

Exiting Alternative Education Programs for Students with Disabilities: Advocacy Tips for Parents in Pennsylvania

May 2019

The Pennsylvania Department of Education (PDE) recently reached an agreement with the U.S. Department of Justice (DOJ) to significantly overhaul alternative education programs for students who have been transferred for disciplinary reasons. This agreement was reached in response to a complaint filed by the Education Law Center and requires significant changes for students with disabilities and English learners in alternative programs, known as “Alternative Education for Disruptive Youth” (AEDY).

Most of the changes required by the agreement will go into effect for the 2019-2020 school year, but if your child has a disability and is currently placed in an alternative program, there are steps you can take NOW for your child to receive an appropriate placement in an inclusive program.

Students with Disabilities and Parents have Clear Rights Under the Agreement

PDE and DOJ agreed that students and their parents have the following rights:

- Students cannot be placed in AEDY for behavior caused by or related to their disability.
- Students with disabilities must be included with non-disabled peers and not be segregated.
- Students with disabilities and English learners cannot be placed in alternative education programs that are not formally approved by the Commonwealth as meeting certain requirements.
 - *These “unapproved” programs often have one or more of the following features: in a school basement or other non-classroom setting; no full-time teacher; only operating a few hours each day; majority of time on computers, watching movies, and/or completing worksheets.*
- Students with disabilities can only be placed in alternative education programs that can meet their educational needs and provide necessary special education services.
- Students with disabilities cannot receive fewer hours of instruction within an AEDY program than they would receive at their previous school.
- Students must receive all supports/services required by their IEP and be taught by certified teachers.
- Parents and students have the right to know how long the student is required to stay in the alternative program. This cannot be more than 45 days in most circumstances.
- Parents have the right to raise concerns and file complaints to their district and the state about their child’s placement in an AEDY program. A new complaint process is being developed.
- Parents have the right to receive information in the language they understand.

Requesting an Emergency IEP Meeting to Discuss Existing Alternative Education

Students with disabilities have significant protections and rights in school. While the new AEDY requirements apply to the 2019-2020 school year, you can still use these protections to advocate for

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your child *right now*. If your child is currently placed in an alternative education program:

1. Request an emergency IEP Team meeting before the end of the 2018-2019 school year. *Attached is a sample letter you can use to request the meeting in writing.*
2. Prepare for the IEP meeting by reviewing the AEDY advocacy checklist below.

Use the checklist to develop questions to ask at the IEP Team meeting. These may support your child exiting alternative education immediately or developing a plan to exit next year.

AEDY ADVOCACY CHECKLIST

The IEP Team meeting is the time to raise concerns and request that your child no longer be placed in alternative education. There are many reasons why an alternative education placement may not be appropriate for your child. The questions below are examples to help guide the conversation.

If the answer to any of these questions is NO, the IEP Team should discuss plans to leave AEDY:

- Q **Is this an “approved AEDY program?”** *Students with disabilities may only be placed in AEDY programs that have been approved by PDE.*
- Q **Is my child receiving the same hours of instruction as students in the sending school?** *AEDY programs cannot provide fewer hours of instruction to students with disabilities.*
- Q **Is my child receiving all the supports and services listed in their IEP?** *AEDY programs must provide supports and services needed for the student to make progress toward IEP goals in an appropriate school setting.*
- Q **Has my child been in alternative education for less than 45 days?** *Every student must be told when they are expected to exit AEDY. This should be less than 45 days in most cases.*
- Q **Does my child have clear exit criteria so they can return to their previous appropriate program with supports and services?** *Students must have clear exit criteria with measurable behavioral goals that can be achieved by the exit date.*
- Q **Is my child’s teacher qualified to teach students with disabilities?** *Teachers who work with students with disabilities must be certified to teach students with disabilities.*
- Q **Does this AEDY program use Schoolwide Positive Behavioral Interventions and Supports?** *AEDY programs that serve students with disabilities must address behaviors in a way that keeps students in school and does not rely on out-of-school discipline.*
- Q **Is my child free from restraints?** *AEDY programs that use restraints must allow for reasonable modifications of their restraint policies and procedures to accommodate for students with disabilities and ensure that they are not discriminated against.*
- Q **Did the program communicate in my preferred language?** *If you are a parent with limited English proficiency, the district and/or program must provide interpretation/translation services.*

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, trainings, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.

ELC’s publications provide a general idea of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact us for a referral or contact an attorney of your choice. Visit www.elc-pa.org/contact or call 215-238-6970 (Philadelphia) or 412-258-2120 (Pittsburgh).

LETTER REQUESTING IEP MEETING TO DISCUSS EXITING ALTERNATIVE EDUCATION

_____ (your name)
_____ (address)
_____ (address)

Date: _____

Re: Request for Emergency IEP Team Meeting to Discuss Exiting Alternative Education

Dear Mr./Ms. _____ (Director of Special Education),

I am the parent of _____, whose birthdate is _____. My child has been identified as a student with a disability under federal and state law. My child is currently placed in _____ (name of AEDY program).

The U.S. Department of Justice (DOJ) recently entered into an agreement with the Pennsylvania Department of Education (PDE) to address widespread civil rights violations in Pennsylvania's "Alternative Education for Disruptive Youth" (AEDY) programs.

Based on the requirements laid out in this settlement agreement, I am requesting that my child be immediately exited from AEDY and returned to their General Education Program with all the necessary and appropriate special education supports and services.

I request that an emergency IEP Team meeting be convened to discuss this exit request and to develop a transition plan that will ensure my child receives the services and supports they need to successfully return to an appropriate program in the least restrictive environment.

Please let me know as soon as possible when we can convene the IEP Team. If you do not agree to meet, please provide me with a NOREP indicating that I, the parent, requested a change in placement and that this request was denied.

Please contact me with proposed dates for the IEP meeting at the following number(s) _____ or by e-mail at _____. Thank you.

Sincerely,

_____ (your name)

Check and fill out the following box if the parent is not a fluent English speaker:

- I have limited English proficiency. I am requesting that I be provided with translation and interpretation services for **all** information and meetings related to this request. Please provide these services in [insert language] _____.

** Keep a copy of this letter for your records. We recommend hand delivering this letter or sending it by certified mail, return receipt requested.*