Does the old school have programs and activities (including sports or extra-curricular activities) that address the unique needs or interests of your student that the new school does not have?

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10. How would changing schools affect your student's ability to earn full academic credit, participate in sports or other extra-curricular activities, proceed to the next grade, or graduate on time?

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11. Which school does the student prefer? Why or why not?

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12. Has your student had a history of truancy or bullying at the current school?

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### OTHER IMPORTANT FACTORS TO CONSIDER

12. How would the length of the commute to the current school affect your student?

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13. What schools do the student's siblings attend? \_\_\_\_\_

14. Are there any safety issues to consider? \_\_\_\_\_





## PENNSYLVANIA DEPARTMENT OF EDUCATION BEST INTEREST DETERMINATION WORKSHEET- FACTORS TO CONSIDER:

The Pennsylvania Department of Education's Best Interest Determination School Placement Form is a document that serves as guidance and a tool related to school placement. Children in foster care remain in their school of origin unless there is a determination that it is not in his or her best interest to attend the school of origin. The Best Interest Determination School Placement Form serves as a mechanism through which relevant parties can meaningfully participate in the Best Interest Determination (BID). All children in foster care (with the exception of voluntary placements) are placed under order of the court. As such, court determinations, findings and orders are critical to best interest discussions. Teams should be aware of and must follow existing court orders. If a court order specifies an educational placement for the child, the CCYA must request and obtain a modified court order prior to the child changing schools if a best interest educational determination is different from the court order.

### *Factors considered in making a Best Interest Determination (BID):*

The student shall remain in the current school *unless* consideration of the following factors indicates that a change of school placement is in the child's best interest. (Check all that apply and provide an explanation:)

\_\_\_ Transferring schools will positively affect the child emotionally, socially, or academically (e.g. the child's siblings attend the new school).

\_\_\_ The student is best served at a different school due to his or her academic history/ future (report cards, GPA, teachers' progress reports, etc.). Please explain if a change in school placement would benefit the child academically.

\_\_\_ The parents/prior custodians or child believe that changing schools is in the child's best interest. If so, state why:

\_\_\_ The preferences of the child (depending on age) have been taken into consideration. Please describe why the child believes that changing schools is in their best interest.

\_\_\_ The distance/length of commute to return to the current school (school of origin) would negatively affect the student's education and/or special needs. Has the child's age been considered when determining appropriate/feasible proximity? Please describe:

\_\_\_ The child's permanency goal, plan, and expected date for achieving the permanency supports a change in school placement. Please describe:



\_\_\_The child has only attended the current school for a short time or is not attached to the school, does not mind transferring to another school, or is not involved in school related or extra-curricular activities. Please describe:

\_\_\_Safety considerations favor a change in school placement. If so, state why:

\_\_\_The student's need for special instruction or special education and related services can be met better at the new school. (Consider: Is the child receiving any special education services? Does the child participate in other specialized instruction? e.g. gifted program, English language learner, career and technical program). Please describe how the student's need for special instruction or special education can be met at the new school.

\_\_\_The new school is able to meet the child's academic needs. (Consider: Would the child's new school have programs and activities that address the unique needs or interests of the student that the current school does not have?) Please describe:

\_\_\_Changing schools will NOT undermine the child's ability to stay on track to graduate. (Consider: How would changing schools affect the student's ability to earn full academic credit, proceed to the next grade, or graduate on time?) Please describe:

\_\_\_The timing of the school transfer will not undermine school success. (Consider: Would the timing of the school transfer coincide with a logical juncture in the child's academic or personal progress?--e.g., after an event that is significant to the child or end of the school year.) Please describe:

\_\_\_Please note, if applicable, any additional considerations or factors that indicate a change of school placement is in the child's best interest.

### **Supporting Documentation:**

- Report Cards
- Progress Reports
- Achievement Data
- Attendance Records
- Individualized Education Plan (IEP)
- Section 504 Plan
- Family Service Plan
- Child Permanency Plan
- Individualized Service Plan
- Emails or correspondence from individuals consulted
- Documentation supporting child's participation in extracurricular activities such as athletics, clubs, or afterschool programs.



## ENROLLMENT

### **Children in foster care must be immediately enrolled in a new school under ESSA.**

However, enrollment documents should be submitted to school within 30 days of enrollment. Under the “four-in-the-door” rule, a caregiver must submit four items: proof of age, residency, immunizations, and a Parent Registration Form regarding the student’s disciplinary record. A child can be enrolled in school at any time in the school year. To learn more, see these resources:

General school enrollment guide: <https://www.elc-pa.org/resource/how-to-enroll-a-child-in-public-school/>

How to enroll a child who is considered homeless: <https://www.elc-pa.org/resource/how-to-enroll-a-child-who-is-homeless/>

How to enroll a child living with someone other than their parent: [https://www.elc-pa.org/wp-content/uploads/2012/08/ELC\\_SchoolEnrollmentGuide\\_LivingwithSomeoneotherthanParent\\_Aug2012.pdf](https://www.elc-pa.org/wp-content/uploads/2012/08/ELC_SchoolEnrollmentGuide_LivingwithSomeoneotherthanParent_Aug2012.pdf)

For more information about students’ rights to attend school where they live, read the ELC Fact Sheet, *The Right to Attend School in Pennsylvania*. You may also want to read the Pennsylvania Department of Education’s Basic Education Circulars entitled *Enrollment of Students* at <http://www.pde.state.pa.us/k12/cwp/view.asp?A=11&Q=84241>.

If you are having problems enrolling in school, take action promptly. The Pennsylvania Department of Education (PDE) has developed an enrollment complaint process through its School Services Department to investigate whether a school district has illegally determined that a student is not a resident of the school district or is not otherwise entitled to attend school in the district. This process applies to all public schools, including charter schools and cyber charter schools.

*Please see Additional Resources section at the end of this Toolkit for more information on the Enrollment Complaint Process.*



## WORKSHEET: QUESTIONS TO ASK IF STUDENT CHANGES SCHOOLS

If your student changes schools, here are some questions you should ask:

1. Who can help us transfer records quickly so that my student is in the appropriate classroom and can continue to make progress in school?

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2. Can my student take a tour of the school before she starts attending school?

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3. How can my student receive free meals at school?

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4. How can my student receive free school supplies, uniforms, etc., if needed?

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5. Who can help if my student needs special education services? How quickly can these services be set up? What should I do if I think my student should be evaluated for special education or gifted services? Can you give me the forms I must complete?

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6. What academic help is available for my student, such as Title I programs or after-school tutoring? Who can I contact?

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7. What programs can help develop my student’s talents and address his/her unique needs?

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8. Is there a counselor or social worker my student can speak with to help him make a smooth transition to the new school?

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9. Are there sports, music, or other activities available for my student? At his last school, my student was involved in these activities: (list). This is important to keep my student connected to school.

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10. How can my student go on class field trips or participate in other school activities if I can’t pay for them?

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11. Is there a preschool program for my younger students?

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## Checklist: What to Do When Your Student Goes To a New School

- Request a tour of the new school for the student and family.
- Request that a student be assigned to have a "buddy" on the 1<sup>st</sup> day of class.
- Request any school supplies the student needs.
- Review the student's class schedule with the student and family to ensure that the student is assigned to appropriate classes.
- Ensure that a student who is learning English as a second language completes a home language survey and will receive ESL classes.
- Ensure that the student's special education needs or need for accommodations in school are addressed in the new school.
- Work with the student, family, and guidance counselor to develop an education/graduation plan. Ensure that the new school recognizes all partial and full credits earned.
- Ask about remedial classes and on-site tutoring programs if the student needs remedial help.
- Ensure that the student can participate in all educational and non-educational opportunities.
- Ensure that the student has transportation from after-school activities.



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## *Tool 4: Building Collaborations and Communicating with Schools*

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- ✓ **INTRODUCE YOURSELF AND EXPLAIN YOUR ROLE! HAVE THE COURT ORDER WITH YOU.**
- ✓ **LEARN ABOUT THE SCHOOL AND CONNECT WITH THE RIGHT PERSON TO ADDRESS YOUR CONCERNS.**

Be sure you have the name and contact information of the person who is best able to help you. If you have concerns about enrollment or transportation, contact the designated school district office. If you have problems, contact the case manager involved in your child's case.

If you have concerns about special education, start with your student's special education teacher or the school's director of special education. If your concerns are about discipline, start with the school principal or guidance counselor.

If you can't get help from the school, contact outside service providers and advocacy organizations. They can generally help with information, resources and advice about next steps. See the **Resources** section at the end of this Toolkit.

- ✓ **KNOW WHAT YOU ARE ASKING THE SCHOOL TO DO (OR NOT DO) FOR YOUR STUDENT.**

Be clear about what you want. Identify your concerns and what you want to see happen. Make a list. Write it down or save it to a computer. Talk to case managers, teachers, or others whom you know and trust to help you determine what you want the school to do for your student.

- ✓ **KNOW WHAT YOU ARE TALKING ABOUT. USE RELIABLE SOURCES.**

Educate yourself about your student's needs, the school's policies and practices, and possible solutions. Don't rely on what other people say. Most school districts and residential programs now have web pages. You can go online or ask other services providers to help you find helpful information.

- ✓ **ASK QUESTIONS.**

If you don't understand something, ask to have it explained. Keep asking until you have the information you need to understand and to make a good decision.

- ✓ **SET PRIORITIES.**

You can't do it all. Not everything has to be resolved at one time. What can wait? What requires a phone call? A meeting? Figure out what is important to you now and what will



make the most significant difference in your student’s education – and focus on that first. For example, ensure that your student is in the right school placement. Thereafter, if the child is a student with disabilities, he/she may be entitled to “compensatory education services” for every hour that the child was deprived of a free, appropriate public education. This issue can be addressed at an IEP meeting following the child’s transfer to an appropriate school placement.

✓ **BE DIRECT AND HONEST.**

Treat school officials the way you want to be treated. Say what you mean without placing blame. 90% of communication is non-verbal. Be aware of how you are feeling and let school officials know you are stressed, tired, or overwhelmed and ask for their patience. Sometimes school personnel are stressed and overwhelmed, too!

Understanding goes a long way to resolving disagreements.

✓ **PRACTICE WHAT YOU WANT TO SAY AND HOW TO SAY IT.**

We all get nervous when we have to talk about important or sensitive things. Ask a friend, provider or family member to practice with you—and start with a long, slow, deep breath!

Stay focused on your student. Focus on the positive.

Use phrases like, “*We really need to focus on...*” “*I’m sure we’ll find a good solution to...*”

Questions that begin with “why” or “who” create more defensiveness than those that begin with “what” and “how.”

Try asking questions like -

- “*How can we make transportation work?*”
- “*What are some of the things I can do to help?*”
- “*How can the school help my student succeed?*”
- “*What other supports and services can the school provide for my student?*”

✓ **BRAINSTORM SOLUTIONS.**

Give yourself and the school time to explore a variety of solutions without committing to any one way. Explore creative, flexible and collaborative solutions together.

Use phrases like:

- “*We can....*”
- “*Yes, let’s try....*”
- “*What about trying....*”





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## *Tool 5: Bill of Rights for Students with Disabilities*

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School districts have a specific duty to locate, identify and evaluate students who may need special education services and to provide needed services and supports to enable a student with a disability to make progress. Students with special education needs have the following rights:

- **To be evaluated promptly.** Schools must ensure that students who may need special education services are evaluated within 60 calendar days (minus the summer) from the date a parent consents to the evaluation. This timeline applies even when a student changes schools before the evaluation is completed. The IDEA makes clear that economic disadvantage or changes to living arrangements cannot be used as an excuse to delay or refuse to evaluate a student. You can also request that a school district conduct an “expedited evaluation” (less than 60 days) if you believe that your student should have been identified for services much earlier.
- **To receive immediate support services.** A parent and a school can agree to put some services in place to help support a student suspected of having a disability while an evaluation is being completed or while waiting for the student’s current IEP to be provided from a prior school. Once an IEP is developed, a student is entitled to receive services within 10 days.
- **To have “equal access” to the full range of school programs and services, including after school programs as other resident students.**
- **To receive special education services that are comparable to the special education services received in the student’s prior school.**

Students with disabilities must be enrolled and receive comparable special education services immediately, even when the enrolling school does not have the student’s educational records, including the IEP and other special education documents.

- **To remain in the same school and same special education placement.** McKinney Vento gives students experiencing homelessness the right to remain in the same school placement, regardless of changes in their living situations, when it is the student’s best interest. Students with disabilities have the same right to remain in their special education program or placement. This applies to a special education placement made by a



school district or charter school and includes an out of district placement and non-public placement which may be the “school of origin” for a student with a disability.

- **To have access to transportation.** Students with disabilities have the right to receive appropriate transportation to and from school if it is listed on their IEP as a related service. When a student is eligible for transportation under their IEP, the school the student is attending generally provides transportation. If transportation is not required to be provided under the student’s IEP the two schools involved have to decide which one pays. If there is disagreement, the McKinney-Vento Act requires the districts to share the cost equally. In all cases, the transportation should be provided immediately.
- **To the appointment of an educational decision maker or “surrogate parent” (YOU!) if a student does not have an active involved parent, guardian, foster parent or person acting as a parent with whom the student lives.** The rights and protections of the IDEA law must be exercised by the student’s “parent.” “Parent,” for special education purposes, includes a biological, adoptive or foster parent, a guardian or an individual who is acting in place of the parent and with whom the student lives (*e.g.* grandparents, stepparents or other adult friend or relative) or a surrogate parent appointed by a school district or a court.

**Background info:** When a student with a disability is homeless and the school cannot identify or locate a “parent” or the student is a under 18 and “unaccompanied” by parents, or a ward of the state, the **school must appoint a surrogate parent and should do so within 30 days.** It is important for providers to help a student enroll immediately. **A surrogate parent can also be appointed by a juvenile or family court judge whenever this is in the best interest of a student.** A caseworker or someone involved in the education or care of the student **cannot** be a surrogate parent under the IDEA. However, a court may appoint a caseworker to consent only to the “initial evaluation” of a student in the absence of any other person to consent to an evaluation.



## EDM Guidelines: Special Education Advocacy

- *Know what the school knows about your student. Ask to see all of student's educational records; keep copies of letters and reports. Try to keep important school papers in one place – a file or an envelope that is easy to take with you. Keep it with you when you move.*
- *Learn about the right to special education and what the law requires schools to do and provide for students with disabilities. There are many resources, locally and statewide, to help parents understand their rights and to help them get the supports and services their students need in school.*
- *Trust that you are an expert on your student's strengths and needs. Share your joys and concerns about your student's educational progress with the school and others who are trying to help you.*
- *Talk to a friend, family member or shelter provider before you ask a school to help your student. This will help you get organized, set priorities and create a list of questions. If you don't get the answer you want, ask them to put their reasoning in writing for you to review with others.*
- *Keep notes of names and conversations. When you speak to schools, try to keep a list of the names of the school officials, their titles, and notes of any important conversations about your student's education.*
- *Be polite and respectful – treat school officials the way you want to be treated. Ask questions if you don't understand. Don't sign paper work you don't understand.*
- *Don't be afraid to ask for help. Don't be afraid to ask providers and other social service agencies for help with school problems or concerns you have about your student's education. Use these tools and share them with schools and others as you work to ensure school success for your student.*

### COMMON EDUCATIONAL BARRIERS:

#### FREQUENTLY ASKED QUESTIONS REGARDING SPECIAL EDUCATION FOR EDMs IN PA

**I think my child might need special education services, but the school has not taken any action. Can I start the process myself?** Yes. You can begin this process by raising your concerns with the teacher and then requesting an evaluation in writing. A request for an evaluation must be in writing and a school must make the Permission to Evaluate (PTE)-Consent Form readily available for that purpose. **If a request is made verbally or in writing to any professional employee or administrator of the school entity, that individual must provide a copy of the PTE Form to you within 10-calendar days of the oral request. Keep a dated copy of any written request for an evaluation in your files. Remember: the timeline for conducting the evaluation doesn't begin to run until you sign the PTE.**

**I signed a Permission to Evaluate-Consent form but never heard anything back from the school. What**



**should I do?** A school district or charter school *must* evaluate your child and give you a copy of the “Evaluation Report” (ER) within 60 calendar days (minus the summer months) from the date you signed the PTE-Consent Form. Keep track of the timeline and contact the school. If the school doesn’t follow the timeline, you may need to file a complaint with the Pennsylvania Department of Education’s Bureau of Special Education (BSE). If the school doesn’t follow other rules, you may need to request mediation or ask for a special education hearing. Contact the Education Law Center for more information on how to do this: 215-238-6970 or consult ELC’s *Guide to Special Education Law* included in this Toolkit and available at [www.elc-pa.org](http://www.elc-pa.org).

**My child has an Individualized Education Program (IEP), but the school is not following it. What can I do?** Request an IEP Team Meeting to notify the school. The IEP is the “contract” between you and the school for the services your child needs. Your child is entitled to the special education program, related services, and all other supports described in it. Remind school staff of all of the specific obligations. If the school refuses to follow the IEP, you can file an administrative complaint (letter) with the BSE if the facts are undisputed or request a due process or request mediation. While mediation can be requested by checking the box on the Notice of Recommended Educational Placement, a request for due process requires you to file a complaint (letter) with the Office of Dispute Resolution. A Due Process Request form is available at <http://odr-pa.org/due-process/>.

**My child has a disability, but I don’t think she needs specially designed instruction (special education services). How can I get her the support she needs at school?** Sometimes children need supports or accommodations at school due to a physical or mental disability or behavioral issue that “substantially limits” a major life function. They may be eligible for a 504 Plan. For example, a child with ADD might need to sit near the teacher to get help staying on task, or a child with a physical disability may need access to an elevator.

**My child has been receiving special education services, but I don’t think her Individualized Education Program (IEP) is helping anymore. Can I ask for it to be changed?**

Yes. You can ask that your child’s IEP be changed at any time during the school year. If you don’t know what your child needs and believe that further testing is needed, you can ask for a reevaluation and the school must give you a Permission to Reevaluate-Reevaluation Request Form within 10 calendar days. A child who is receiving special education must be reevaluated every three years, but you can also request that she be reevaluated before then. Keep in mind, though, that the school is not required to conduct more than one reevaluation each year. If the District’s evaluation is not sufficient, you can ask that the District fund an “Independent Educational Evaluation” (“IEE”) which is conducted by someone outside the school that you can select. The District is not obligated to fund the IEE but often agree to do so, recognizing that you have the right to file for Due Process to seek to force them to reimburse you for the cost of the IEE.

**I heard that an IEP meeting was scheduled, but I was only informed about it after the fact. Can they have the meeting without me?** The District is obligated to reach out to you as a core member of the IEP Team. Under federal law, an “IDEA Parent” – a parent, guardian or Educational Decision Maker (EDM) – is a member of the IEP Team that also includes: at least one special education teacher or provider, at least one regular education teacher, a school official, someone who can interpret the child’s evaluation, a gifted



education teacher, if needed, and the child, when appropriate. The *parent* can excuse one of these individuals, and can invite any additional people to the meeting they believe have knowledge or expertise about the child.

**My teenager has been frustrated by high school and doesn't seem to care about what happens after graduation. Should I bother bringing him to the next IEP meeting?** Yes. The youth must be invited if her postsecondary goals and transition needs will be discussed at the meeting. The youth might have valuable input and should be encouraged to be there. The transition planning section of the IEP *must* be filled out for all children who are **age 14 or older** (and may need to be filled out even earlier than that, depending on the child.) You can download a transition plan toolkit from the ELC website: <http://www.elc-pa.org/resource/developing-an-iep-transition-plan/>

**I don't have any experience with IEP's or educational advocacy. How will I ever know what to ask for at the IEP meeting?** Before the IEP meeting, print out the Pennsylvania Department of Education (PDE) sample "annotated" IEP form from <http://PATTAN.net> or call the Special Education ConsultLine at 1-800-879-2301. The sample form has comments that can be helpful in preparing for the meeting. Remember: you know your child's needs. Identify what seems to be working and what is not working. Consider increasing the time or frequency of services that are working effectively. Point out what is *not working* and take a different approach. If your child is having behavioral issues, consider conducting a new "Functional Behavioral Assessment" and make changes to the child's Positive Behavior Support Plan as discussed below. Also, consider requesting more frequent Progress Monitoring Reports so that you can better track what is working.

**My child has behaviors that get in the way of his learning and also interrupts the learning of the other kids in the room. He is always getting into trouble. How do I get help for him that isn't just more punishment?** You should write to the teacher and Special Education Liaison (SEL) of the school or regional SEL and request an IEP Team meeting. The Team should come up with strategies to help the child. If the child's behaviors hurt his ability to learn, you should request that he receive an FBA, which is used to identify causes of the misbehavior and what strategies will work to address those behaviors. The FBA should be used by the Team to write or revise the Positive Behavior Support Plan (PBSP.)

**My child loses skills every single summer and always falls behind before the next school year. How can I help her?** All children with a disability must be considered for eligibility to receive "extended school year services (ESY)" as part of an IEP meeting each year. ESY services ensure that a child does not lose ground over breaks in the school year and must be individualized with regard to program and number of hours of instruction. You can find out more about eligibility by going to: [www.elc-pa.org](http://www.elc-pa.org), as well as the PDE's annotated IEP.

**My child's family moved to a new school district and the new school is not honoring my child's IEP from her last public school. How do I handle this?** The new school must give your child services *comparable* to those in the last IEP until the school either adopts the old school's IEP as its own or implements a new IEP that has been written at an IEP team meeting with the family at the new school. Whenever a child changes schools (including attending a new charter school) the new school must request the child's school records, including the IEP, from the old school and follow that document unless the IEP Team agrees to a different placement and/or program. *Important:* The new school district cannot refuse to enroll your child



because it does not have your child's IEP or other records from the old school district.

**My child has moved around a lot and recently moved to a residential treatment facility (RTF) and I don't think she is receiving the services she needs in school. Who is responsible for this?**

It depends. In some cases, a child may be placed in a residential setting as an educational placement selected by the child's current school district. If not, the school district where the facility is located will be responsible for the child's special education services. NOTE: Every child in a residential placement is legally entitled to attend the local public school where the placement is located except under very narrow circumstances – for example, a court order requires the child to be educated at an on-grounds school or the IEP Team determines that the on-grounds school can better meet the special education needs of the child. If your child attends an on-grounds school, she must continue to receive all services and supports described in her IEP and the “host” school district where the placement is located must attend and participate in IEP Team meetings.

**My youth is going to move out of an RTF and into a new foster home. How do I help plan for this?**

You must plan in advance and have a pre-discharge meeting to discuss the change in placement. Do not wait until the youth has already moved. Reach out to the school district the child will be attending and talk to them about the type of placement and program our child needs. Provide all education records for the child and discuss whether the child will return to a school within the district – a less restrictive environment or attend an Approved Private School – a highly restrictive environment. The IEP Team must meet to review and revise the IEP which will now be implemented in a different school placement.

**My child recently moved to a new foster home and they want to enroll him in a new school. He was doing well at his old school. Should I allow it?** Your child has the right to remain in the same school placement if it is in his best interest, regardless of changes in his living situation. School stability has been shown to dramatically improve educational outcomes for children. *Important:* The right to school stability applies to children in residential settings as well as those in foster care homes.

**My youth just moved to a new foster home, but she is going to stay in the same school, which is now farther away. What should I do to make sure she can get to this school?** The law requires schools and child welfare agencies to collaborate in making school stability decisions. There must be a “best interest determination” conference which addresses supporting the child to stay in the same school and how transportation will be arranged, provided and funded in accordance with a transportation plan negotiated between the school district and child welfare agency. There may be a period of transition where the caseworker on the case will need to transport the youth to and from school. There is a Foster Care Point of Contact in every school district and at the Regional and State level. Consult PDE's school stability website at <http://www.pafostercare.org/>.

**My child was punished at school for her behavior, but her behavior comes from her disability. This doesn't seem fair. What can I do?**

The school cannot punish a child with a disability more harshly than it would punish a child without a disability under the same circumstances. A child with a disability may have extra protections under special education law, but only if the penalty the school district is seeking qualifies as a “change in placement,” the behavior was a “manifestation” of the child's disability, and there were no “special circumstances.” See



Appendix 8 of ELC's guide "The Right to Special Education in Pennsylvania" to learn how to determine this: <http://www.elc-pa.org/resource/elc-parent-guide-right-to-special-education-2014/>

**My youth has moved around a lot over the years and attended a lot of different schools. His newest school will not count credits we thought he earned at his last on-grounds school. What should I do?**

Credit issues can be problematic with youth who have attended on-grounds schools. Try to first resolve the problem with his new school by obtaining and carefully reviewing school records from his previous schools to find credits that transfer. If you encounter more roadblocks, contact the ELC to discuss further steps.

**My child is about to graduate from high school, but he can hardly read. Is there anything I can do?**

Children with disabilities have the right to stay in school through the school term in which they turn 21, or until they graduate (whichever comes first.) The child's IEP Team decides whether she should graduate before she turns 21 or if she should stay in school, so speak up if you believe that your child should stay in school. Please be aware that graduation (acceptance of a diploma) ends the child's right to attend public school.



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## *Tool 6: How to Handle School Discipline Problems*

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**THE CHALLENGE:** Students in the dependency system may have trouble adjusting to school and find themselves caught up in school disciplinary issues. Sometimes behavior problems in school are the result of anxiety, emotional trauma or because students are overtired, overwhelmed, or just don't understand the rules of a new school. This is a particular concern for unaccompanied youth who are struggling and out on their own.

School discipline is an important concern because students who are suspended or expelled are more likely to lose ground in school and drop out. Similarly, students who are placed in alternative education for disruptive youth are often more likely to disengage from school altogether. Parents and providers need to help students stay on track by working with them to avoid these punishments. Knowing the school discipline rules, a school's Code of Conduct and understanding a student's rights in the discipline process is essential to providing that help. Another key factor is anticipating potential problems and being proactive about addressing social and behavioral issues early through effective school-based strategies and, when appropriate, a student's positive behavior support plan.

**THE LAW:** In general, schools have wide authority to regulate student conduct **during school hours, at school-sponsored events AND while going to and from school** (and sometimes even out-of-school, but only if that conduct disrupts the school). However, schools must tell students what behavior may get them in trouble and these rules must be reasonably clear. Also, your student has a right to challenge being denied the right to go school in situations like an expulsion.

### **SOME GENERAL PROTECTIONS THAT EVERY STUDENT HAS IN SCHOOL ARE TO:**

- Receive a copy of the school's written Code of Student Conduct, which explains the school's rules and what punishments the school may impose;
- Be subject to rules that are reasonable and not arbitrary or discriminatory;
- Exercise freedom of expression and practice their religion, as long as they do so without disrupting school activities; and
- Be free from discipline imposed because of race, ethnicity or disability.





### STUDENTS BEING DISCIPLINED HAVE THE FOLLOWING RIGHTS:

- Before any **in-school suspension**, a student must be informed of the reasons and given a chance to tell his or her side of the story.
- Before any **out-of-school suspension** (up to 10 days in a row), a student must be informed of the reasons for suspension and given **a chance to respond**. Parents must also be notified in writing and the student must receive an **informal hearing for a suspension of 4-10 days**.
- Before any **transfer to alternative education for disruptive youth**, a student must receive an **informal hearing**. Parents must be notified in writing of the time and place of the hearing. Before an expulsion (removal from school for *more* than 10 days in a row), a student must receive a **formal hearing** in front of the school board or a committee of the board or a hearing examiner (at which a student may be represented by a lawyer, present witnesses and evidence and question school witnesses.)
- **If a student has a disability**, the right to a “manifestation determination review.” This is a special meeting that must be held before a student with a disability can change placements in order to decide if the student’s conduct was caused by or related to the student’s disability or caused by the school’s failure to follow the student’s IEP. If a student’s misconduct IS related to their disability, the student CANNOT be forced to change placements (*e.g.*, be expelled or be placed in alternative education) except in exceptional circumstances involving safety or serious offenses.

### AFTER BEING DISCIPLINED, STUDENTS HAVE THE RIGHT TO:

- Return to regular education;
- Continue to receive some education even if the student is expelled if the student is of compulsory school age (ages 8-17);
- Continue to receive a free appropriate public education in accordance with their IEP if the student has a disability.
- If the student is placed in an alternative education for disruptive youth (“AEDY”) program, the right to be reviewed every semester to determine whether the student can return to the regular education setting.



## What You Need to Know About School Discipline

### WHAT IS A “CODE OF STUDENT CONDUCT” AND WHY IS IT IMPORTANT?

In general, schools can only punish students if they break rules listed in the school district’s Code of Student Conduct. This Code tells families and students what is expected of them and how the school may punish or discipline a student in school. Each school district and charter school must publish a code of student conduct and give copies to students and families. The rules must be reasonably clear so that students know what is expected.

### CAN SCHOOLS DISCIPLINE STUDENTS FOR ANY CONDUCT?

**No.** School rules and discipline must concern student behavior at school, at school-sponsored events, or conduct on the way to and from school. In rare situations, a student may be disciplined for behavior off school grounds and/or outside of school hours if the conduct “disrupts” school in some way. School rules must be reasonable and cannot discriminate against students based on race, religion, ethnicity, or disability.

### WHAT CAN I DO TO HELP MY STUDENT AVOID SCHOOL DISCIPLINE PROBLEMS?

You should read the school’s Code of Student Conduct and talk to your student about the school rules AND the consequences of breaking the rules. If your student has had behavior issues in class, talk to the teacher about it. If needed, talk to the school about developing a “behavior plan” for your student – this is a plan for how your student’s behavior will be addressed. Work with your student’s teacher to reward your student for positive behavior in school.

### WHAT HAPPENS IF MY STUDENT RECEIVES AN “IN-SCHOOL” SUSPENSION?

An in-school suspension usually lasts for three days but can last longer. During this time, your student will continue to go to school but may be placed in a separate room. There is no right to a hearing, notice, etc. Talk to the school about ensuring that your student stays on track by completing coursework and getting school assignments etc. during this time. Once the in-school suspension is completed, the student returns to regular class.



## WHAT HAPPENS IF MY STUDENT RECEIVES AN “OUT OF SCHOOL” SUSPENSION?

A suspension is an exclusion from school for 1 to 10 days *in a row*. Your student can only be suspended by a principal or “person in charge of school.” The length of the suspension is important:

- **1-3 Days of Suspension = No Hearing**
- **4-10 days of Suspension = Informal Hearing**

### AT AN INFORMAL HEARING, YOUR STUDENT HAS RIGHT TO:

- Sufficient advanced notice of time and place of hearing provided to parents
- Question any witnesses present at the hearing
- Speak and bring witnesses on behalf of student
- Have the informal hearing held w/in first 5 days of suspension
- BUT: No right to an attorney or to record hearing

**Once a suspension is over, the student returns to regular school.**

## WHAT HAPPENS IF MY STUDENT IS FACING AN EXPULSION?

An expulsion is an exclusion from school for more than 10 days in a row and **requires a formal hearing** in front of a hearing examiner or school board AND must be approved by majority vote of FULL school board. Expulsions **can** be permanent. If a hearing cannot happen by the 10th day of suspension, your student has a right to return to class unless, at an informal hearing, the school finds your student is a threat to others.

### RIGHTS AT THE FORMAL HEARING INCLUDE:

- The right to receive prior written notice of the time and place of the hearing at least 3 days in advance of the hearing (the student can request extension for good cause);
- The right to bring and be represented by counsel;
- The right to present witnesses, cross examine, and testify;
- The right to have the hearing recorded;
- The right to a written decision containing findings and reasons for the expulsion; and
- 30 days to appeal from the date of final decision to the local court of common pleas (but the student will be expelled while an appeal is pending).



## WHAT HAPPENS IF MY STUDENT BRINGS A “WEAPON” TO SCHOOL?

A school must expel a student for “possession” of a weapon at school for at least one year, **BUT** this can be shortened or eliminated by the superintendent. Discretion must be exercised on a case-by-case basis. The term “weapon” has a broad definition under the law and includes, but is not limited to, “any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of causing serious bodily injury.”

## WHAT HAPPENS IF THE SCHOOL WANTS TO TRANSFER MY STUDENT TO AN “ALTERNATIVE SCHOOL”?

“Alternative education for disruptive youth” programs are for students (6-12<sup>TH</sup> grades) who have been found to be seriously and persistently disruptive. They must provide at least 20 hours of instruction and offer 2.5 hours of counseling per week. Your student has a right to an informal hearing prior to transfer to an alternative education program, unless the conduct poses a danger to persons or property or disrupts the academic process. A student cannot be automatically placed in alternative education because they were found to be disruptive in a prior school district. The question is whether a student is *currently* disruptive. A student’s placement in alternative education must be reviewed every semester to determine if he can return to the regular education setting.

## DOES MY STUDENT UNDER 17 HAVE ANY RIGHTS AFTER BEING EXPELLED?

**Yes.** If a student is of compulsory school age (under 17) the student must receive some education even if expelled. This can be another public school, charter school, private school or home schooling. If none of these can be arranged, a parent must state so in writing within 30 days of date of decision and the school district must “make provision” for the student’s education by providing an appropriate form of instruction.



## MY STUDENT HAS A DISABILITY. ARE THERE ANY SPECIAL RULES THAT APPLY?

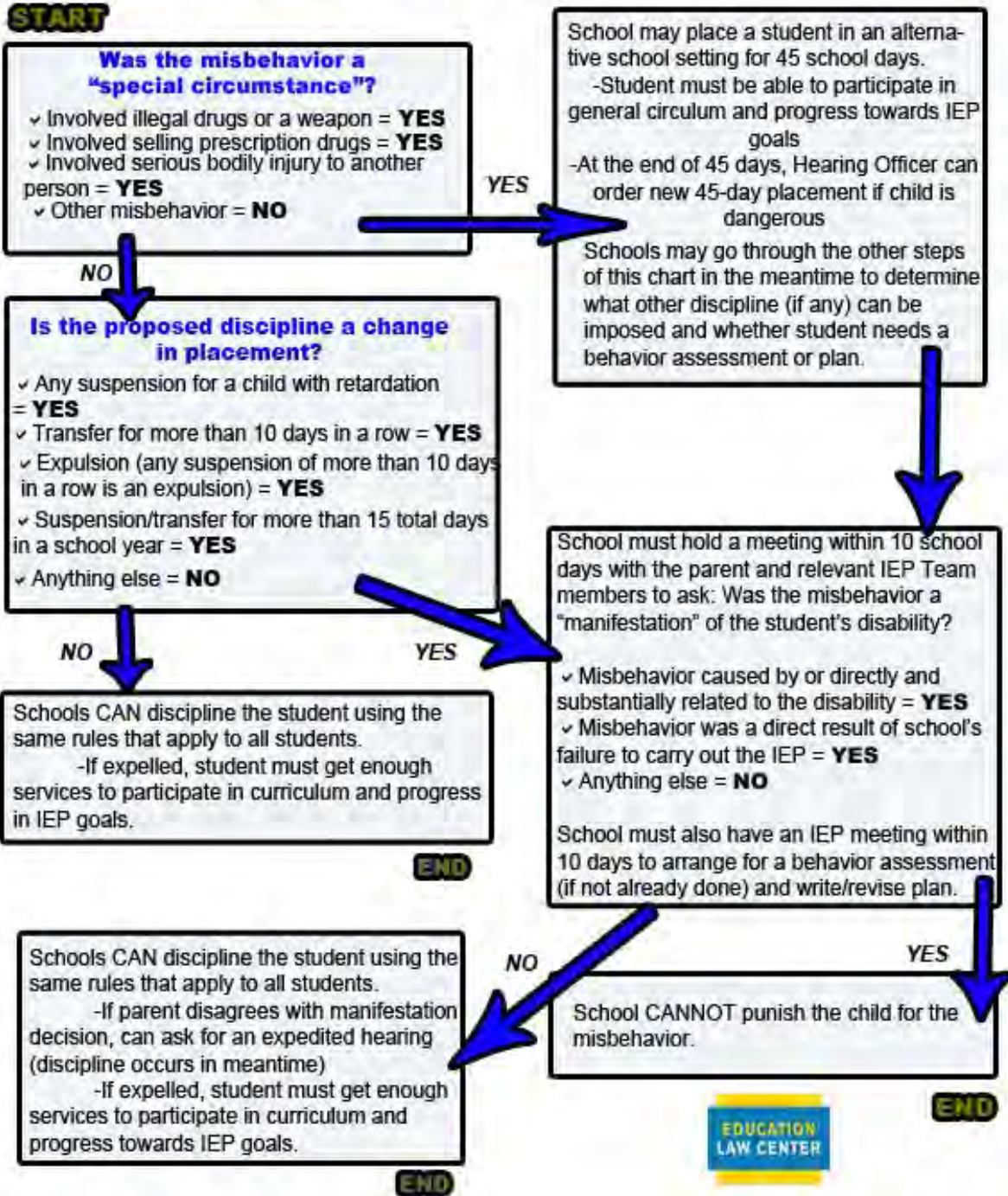
**Yes.** In general, students with disabilities may be disciplined under the same rules as regular education students. HOWEVER, schools **MUST** take extra measures if the misbehavior is a *result* of the student's disability and the school wants to "change the student's placement" (for example, remove him or her from regular school or place the student in alternative education). If a school wants to change the student's placement, they must hold a meeting called a "**manifestation determination review**" **within 10 days of the incident** to decide whether the misconduct was *caused by or has a direct & substantial relationship* to the student's disability **OR** was the *direct result* of the school's failure to implement the IEP. If so, the student **CANNOT** be forced to change placements except in exceptional circumstances (*e.g.*, the student presents a danger to other students). If the misconduct was related to the student's disability, the school should also do a "functional behavioral assessment" and develop a positive behavior plan for your student.

Another special rule is that even if a student with a disability is expelled or placed in alternative education, she still has **a right to receive a free appropriate public education in accordance with her IEP.**



# Discipline Flow Chart: Children with IEPs in Public Schools

First ask: did the student break a published school rule?



## *Tool 7: Rights of Students in Residential Placements*

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Under state law, all youth living in residential placements -- referred to as a “children’s institutions” in the Pennsylvania School Code – ***have the legal right to attend the local public school in the community where the placement is located.*** See 24 P.S. § 13-1306. See also See 22 PA Code § 11.11(c) and 22 Pa. Code § 11.18 (children in institutions can attend public school in the school district where the facility is located and are subject to the same enrollment requirements.). ***These children also have the right to school stability and immediate enrollment*** under the federal *Every Student Succeeds Act*, and the legal entitlement to attend school until age 21, as well as all rights and protections of applicable disability, civil rights, and other education laws. The decision regarding whether a child will attend the local public school or an “on-grounds” school is critically important. On-grounds schools are generally licensed as private academic schools and are not required to comply with the same academic standards as public schools nor do they offer the same range of educational opportunities. Many children who attend on-grounds schools fail to receive grade-level educational instruction and find themselves falling behind when they return to their neighborhood schools.

The Pennsylvania Department of Education and Department of Public Welfare have issued joint policy guidance clarifying ***that there is a “presumption” in favor of students in residential placements attending the local public school in the community where they are living***, rather than any on-grounds school. The only exceptions to this rule are when a court order expressly states that the child must attend the on-grounds school, an IEP Team determines that the on-grounds is best, or the child is currently expelled for a weapons offense and required to attend an alternative education for disruptive youth program. Importantly, residential placements cannot “bundle” their services to prevent the child from accessing the local school. The joint guidance also underscores the responsibility of these “host” school districts to students living in residential facilities within their borders. These obligations include ensuring a free, appropriate public education to students with disabilities even if these students attend an on-grounds school. ***See Basic Education Circular entitled Educational Programs for Students in Non-educational Placements.***<sup>2</sup> When a child attends the local public school, she is entitled to immediate enrollment without submitting the documents normally required for enrollment. Whether a child attends the local public school or an on-grounds school, every child with a disability is legally entitled to receive a free, appropriate public education in the least restrictive environment. The

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<sup>2</sup> This joint guidance is important and is available at <http://www.education.pa.gov/Documents/Codes%20and%20Regulations/Basic%20Education%20Circulars/PA%20Code/Educational%20Programs%20for%20Students%20in%20Non-Educational%20Placements.pdf>



child’s school must conduct timely evaluations, provide all services and supports identified in the child’s IEP, conduct progress monitoring, and ensure that the child makes progress towards graduation.

## TOP 10 ADVOCACY TIPS FOR CHILDREN AND YOUTH IN RESIDENTIAL SETTINGS

*Publication of the Education Law Center and Juvenile Law Center (JLC)*

**1. Preparing for Court: Before court, review the youth’s educational records, current program, credit status, special education needs and accommodations plan. Determine if the child needs to be evaluated for special education, an accommodations plan for a disability or a behavior plan.**

Consult with the youth prior to court – especially if placement will be addressed – to ascertain his or her preferences regarding type, amount, and location of programming, and talk about post-secondary and vocational interests.

**2. School Stability: Always consider whether it is in the youth’s best interests to continue attending the same school after moving to a residential placement.**

School stability protections apply equally to dependent children placed in residential settings.

**3. Educational Decision Makers: Consider whether the Juvenile Court should appoint an Educational Decision Maker (EDM) pursuant to Rules 147 or 1147 due to the absence of a parent, foster parent and kinship provider actively engaged in making education decisions for the youth.**

Many youth placed in residential settings lack an active, involved adult to serve as the “parent” for special and general education purposes, and need the Juvenile Court to appoint an EDM. Case workers cannot sign IEPs!

**4. No Court Orders Requiring Attendance at On-Grounds School: Explain to judges why an on-grounds school is not appropriate and why the youth should attend the public school in order to stay on track to graduate. Propose that the Court specify another educational placement in the Order.**

Explain the legal “presumption” in favor of the child attending public school. Consider what supports a child needs to successfully attend the public school

(e.g., 1-1 aide for transportation.) Reference 24 P.S. 13-1306 and PDE’s BEC and DPW’s Bulletin regarding Educational Programs for Students in “Non-Educational” Placements. This BEC enumerates the responsibilities of involved educational entities and procedures to be followed when a student is placed in a facility.





**5. Least Restrictive Environment (LRE):** If the youth is eligible for special education, ensure the IEP Team meets promptly to address the child’s placement and ensure the child is educated in the LRE. Make sure that the parent or other educational decision maker is fully informed of all placement options – the child should not be automatically placed at an on-grounds school unless specified in the court order.

Ask if the education program being proposed complies with the least restrictive environment requirements – i.e. whether the youth will be educated with his or her nondisabled peers to the maximum extent possible. Ask how a less restrictive environment (e.g. within a local public school) could be modified to support a youth with disabilities.

**6. Collaboration:** Work with the parent/other decision-maker and all professionals involved in the youth’s life to ensure that the youth’s educational needs are met while in residential placement and beyond. Request an interagency meeting (e.g. CASSP) to discuss proposed placements and the education options, including those of the neighborhood school. Include the youth in discussions!

If you work together as a team, you are more likely to improve outcomes for the youth.

**7. Transition Services:** If the youth is 14 years or older and eligible for special education, ensure the IEP proposed will advance his or her post-high school goals including educational goals, employment goals, and independent living goals. If the child is dependent, coordinate special education transition planning with plans to help the youth make a successful transition out of the child welfare system.

Keep in mind that the educational services youth receive during their “transition” years must prepare them for the road ahead! Youth who live in residential settings may need extra support to prepare them to live independently and work or study as adults.

**8. Graduation:** If the child is in 12th grade, consider how the child will graduate from school. Be wary of early graduation proposals!

Youth who receive special education services have a right to remain in school through the end of the school year in which they turn 21; many youth will need those transition years to adequately prepare for adult life.

**9. Monitor Progress:** Wherever the child attends school while living in residential placement, ensure the child is making progress. Pay attention to progress reports. Request regular court reviews of the youth’s progress and placement and ensure the child receives all services and modifications specified in the IEP.

Wherever the child is educated, he/she should be making academic progress. If the youth is not making progress, or is regressing, the youth may need to be evaluated for special education services, have an



existing IEP revised to provide additional or different supports and modifications, change educational placements, or enforce requirements of an IEP that is not being followed.

**10. Planning for the Transition Out of the Facility: As soon as possible but no later than two weeks before a youth's expected discharge from a residential setting, develop a transition plan for the youth's enrollment in a new school and the transfer of records and credits.**

Obtain a transcript and ensure that all full and partial credits earned are documented before the youth changes schools. Work with the youth, parent or other authorized education decision-maker, host district, current school, home school district, and others with knowledge of the child to ensure the child is immediately enrolled in an appropriate school, with all education records, after leaving the residential placement.



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## *Tool 8: Transition Planning*

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**Starting at age 14**, students have the right to “transition services” to support post-secondary goals related to training, education, employment, and independent living.

- The IEP must contain measurable transition goals based on transition assessments (e.g. interests inventory, vocational assessment.)
- The student and representatives from other relevant agencies should participate in IEP meetings in which transition is discussed.
- Transition services are provided in the least restrictive environment.
- For youth in the child welfare system, the transition plan in the IEP should be coordinated with child welfare transition plans.

### DEVELOPING AN IEP TRANSITION PLAN

From the Juvenile Law Center’s *Toolkit to Help Pennsylvania Youth in Foster Care and the Juvenile Justice System Prepare for IEP Meetings*

#### Before You Begin: Assessments and Information Gathering Checklist

The more information you know about the student’s strengths, interests, and challenges before you begin setting goals and brainstorming services, the better. Below is a list of different documents, questions to ask, and other information that can help you and the student have a productive, informed conversation about the student’s postsecondary goals and how to achieve them. If you don’t have access to all the documents listed, don’t worry! Get as much information as you can, and then ask about the additional records at the IEP meeting.

#### Education/Employment Records:

- Most recent IEP and/or 504 Plan
- Transcript, report card, and/or progress notes
- Test scores in academic subjects
- Results of any transition assessments (see the box to the right for examples)
- Work samples or portfolios (from school or work)



### Disability/Health Records:

- Most recent Educational Evaluation or Reevaluation
- SSI Award Letter
- Adaptive behavior/Independent Living Assessments (e.g., the Vineland Adaptive Behavior Scale)
- Intelligence or aptitude test results (e.g., Wechsler Intelligence Scale for Children)
- Assistive Technology records or assessments
- Any other relevant health records or evaluations

### Child Welfare and/or Juvenile Justice Records:

- Child Welfare Transition Plan and/or Independent Living (IL) Plan
- Other Child Welfare Documents (e.g., the Family Service Plan)
- Juvenile Court records and any probation documents

### Possible Questions to Ask the Student:

- What jobs have you done in the past? Do you do any work around the house, for other family members, or in the community? What did you do last summer?
- What things are you particularly good at? Have you won any awards? Any project or accomplishment you are proud of?
- What do you like doing? How do you spend your free time?
- What jobs do you think seem interesting? Why? Do you know anyone who has that job now?
- What do you know about your disability or health needs?



## TRANSITION PLAN WORKSHEETS

*A Publication of the Juvenile Law Center, Education Law Center & Disability Rights Pennsylvania*

### Worksheet #1: Employment

Employment Goal:

Assessments and other information used to determine the goal:

Academic and career/technical skills needed to achieve the goal:

Social and independent living skills needed to achieve the goal:

Specific barriers to achieving the goal (including juvenile records, immigration issues, admission requirements, and needed accommodations), if any:

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*Based on the above information, identify recommended services and activities to be included in the IEP for this student. For examples, see the list in the box to the right.*

Additional Assessments or Evaluations (if any):

Courses of Study:

Transition Services/Activities:

### SERVICES, ACTIVITIES, AND COURSES OF STUDY TO BE INCLUDED IN THE IEP

#### Skills Attainment:

Direct instruction in specific academic skills

Soft skills/social skills training

Self-advocacy training

Email and social media etiquette

Technical training

Obtaining any required licenses

#### Choosing a Field:

Job shadowing

Job search support

Mentorship opportunities

#### Application Process:

Resume/cover letter writing

Getting references

Interviewing practice

Obtain employment documents

#### Work Experience:

Apprenticeships/internships

Community work experiences

#### Services and Supports:

Connecting to OVR

Job coaching

Referral to an attorney to file an expungement petition

Referral to an attorney to address immigration status



Other Action Steps:

## Worksheet #2: Postsecondary Education & Training

Postsecondary Education/Training Goal:

How will this goal help the student achieve his or her employment goal?

Assessments and other information used to determine the goal:

Academic skills, soft skills, and other skills needed to achieve the goal:

Specific barriers to achieving the goal (including juvenile records, immigration issues, admission requirements, and needed accommodations), if any:

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*Based on the above information, identify recommended services and activities to be included in the IEP for this student. **For examples, see the list in the box to the right.***

Additional Assessments or Evaluations (if any):

Courses of Study:

Transition Services/Activities:

### SERVICES, ACTIVITIES, AND COURSES OF STUDY TO BE INCLUDED IN THE IEP

#### Skills Attainment:

Direct instruction in specific academic skills needed for program eligibility or completion

Standardized test prep

Soft skills/social skills training

Financial literacy programs

#### Choosing a Program:

College tours

Investigating eligibility requirements

#### Application Process:

Application/essay writing assistance

FAFSA/financial aid/scholarship assistance

Interview prep

Collecting documentation

#### Services and Supports:

Applying to supportive programs (Act 101, TRIO, etc.)

Updating evaluations

Developing a 504 Accommodations Plan

Connecting to OVR

Referral to an attorney to file an expungement petition

Referral to an attorney to address immigration status



### Worksheet #3: Independent Living

Independent Living Goal:

Assessments and other information used to determine the goal:

Skills needed to achieve the goal:

Post-transition supports needed to achieve goal:

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*Based on the above information, identify recommended services and activities to be included in the IEP for this student. For examples, see the list in the box to the right.*

Additional Assessments or Evaluations (if any):

Courses of Study:

Transition Services/Activities:

Other Action Steps:

#### SERVICES, ACTIVITIES, AND COURSES OF STUDY TO BE INCLUDED IN THE IEP

##### Skills Attainment:

Financial literacy programs

Computer literacy classes

Personal hygiene instruction

Parenting skills classes

Health education in specific topics (for example, sexual health, diet/nutrition, etc.)

##### Community Experiences:

Setting up a bank account

Practice using public transportation

Practice grocery shopping/cooking

Volunteering experiences

##### Preparing for Adulthood:

Searching for housing

Obtaining a driver's license

Voter registration

Registering for selective service

Obtaining childcare

##### Services and Supports:

Connecting to particular community organizations

Connecting to a mentor

Connecting to OVR

Applying for benefits (including SSI)



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## *Tool 9: Graduation and Access to Postsecondary Education and Training*

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Students with IEPs have the right to attend school until age 21 or graduation from high school. A child with an IEP can graduate when either: he/she meets the academic standards/curriculum requirements established by the state and graduates through credits or “satisfactorily completes” the special education program developed by the IEP Team (often called “graduating under the IEP”). The school district needs the surrogate parent’s permission to graduate a child under an IEP. Early graduation equals the loss of services and educational opportunities in school, so this is a very important decision.

### **KEY STRATEGIES FOR IMPROVING GRADUATION RATES AND ACCESS TO POSTSECONDARY EDUCATION AND TRAINING:**

- Monitor educational progress throughout middle and high school years.
  - Ensure academic progress towards graduation is being made.
  - Ensure special education, remedial, and language needs are identified and met.
  - Ensure youth’s interests, needs, and strengths are identified with future career and education exploration in mind.
- Ensure that educational goals/issues are included in the permanency plan and raised in permanency review hearings.
- Ensure that educational goals are included in Independent Living and Transition Plans.

### **MAKING PROGRESS TOWARDS GRADUATION:**

Is your child making progress in classes? \_\_\_\_\_

Is he/she taking the right classes to meet graduation requirements (number of credits, class types, etc.) \_\_\_\_\_

Are credit transfer issues being addressed? \_\_\_\_\_

Is he/she preparing for post-secondary options?





- Exploring options (college, trade school).
- Taking SATs and other tests needed for access.
- Taking advantage of opportunities that will help make choices (college tours, etc.)
- Involvement in college prep programs, tutoring, mentoring.

Are your student's strengths and interests being assessed early to enable the creation of concrete postsecondary goals, facilitate engagement in school, and reinforce future planning orientation? \_\_\_\_\_

### ADDITIONAL CONSIDERATIONS FOR YOUTH WITH AN IEP:

- Ensure a high quality transition plan and monitor it.
- Ensure that youth's graduation requirements are clear.
- Prior to graduation get Summary of Academic Achievement and Functional Performance completed:
  - Required by IDEA
  - Completed when student graduates from HS
  - Summarizes individual abilities, skills, needs, and limitations
  - Provides recommendations to support transition to adult living, learning, and working
  - Useful for creating a 504 Plan for post-secondary education or training, treatment or day program plan

[http://www.hunter.cuny.edu/socwork/nrcfcpp/info\\_services/children-with-disabilities.html](http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/children-with-disabilities.html)

### CONSIDERATIONS FOR YOUTH IN RESIDENTIAL SETTINGS:

- Credits earned in private academic school:
  - Making it count toward graduation.
  - Tips to include ALL credits earned.
  - Documentation required.
- Completing Senior Project:
  - MUST be documented and approved.
- Graduating through IEP:
  - Decision of IEP Team.



- Must be accomplished through local school district and documented.

Who will issue the diploma? \_\_\_\_\_

**Credit and Diploma Issues:**

- All credits earned in a public school **MUST** be accepted by another public school.
  - See 22 PA Code §4.24

**TRANSITION TO POST-SECONDARY CONSIDERATIONS:**

What is the application process? \_\_\_\_\_

What documentation is needed to access and to support scholarship and financial aid applications? \_\_\_\_\_

How is the youth being assisted to determine postsecondary and training options, housing, employment and debt, etc.?  
\_\_\_\_\_

Will the youth need Accommodations Plan/special services in college?  
\_\_\_\_\_

Will your student need access to remedial support services?  
\_\_\_\_\_

What type of mentor programs are available?  
\_\_\_\_\_

Have you discussed realistic goals and support over breaks, etc.?  
\_\_\_\_\_

What is the strategy to access all community supports/scholarships for preparation for postsecondary education?  
\_\_\_\_\_

What is the strategy to access all supports/scholarships for preparation for postsecondary education targeted at foster youth?  
\_\_\_\_\_



## CHILD WELFARE AND EDUCATION PLANNING REQUIREMENTS THAT SUPPORT EDUCATIONAL SUCCESS:

**Juvenile Court Rule 1608:** At all permanency review hearings for youth 16 and older, findings and orders must be made related to:

- whether the child is making adequate educational progress to graduate from high school or
- whether the child is enrolled in another specified educational program that will assist the child in achieving self-sufficiency; and
- the job readiness services that have been provided to the child and the employment/career goals that have been established.

**Juvenile Court Rule 1613:** Before a case can be closed for a youth 18 or older, a transition plan must be presented and accepted by the court, which contains:

- the specific plans for pursuing educational or vocational training goals and
- the child's employment goals and whether the child is employed;

## ACCESS EXISTING SUPPORTS TO PROMOTE POSTSECONDARY EDUCATION:

There are college prep and mentoring programs that help prepare youth for postsecondary education including:

- College Access Programs—PA  
<http://www.collegeaccess.org/accessprogramdirectory/search.aspx?s=PA>
- Philadelphia Futures <http://www.philadelphiafutures.org/>
- Federally Funded TRIO Programs
  - Talent Search (U of P), Upward Bound (U of P, CCP), Education Opportunity Centers
  - Federal Law, Higher Education Opportunity Act, requires that TRIO programs outreach and meet the needs of foster youth



## ENSURE THAT YOUTH UNDERSTAND THE COST OF POSTSECONDARY EDUCATION AND HOW TO PAY FOR IT:

*Youth should understand:*

- The costs and benefits of postsecondary education and training.
- That they are eligible for many grants that will help pay for the cost of attendance.
- Basics of financial aid and planning. Have you discussed?:
  - What it is and how you apply.
  - Different programs have different costs (difference between community college, state school, and private technical school).
  - The difference between loans and grants.
  - The financial consequence of dropping out, failing courses.
- Establish Eligibility for Chafee Education and Training Grant (ETG):
  - Youth who were in care when they were age 16 or older (includes youth who are now in PLCs, adopted, etc.)
- Make clear his/her status as an Independent Student on FAFSA:
  - Young persons who were wards of the court at age 13 or older (includes youth who are now in PLCs, adopted, etc.)
- Seek all state grants:
  - PHEAA Higher Ed. Access Partner –Allegheny--Kimberly McCurdy  
[kmccurdy@pheaa.org](mailto:kmccurdy@pheaa.org)
- Seek scholarships and grants targeted at foster and disadvantaged youth:
  - Child Welfare Resource Center, **A Student's Guide to Financial Aid And Scholarships for the 2013-2014 Academic Year**, located at [Independentlivingpa.org](http://Independentlivingpa.org)



\*\*\*\*\*Ensure that youth understand their right to remain in care until age 21 and how that can impact living costs while pursuing education or training. Factors to consider include:

- Cost of housing and board during school and breaks.
- Health insurance.

### IMPROVING RETENTION IN POSTSECONDARY EDUCATION: MAKING THE RIGHT CHOICES

- Help youth with the decision-making process so they choose a program that:
  - Interests them and helps them achieve identified goals.
  - Is equipped to meet any special needs.
  - They are able to finance without an undue burden.
- Help the youth access any child welfare and supportive services that will aid with the transition to postsecondary education:
  - Tutoring or mentoring.
  - Continued IL services that facilitate a good adjustment (budgeting, time management, social interactions, navigating public transportation).
  - Behavioral health services.
- Frontload support and increase monitoring of youth's case as youth begins program.
  - Youth are often reluctant to ask for help as they get older.
  - Increased interest/monitoring helps set a positive tone and enables pro-active responses.

### IMPROVE RETENTION IN POSTSECONDARY EDUCATION: PROMOTE ACCESS TO ACADEMIC SUPPORT PROGRAMS

- Most programs have student support programs that are targeted at improving retention for disadvantaged youth.
- Services often include: tutoring, counseling, and other support.



State funded Act 101 Program

Act 101 Directory: <http://www.pheaa.org/partner-access/schools/pdf/act-101/act-101-directory.pdf>

Examples of local programs:

- UPitt FOCUS (Facilitating Opportunity and Climate for Underrepresented Students.)
- CCAC Pittsburgh Promise Scholars Initiative

### RETENTION CONSIDERATIONS FOR YOUTH WITH SPECIAL NEEDS

- Ensure that youth with special needs have considered whether they need a 504 plan so that accommodations will be in place as soon as the youth begins.
- Ensure that the youth has considered training and education options through the Office of Vocational Rehabilitation.
- Provides assessment, planning, training and educational programs as well as funds such programs.
  - Resource for advocacy with OVR—Client assistance program  
[www.equalemployment.org](http://www.equalemployment.org)



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## Glossary

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### GENERAL EDUCATION TERMS:

- **“Act 26 Statement” or “Sworn statement of disciplinary record”:** This is a sworn statement regarding a student’s current and past disciplinary record relating to weapons, alcohol or drugs, or violence on school grounds. The document must be completed by the parent, guardian, or other person having care or control of the student and as part of the process for enrolling a student.
- **Americans with Disabilities Act (ADA):** The ADA is a federal law that prohibits discrimination against persons with disabilities and, among other things, requires that entities such as private schools (other than religious schools) make reasonable accommodations for students with disabilities.
- **Alternative Education for Disruptive Youth Programs:** Alternative Education programs are approved by the Pennsylvania Department of Education to provide education to students who meet the definition of a “disruptive youth.” The student must receive an informal hearing from his or her school district before being transferred to such a program and is entitled to an exit review no less frequently than the end of each semester.
- **Basic Education Circular (BEC):** Pennsylvania Department of Education guidance to local educational agencies used primarily to interpret federal and state education laws.
- **Block Schedule:** In this setup, students complete core courses over the period of one semester. During the next semester, students begin another set of core courses, which they will complete over the period of one semester. There are different variations of block scheduling.
- **Bureau of Special Education (BSE):** The Office within the Pennsylvania Department of Education that administers the state’s special education programs and monitors school districts’ compliance with the Individuals with Disabilities Education Act and state special education law.
- **Chafee Education and Training Grant (“ETG”):** The Chafee Education and Training Grant Program is a federally funded program that offers grant assistance to youth who were in the student welfare system at age 16 or older for postsecondary education and training programs. This includes youth who were adopted or entered a kinship guardianship arrangement at age 16 or older. Maximum awards under this program are \$5,000 per academic year. For more information see [http://www.pheaa.org/specialprograms/pa\\_chafee\\_grant\\_program.shtml](http://www.pheaa.org/specialprograms/pa_chafee_grant_program.shtml).



- **Compulsory School-Age:** The age at which the student attends first grade, but no later than age 8 (age 6 for students from Philadelphia) until age 17.
- **English Language Learner (ELL):** Formerly referred to as English as a Second Language, this term refers to an individual actively learning the English language. It is used mainly to describe students in kindergarten through twelfth grade.
- **English as a Second Language (ESL):** This language is rarely used. It once referred to those now designated English Language Learners (ELL). It is still used to refer to multilingual students in higher education.
- **Every Student Succeeds Act (ESSA):** ESSA is a federal education law that enhances school stability through the McKinney-Vento Act (see below.) There is a presumption that staying in the school of origin is in the student’s best interest, unless individual determination of best interest factors show otherwise; Amends the school of origin definition to include “feeder schools”; Clarifies that homeless youth must be enrolled in school immediately, even if the student has missed application or enrollment deadlines during any period of homelessness.
- **Family Education Rights and Privacy Act (FERPA):** A federal law that prohibits the release of a student’s education records or personally identifiable information from those records without the written consent of the student’s parent or the student if over age 18. There are some exceptions to this consent requirement, including, for example, disclosure of records between schools or a court order permitting disclosure to a student welfare agency.
- **Fostering Connections to Success and Increasing Adoptions Act:** A federal law that provides, among other things, that student welfare agencies shall coordinate with local education agencies to ensure school stability, prompt school enrollment with school records, and school attendance for students in care.
- **Free Application for Federal Student Aid (FAFSA):** The FAFSA is a form that must be filled out annually by current and anticipating college students (both undergraduate and graduate) in the United States to determine their eligibility for federal student financial aid (including Pell grants, Stafford loans, PLUS loans, work-study programs, and the ETG grant). Many other private scholarships also require that the FAFSA be completed. The Department of Education begins accepting the application beginning Jan. 1 of each year.
- **General Education Decision-maker:** Has the right and responsibility to make decisions related to the general education needs of a student/youth, such as permissions for fieldtrips, permissions for medication, handling of emergency situations, signing for release of records, etc.
- **Homebound Instruction:** School districts may provide “homebound instruction” to students because of a temporary medical emergency. Homebound instruction is different from “in-home instruction,” which is a special education program for students who are





eligible for special education who are too medically compromised to attend school for some period of time.

- **Home Schooling:** Pennsylvania law permits the home schooling of students under certain conditions. For more details, see <http://www.elc-pa.org/pubs/downloads/english/oth-homeschooling%207-08.pdf>.
- **Intermediate Unit (IU):** An IU is a regional educational entity from which school districts purchase certain services, most commonly special education services for students with low incidence disabilities.
- **Local Education Agency:** A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools. (20 USCS § 7801(26)(A))
- **Limited English Proficiency:** Those whose proficiency in speaking, reading, writing, or understanding English, as a result of national origin, is such that it would deny or limit their meaningful access to programs and services provided by the Department [of Education] if language assistance were not provided. (Department of Education)
- **McKinney-Vento Act:** The McKinney-Vento Act is a federal education law that mandates, among other things that students who are “homeless” are entitled to school stability or must be immediately admitted to a new school regardless of whether they have the documents that would otherwise be required for admission to school. It also requires that each school district appoint a McKinney-Vento Homeless liaison. In Pennsylvania, McKinney-Vento Regional or Site Coordinators resolve disputes and ensure access to services.
- **On-site or “On-grounds” School:** Usually a Department of Education licensed private academic school located at or associated with a residential facility such as a residential treatment program. Note: Some on-grounds programs are run by Intermediate Units which provide educational services at the facility.
- **Partial Hospitalization Program:** A day mental health program licensed by the Offices of Students Youth and Families and Mental Health and Substance Abuse Services to provide mental health support for students with significant mental health issues.
- **Pennsylvania System of School Assessment (PSSA):** Every Pennsylvania student in grades 3 through 8 and grade 11 is assessed in reading and math to determine whether the student has achieved proficiency in the state’s standards for that grade and subject. Every Pennsylvania student in grades 5, 8 and 11 is assessed in writing. Every Pennsylvania student in grades 4, 8 and 11 is assessed in science.



- **School Discipline:** A suspension is the involuntary removal of a student from the school setting for a period of up to ten days in a row for the violation of a school rule. An expulsion is the involuntary removal of a student for 10 days in a row or longer. Students are entitled to protections that increase with the length of the school exclusion, including a formal hearing when an expulsion is proposed.
- **Section 504 Accommodation Plan:** Also known as a 504 Plan, a Service Agreement, or a Chapter 15 Agreement, this is a plan of services and accommodations developed by the school district and the family for students who have a disability under Chapter 15 and the federal Rehabilitation Act of 1973 (commonly known as “Section 504.”)
- **Student Assistance Program (SAP):** Vehicle through which districts provide appropriate counseling and support services to students who experience problems related to the use of drugs, alcohol, and dangerous controlled substances.
- **Title I Services:** Title I of the federal Elementary and Secondary Education Act (ESEA) funds academic support and learning opportunities for low-achieving, low income students so that they can master challenging curricula and meet state standards in core academic subjects. Title I funds can support extra instruction in reading and mathematics, and such other programs as special preschool, after-school, and summer programs.
- **Traditional Schedule:** In this setup, students complete core courses over the period of an entire school year.
- **Tuancy:** Referring to unexcused absences. School districts are encouraged to work with families and students to address attendance issues. A principal or teacher is required to report to the superintendent, attendance officer or school board any student who has had three (3) unexcused absences in a school year. Students who miss ten consecutive school days must be dropped from the school rolls unless the school is provided with evidence that the excuse is legal or the school is pursuing compulsory attendance prosecution. Students of compulsory school age who do not comply with attendance requirements may be referred to regional truancy court, subject to fines, or required to attend certain programs, or engage in community service. For details on Pennsylvania’s revised truancy laws see [https://www.elc-pa.org/wp-content/uploads/2016/11/New-Truancy-Law-Fact-Sheet\\_Extended-Version\\_2-7-17.pdf](https://www.elc-pa.org/wp-content/uploads/2016/11/New-Truancy-Law-Fact-Sheet_Extended-Version_2-7-17.pdf).
- **“Zero Tolerance” Law or Act 26:** This is a state law that requires a mandatory one-year expulsion for any student who brings a weapon to school or a school-sponsored activity. The superintendent of a school district or an administrative director of an area vocational-technical school may recommend modifications of such expulsion requirements on a case-by-case basis.



## SPECIAL EDUCATION TERMS:

- **Student with a Disability:** A student who has been evaluated and determined to have a qualifying disability and need special education.
- **Compensatory Education (“Comp Ed”):** Make up services owed to a student with a disability who did not receive services listed in her IEP or did not receive a free, appropriate public education (“FAPE”).
- **Evaluation Report (ER):** The report of the special education evaluation, which must be provided to a parent.
- **Functional Behavioral Assessment (FBA):** An FBA is an assessment to identify the reasons for a specific student behavior and to help the IEP team select appropriate interventions to address the behavior. An FBA must be conducted if a student’s behavior was a manifestation of her disability unless an FBA has already been completed.
- **Individuals with Disabilities Education Act (IDEA):** A federal law that requires Pennsylvania and other states to ensure that eligible students with disabilities receive a “free appropriate public education” in the “least restrictive environment” and procedural safeguards.
- **Individualized Education Program (IEP):** A written education plan, developed by the parent and the school district, that, among other things, sets out the student’s educational goals, how progress will be measured, what special education and related services the district agrees to provide, and the extent to which the student will be educated in a regular classroom and with what supports.
- **Individualized Education Plan (IEP) Team:** The IEP Team is a group of specific school staff, parents, and any persons the school or the parent invite, which develops the IEP for an eligible student.
- **Initial Evaluation:** The first evaluation for a student with a suspected IDEA disability. Parental consent is required to conduct an initial education evaluation unless a court issues an order authorizing another person to consent to the initial evaluation.
- **Least Restrictive Environment (LRE):** The IDEA mandates that an eligible student must be educated together with students who do not have disabilities to the maximum extent appropriate to the student’s needs with the “supplemental aids and services” needed to support the student in the regular school environment.
- **Manifestation Determination:** When a school district proposes to suspend a student who is receiving special education for more than 15 days in a school year or 10 or more days in a row, a team must determine if: the student’s conduct was caused by, or had a direct and substantial relationship to, the student’s disability; or the conduct was the direct result of the school entity’s failure to implement the IEP. The IEP Team decides whether these



criteria are met in which case the student is entitled to special protections in the discipline process.

- **Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN):** The purpose of this notice is to summarize for the parents the recommendations of the Local Education Agency (LEA) for the student’s educational program and other actions taken by the LEA.
- **Parent (under the IDEA):** A biological or adoptive parent, foster parent, guardian (but not the State), an individual acting as a parent in the place of a parent or a surrogate parent appointed by a school district or court. The biological parent continues to be the IDEA parent unless she is not available or active.
- **Permission to Evaluate-Consent Form:** A written document that gives the school district/LEA to evaluate the student/youth for special education services.
- **Permission to Evaluate-Evaluation Request Form (PTE-Evaluation Request Form):** A written document requesting an evaluation for special education services. This does not provide consent for the school district/LEA to evaluate the student/youth.
- **Transition Plan:** A student aged 14 or older must have a transition plan in the IEP that sets out the goals for the student when he or she graduates and the transition services to be provided.
- **Special Education Decision Maker/Surrogate Parent:** Distinguished from the Education Decision Maker, this individual must be appointed by a local educational agency when the student does not have an active parent who can be located and there is no foster parent who can perform this role. The individual has the same rights as the student’s parent in the special education system. When the student in a facility has no parent available, the court can appoint a special education decision maker/surrogate parent. A court can also appoint an education guardian whenever that is in the student’s best interest.



## **EDM REFERRAL GUIDE: WHEN TO CONTACT ELC FOR HELP WITH EDUCATION ISSUES**

### **Students in care often experience specific barriers to school success such as:**

- Delays in enrollment (particularly when student is in or returning from a residential setting)
- School stability (under ESSA, McKinney-Vento and Fostering Connections)
- Special Education issues (requesting evaluations, adequacy and implementation of IEP/504 plans, proper placement in the least restrictive environment and entitlement to compensatory education)
- Credit transfers and access to high school diploma
- English Language Learner issues
- School discipline issues
- Truancy issues

### **ELC may provide assistance by:**

- Helping you identify and resolve your student's educational barriers;
- Working collaboratively as co-counsel to assist an advocate in or prior to court; or
- Representing a student with a complex education issues in court or at an administrative hearing such as disenrollment or Due Process hearings for students with special education needs. (limited to cases implying systemic problems)
- Refer you to private pro bono counsel for further assistance and possible representation.

### **Requirements for referral:**

- You have attempted recommendations listed in the applicable category (see pg. 2).

### **Information ELC will need to assist you:**

1. Student's name, date of birth, current address, and type of placement (e.g. kinship care, resource family, group home, residential).
2. Current role of parents (e.g., rights terminated etc.)
3. The name of the student's educational decision maker/special education/IDEA decision maker.
4. The name, location, and type of student's current educational placement (i.e. neighborhood or cyber or charter school, re-engagement center, alternative education placement, on-site school at a residential facility, homebound instruction, special education placement).
5. Student's prior school placement, if known.
6. Whether or not this student receives, or may be eligible for, special education services or accommodations plan.



→If student has an IEP or 504 plan:

- a. When was the current plan written?
- b. When was the student's last evaluation or re-evaluation?
- c. What is the student's disability? (e.g. Severe Emotional Disturbance (SED/ED); Other Health Impaired (OHI), includes ADHD; Specific Learning Disability (SLD).)
- d. What type of placement is recommended?

7. Description of problem. (See Categories A-H, below.)

**A. ENROLLMENT** *Student has been denied enrollment for more than five days.*

- Check that all FOUR required enrollment documents (proof of age, residency, immunizations, and a sworn statement of the student's disciplinary record) have been submitted.

**B. TRANSPORTATION/SCHOOL STABILITY** *Student is/may be transferred to a new school due to a change in placement even though transfer is not in their best interests, or, student is/may not be able to remain in school of origin due to transportation issues.*

- First contact the DHS Education Support Center (215-683-4001) to resolve the issue.

**C. EDUCATION PLACEMENT** *Student is not in a regular (public or charter) education setting but would like to be in regular education setting.*

**Additional Information needed:**

1. Is the student currently expelled from the prior school for an offense involving drugs, weapons, or serious bodily injury?
2. Is the student currently facing expulsion or placed in an alternative education placement?
3. If the student is or may be eligible for special education services, was the parent/education decision maker informed of the student's change in placement, participate in the decision and consent?

**D. SPECIAL EDUCATION** *Student needs to be evaluated or re-evaluated for a disability OR student has a diagnosed disability but is not receiving a free appropriate public education because the IEP is not being followed or the student is not making progress OR the school has taken inappropriate disciplinary action. Some examples of problems under this category are: inappropriate placement, inappropriate/insufficient level of support or services, failure to respond to a request for an evaluation, or need for an independent evaluation.*



**Additional Information needed:**

1. If the problem requires an initial special education evaluation or re-evaluation:
  - a. Has an evaluation or re-evaluation been requested?
    - If “YES”:
    - Who requested it?
    - When did they request it?
    - Did that person receive, sign, and return Permission to Evaluate (PTE) form to the school? If so, when?

**E. ILLEGAL EXCLUSION FROM SCHOOL** *An exclusion may be illegal if the student is excluded from school due to a disability, discrimination, or if student is expelled, suspended for more than 10 days, or if there is a pattern of suspensions totaling more than 15 days without a formal hearing AND/OR the student is being excluded for behavior that may be a manifestation of their disability.*

**Additional Information needed:**

1. Why is the student being excluded from school?
2. Has the school sent any notices to the parent/guardian?
3. Has there been a formal or informal hearing or a manifestation determination review for a student with a disability?
4. Does this student need an evaluation for a suspected disability OR does the student already have an IEP or 504 Service Plan?

**F. GRADUATION/CREDIT TRANSFER** *Student is unable to transfer credits between school placements or is unable to meet graduation requirements.*

**Additional Information needed:**

1. What credits are needed for graduation and/or for the student to qualify for the appropriate grade level?
2. Type and number of credits earned at previous placements if known.

**G. TRUANCY** *Student is of compulsory school age but is not attending school.*

**Additional Information needed:**

1. How many days has the student missed?
2. Has a truancy citation been filed against the student or parent?



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## *Resources*

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### **SPECIAL EDUCATION:**

- ELC's *The Right to Special Education in Pennsylvania: A Guide for Advocates and Parents*:  
[https://www.elc-pa.org/wp-content/uploads/2014/03/ELC\\_Right\\_to\\_SpecialEducation\\_revisedapndx\\_Sept2016.pdf](https://www.elc-pa.org/wp-content/uploads/2014/03/ELC_Right_to_SpecialEducation_revisedapndx_Sept2016.pdf)
- Mobility Issues and Special Education for Children in Out-of-Home Care:  
[http://www.fostercareandeducation.org/portals/0/dmx/2012/08/file\\_20120829\\_140906\\_mIo\\_0.pdf](http://www.fostercareandeducation.org/portals/0/dmx/2012/08/file_20120829_140906_mIo_0.pdf)
- How the IDEA and the Fostering Connections Act Can Work Together to Ensure School Stability for Children with Disabilities in Foster Care:  
[http://www.fostercareandeducation.org/portals/0/dmx/2012/09/file\\_20120921\\_111940\\_cMMGM\\_u\\_0.pdf](http://www.fostercareandeducation.org/portals/0/dmx/2012/09/file_20120921_111940_cMMGM_u_0.pdf) -
- Infants and Toddlers with Disabilities in the Child Welfare System:  
[http://www.fostercareandeducation.org/portals/0/dmx/2012/09/file\\_20120921\\_112355\\_mYpUv\\_0.pdf](http://www.fostercareandeducation.org/portals/0/dmx/2012/09/file_20120921_112355_mYpUv_0.pdf) -
- Uninterrupted Scholars Act factsheet  
[http://www.fostercareandeducation.org/portals/0/dmx/2013/02/file\\_20130211\\_145758\\_xjnFqt\\_0.pdf](http://www.fostercareandeducation.org/portals/0/dmx/2013/02/file_20130211_145758_xjnFqt_0.pdf)
- Disabilities Rights Education and Defense Fund- Foster Care Page  
<http://dredf.org/special-education/foster-youth/>

### **ENROLLMENT:**

- How to Enroll a Child Living with Someone Other than their Parent: [https://www.elc-pa.org/wp-content/uploads/2012/08/ELC\\_SchoolEnrollmentGuide\\_LivingwithSomeoneotherthanParent\\_Aug2012.pdf](https://www.elc-pa.org/wp-content/uploads/2012/08/ELC_SchoolEnrollmentGuide_LivingwithSomeoneotherthanParent_Aug2012.pdf)
- Older Youth Enrollment Guide: [https://www.elc-pa.org/wp-content/uploads/2014/01/HowtoEnrollYourselfasOlderYouth\\_Aug2012.pdf](https://www.elc-pa.org/wp-content/uploads/2014/01/HowtoEnrollYourselfasOlderYouth_Aug2012.pdf)
- ELC Enrollment Complaint Process: <https://www.elc-pa.org/resource/elc-enrollment-complaint-process/>





## SCHOOL DISCIPLINE:

- School Discipline in Pennsylvania  
<http://www.elc-pa.org/pubs/downloads%202009/SchoolDisciplineinPA11-09.pdf>
- Alternative Education for Disruptive Youth (2009)  
[http://www.portal.state.pa.us/portal/server.pt/community/purdon's\\_statutes/7503/alternative\\_education\\_for\\_disruptive\\_youth/507342](http://www.portal.state.pa.us/portal/server.pt/community/purdon's_statutes/7503/alternative_education_for_disruptive_youth/507342)
- Disabilities Rights Network of Pennsylvania, Special Education and Discipline  
<http://drnpa.org/publications/special-education---discipline>.
- Pennsylvania's Truancy Law: <https://www.elc-pa.org/resource/pennsylvanias-new-truancy-law/>

## TRANSITION PLANNING

- Juvenile Law Center's *Transition Planning for Youth With Disabilities Involved in the Child Welfare System*:  
[http://www.jlc.org/sites/default/files/topic\\_related\\_docs/Transition%20Planning%20for%20Youth%20with%20Disabilities%20-%20A%20Guide%20for%20Professionals%20-%20November%202013.pdf](http://www.jlc.org/sites/default/files/topic_related_docs/Transition%20Planning%20for%20Youth%20with%20Disabilities%20-%20A%20Guide%20for%20Professionals%20-%20November%202013.pdf)
- Job Corps: Education and vocational training program for ages 16-24 to learn a trade and get high school diploma or GED. Call 1-800-733-JOBS [www.jobcorps.doleta.gov](http://www.jobcorps.doleta.gov).
- GED: Find GED preparation programs and testing sites  
[http://www.portal.state.pa.us/portal/server.pt/community/adult\\_basic\\_and\\_literacy\\_education\\_\(able\)/8703](http://www.portal.state.pa.us/portal/server.pt/community/adult_basic_and_literacy_education_(able)/8703)
- Office of Vocational Rehabilitation ("OVR"): Helps persons with disabilities prepare for, start, and maintain employment. Includes employment assessments; job training and placement.  
[http://www.dli.state.pa.us/portal/server.pt/community/l\\_i\\_home/5278](http://www.dli.state.pa.us/portal/server.pt/community/l_i_home/5278)

## SCHOLARSHIPS

- PHEAA: State agency that administers many of the state and federal financial aid programs for students pursuing post-secondary education. [www.pheaa.org](http://www.pheaa.org)



- Chafee Education Training Grant: Eligible youth receive up to \$3,000 per year not to exceed the cost of tuition. Awards granted on a "first-come, first-served" basis.  
<http://www.independentlivingpa.org/chaffee.pdf>
- TRIO Programs: <http://www.independentlivingpa.org/trio.htm>
- Students Guide to Financial Aid: <http://www.independentlivingpa.org/files/2012-2013%20Financial%20Aid%20and%20Scholarships%20Guide.pdf>

## HELPLINES AND WEBSITES

- PaTTAN Side-by-side chart of state and federal regulations for IDEA-eligible students ---  
<http://pattan.net-website.s3.amazonaws.com/images/file/2011/08/15/sidebyside021209.pdf>
- Sample letters and legal forms: <http://www.pattan.net/category/Legal/Forms/>
- PDE Basic Education Circulars (helpful summaries of legal requirements with respect to various education issues):  
[http://www.portal.state.pa.us/portal/server.pt/community/basic\\_education\\_circulars/7497](http://www.portal.state.pa.us/portal/server.pt/community/basic_education_circulars/7497)
- Education Law Center: [www.elc-pa.org](http://www.elc-pa.org) , 215-238-6970
- Disability Rights Network: <http://drnpa.org/> , Helpline: 1-800-692-7443
- Homeless Youth: [https://www.elc-pa.org/wp-content/uploads/2014/01/ELC\\_FactSheet\\_EducationforHomelessYouth\\_Jan20141.pdf](https://www.elc-pa.org/wp-content/uploads/2014/01/ELC_FactSheet_EducationforHomelessYouth_Jan20141.pdf)  
<https://www.elc-pa.org/resource/elc-toolkit-school-success-for-students-without-homes/>
- Legal Center for Foster Care and Education: [www.fostercareandeducation.org](http://www.fostercareandeducation.org)



# APPENDIX: Sample Court Orders and Form Letters

## IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

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|                     |   |                 |
|---------------------|---|-----------------|
| IN THE INTERESTS OF | : | FAMILY DIVISION |
|                     | : |                 |
|                     | : | Docket No.      |
|                     | : |                 |
| D.O.B.              | : | FID             |
|                     | : |                 |

### ORDER APPOINTING EDUCATIONAL DECISION MAKER PURSUANT TO RULE 1147 OR 147

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_,

UPON A FINDING THAT the above-captioned student is in the legal custody of the Department of Human Services:

AND upon consideration of the unopposed motion of counsel or following a hearing and an opportunity for all parties to be heard

AND upon further finding that:

The student has no parent or guardian who is competent, willing, active and available to make education decisions for the student;

AND it is in the student's best interest to appoint an Educational Decision Maker and/or special education decision maker for the student.

Upon further finding that the student (**IF APPLICABLE**):

\_\_\_\_\_ has been found to be eligible for early intervention or special education services, **OR**

\_\_\_\_\_ is currently thought to be eligible for special education services

**IT IS HEREBY ORDERED AND DECREED:** [CHOOSE AND COMPLETE (A) OR (B)]

\_\_\_\_\_ (**(A) THE COUNTY SHALL IDENTIFY AND PROVIDE TO THE COURT THE NAME OF A PROSPECTIVE EDUCATIONAL DECISIONMAKER within 15 days of today's date.** The County or its designated agents shall make reasonable efforts to identify an appropriate prospective Educational Decision Maker for said student, and shall submit to the Court a proposed order appointing an Educational Decision Maker. This Court shall reconvene all parties for the purpose of reporting back to the Court and/or appointing the Educational Decision Maker on \_\_\_\_\_ (not more than 15 days from today's date). However, if an Order appointing an Educational Decision Maker is agreed upon by all parties, and is presented to the Court before that date, the parties need not appear.

**OR**

**(B) THE COURT HEREBY APPOINTS TO SERVE AS THE  
STUDENT'S EDUCATIONAL DECISION MAKER** pursuant to Juvenile Court Rule 147 or 1147.

**AND**

           **(IF APPLICABLE)** THIS PERSON IS HEREBY AUTHORIZED TO MAKE SPECIAL EDUCATION DECISIONS AS A SURROGATE PARENT UNDER THE IDEA. *See* 34 C.F.R. § 300.30(a)(3) and 34 C.F.R. §300.519(c). The Court specifically orders this person to also serve as the student's special education decision maker pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400, 1401(23), 1415(b)(2) and 1439(a)(5); 34 C.F.R. §§ 300.30, 300.45 and 300.519 and 42 Pa.C.S. § 6301. **This person is not involved in the care or education of the student or otherwise conflicted from serving as a surrogate parent under the IDEA.** 34 C.F.R. § 300.519(c), (d)(2)(i).<sup>3</sup>

The Court further orders that notice of this Appointment and all other further proceedings be provided to the student's Educational Decision Maker. *See* Rules 500 & 1501 (Summons and Notice of Dispositional Hearing; Dispositional Notice), 600 & 610 (Summons and Notice of Commitment Review, Dispositional Review, and Probation Revocation Hearing) and 1601 (Permanency Hearing Notice).

The Court recognizes that unless parental rights have been terminated, or the Court otherwise determines that the health or safety of the student would be compromised, where the student's biological or adoptive parents are known and can be located, said parents shall retain the right to be informed of all changes in the provision of education, early intervention services or special education services to said student, and to receive copies of all information which is sent to the Educational Decision Maker regarding said student. Said parents may request to reassume responsibility for said student's education, including early intervention or special education services at any time that they are available to perform these functions. Said parents can request to reassume responsibility by asking their lawyer to make such a request to the court at any time.

The Educational Decision Maker named above shall have access to said student's education records and shall represent said student's interests in all matters concerning education services including but not limited to: **with regard to regular education decisions**, the right to participate in and be apprised of all meetings, conferences, conference calls etc. relating to the student's education including any discipline proceedings; **with regard to special education issues**, the right to request an initial evaluation for said student; to participate in any evaluation team to determine if the student is eligible for an Individualized Education Plan (IEP) and, if eligible, to develop and approve or disapprove the IEP; the right to request and approve or disapprove requests for evaluations; the right to receive any and all assessments and evaluations for education services, IEPs, and updates on said student's progress; the right to request and attend all conferences and due process hearings with respect to these services. This Order does not give the Educational Decision Maker rights beyond said student's education program, but the person appointed by the Court preempts all other potential IDEA parents with respect to special education and early intervention decisions. 34 C.F.R. §300.30(a) and (b).

**IT IS SO ORDERED.**

BY THE COURT:

\_\_\_\_\_  
J.

<sup>3</sup> An Educational Decision Maker for a child who has or is suspected of having special education needs cannot be an employee of the Department of Human Services, the Pennsylvania Department of Education, or school district employee or an employee of any other agency involved in the education or care of the child.

**IN THE COURT OF COMMON PLEAS OF  
PHILADELPHIA COUNTY**

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|                            |   |                        |
|----------------------------|---|------------------------|
| <b>IN THE INTERESTS OF</b> | : | <b>FAMILY DIVISION</b> |
|                            | : |                        |
|                            | : | <b>Docket No.</b>      |
|                            | : |                        |
| <b>D.O.B.</b>              | : | <b>FID</b>             |
|                            | : |                        |

**ORDER VACATING PRIOR APPOINTMENT OF EDUCATIONAL DECISION MAKER  
PURSUANT TO RULE 1147 OR 147**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_,

**UPON A FINDING THAT** the above-captioned student is in the legal custody of the Department of Human Services:

AND is a student for whom the Court had previously appointed an Educational Decision Maker named \_\_\_\_\_ on \_\_\_\_\_ date to make all decisions relating to this student's educational needs.

The Court now finds that the prior appointment of this Educational Decision Maker is no longer appropriate or necessary.

**IT IS THEREFORE ORDERED AND DECREED THAT**

The previous order appointing an Educational Decision Maker for this student, which included regular education or special education decisions or both is hereby **VACATED**.

**IT IS SO ORDERED.**

BY THE COURT:

\_\_\_\_\_  
J.

**IN THE COURT OF COMMON PLEAS OF  
PHILADELPHIA COUNTY**

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|                            |   |                        |
|----------------------------|---|------------------------|
| <b>IN THE INTERESTS OF</b> | : | <b>FAMILY DIVISION</b> |
|                            | : |                        |
|                            | : | <b>Docket No.</b>      |
|                            | : |                        |
| <b>D.O.B.</b>              | : | <b>FID</b>             |
|                            | : |                        |

**ORDER APPOINTING STUDENTS & YOUTH AGENCY REPRESENTATIVE TO CONSENT ONLY TO  
INITIAL SPECIAL EDUCATION EVALUATION FOR A STUDENT WHO IS AGE THREE TO TWENTY-ONE  
YEARS**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_,

**UPON A FINDING THAT** the above-captioned student is in the legal custody of the Department of Human Services:

**AND** is a student age 3 to 21 years and is or may be in need of early intervention or special education services,

**AND, UPON A FURTHER FINDING THAT** it is in the best interests of the student to be evaluated for early intervention or special education services.

**IT IS HEREBY ORDERED AND DECREED:**

**APPOINTMENT TO CONSENT ONLY TO AN INITIAL EVALUATION**

*[For the limited purposes of determining whether an initial evaluation is necessary and consenting to such an evaluation, this person can be a County Students & Youth agency, Pennsylvania Department of Education or school district employee or an employee of any other agency involved in the education or care of the student.]*

\_\_\_\_\_ is hereby appointed to  
NAME OR TITLE OF PERSON

determine if an initial evaluation of said student for early intervention or special education services is necessary, if so, to consent to such an evaluation of said student, and to inform DHS immediately of the results of the evaluation. See 34 C.F.R. § 300.300(a)(2).

**IT IS SO ORDERED.**

BY THE COURT:

\_\_\_\_\_  
J.

**Enrollment Dispute Letter**

\_\_\_\_\_ (your name)  
\_\_\_\_\_ (address)  
\_\_\_\_\_ (phone number) (optional)  
\_\_\_\_\_ (email) (optional)  
\_\_\_\_\_ (Parent or other relationship to student)

Date: \_\_\_\_\_

*Sent By Fax to (717) 214-4389 and/or via U.S. Mail*

Monica Washington, Director of School Services  
Office of Elementary and Secondary Education  
Pennsylvania Department of Education  
333 Market Street  
Harrisburg, PA 17126-0333

**Re: Enrollment Dispute of \_\_\_\_\_ D.O.B. \_\_\_\_\_**

Dear Ms. Washington,

I am writing to complain that \_\_\_\_\_ School District is refusing to enroll me or is otherwise violating 22 PA Code §11.11. I reside at \_\_\_\_\_, PA. As of today, I have been out of school for approximately \_\_\_\_ days.

On \_\_\_\_\_ (date) I submitted documentation to the District to establish my age, residency in the District and immunizations. The District, however, refused to enroll me because: (Check all that apply):

- Proof of age, immunizations or residency was found to be insufficient.  
Specifically, I provided \_\_\_\_\_ but the District required \_\_\_\_\_
- Improper documents were required: (Check all that apply)  
Photo identification \_\_\_\_; Social Security Number \_\_\_\_; Visa \_\_\_\_; Drivers' License \_\_\_\_; Court Order \_\_\_\_; Physical \_\_\_\_\_ Dental Exam \_\_\_\_\_ Other: \_\_\_\_\_
- Although I supplied all required documentation the school district has not enrolled me within 5 business days. Specifically: \_\_\_\_\_
- Although the current school district has requested transfer of my prior school records from school district \_\_\_\_\_, these prior records still have not been transferred and the school is refusing to enroll me on that basis.

The school district inquired into my immigration status. Specifically:

\_\_\_\_\_.

Although I meet the requirements to attend school as an emancipated minor, the school district is refusing to enroll me. Specifically: \_\_\_\_\_

\_\_\_\_\_.

The District has violated 22 Pa Code 11.11 and I hereby request that the Department investigate and take appropriate corrective action. I understand that PDE will fax a letter to the school district within five business days of receiving this complaint. Please send a copy of this letter to me and fax a copy of this and any further correspondence to the Education Law Center. The school district then has five business days to respond.

Thank you very much for your prompt attention to this matter. Please let me know upon your receipt of this letter by phone [or email if appropriate] if you need any additional information.

Sincerely,

\_\_\_\_\_

cc: Maura McNerney, *Education Law Center* Fax # (215) 772-3125



## Sample Letter Requesting an Initial Special Education Evaluation

Address (*where you can be reached*)

Phone Number

Date

Principal's Name

Name of Your Student's School

School Address

Dear Principal:

I am the court-appointed educational decision maker for \_\_\_\_\_, whose date of birth is \_\_\_\_\_.

\_\_\_\_\_ has not been doing well in school and I am therefore requesting a comprehensive evaluation to determine whether she needs special education services, and, if so, what services are needed.

I would like to participate with the school staff to decide what testing is needed and what information about my student should be collected. I'd also like to know when the testing (if any) will be done, and whether any meetings will be scheduled so that I can attend.

I understand that the evaluation must be completed, and a written report given to me, within **60 calendar days** (not including the summer months) of the school district's receipt of the **Permission to Evaluate-Consent Form** signed by me. Please send me a **Permission to Evaluate-Consent Form** to sign as soon as possible so that we can begin the process. [Or, I'd like to come to the school and sign the form immediately].

Should you have any questions or problems with this request, please contact me at the following number(s) \_\_\_\_\_ or by e-mail at \_\_\_\_\_.

Thank you.

Sincerely,  
[Your Name]

Cc: Director of Special Education

**KEEP A COPY OF THIS LETTER FOR YOUR RECORDS. WE RECOMMEND THAT YOU HAND-DELIVER THIS REQUEST TO THE PRINCIPAL AND MAKE SURE SOMEONE SIGNS FOR IT, OR THAT YOU SEND IT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED. EMAIL ALSO WORKS WELL, BUT SHOULD BE FOLLOWED UP WITH A PHONE CALL IF NO IMMEDIATE RESPONSE. IF THE SCHOOL IS NOT BEING RESPONSIVE, YOU SHOULD COPY YOUR SCHOOL DISTRICT'S OR CHARTER SCHOOL'S SPECIAL EDUCATION DIRECTOR.**