



FACT SHEET

ALTERNATIVE EDUCATION FOR DISRUPTIVE YOUTH (AEDY)

August 2020

This fact sheet addresses your child's rights if:

- A school wants to move your child to a different education program because of discipline;
- Your child currently attends an alternative school or program for disciplinary reasons; or
- You are seeking to have your child return to a regular classroom from an alternative program.

ALTERNATIVE EDUCATION BASICS

What is Alternative Education for Disruptive Youth?

Pennsylvania's Alternative Education for Disruptive Youth (AEDY) refers to a separate educational program where students are placed by school districts or charter schools for disciplinary reasons.¹ Under Pennsylvania law, students can only be placed in state-approved AEDY programs for a short period of time for the purpose of achieving identified behavior goals. Once these goals are met, presumably within 45 days or less, a child must transition back into the traditional school setting. Unfortunately, students are sometimes kept in AEDY programs much longer and do not receive a high quality of education while there.

Who can be sent to alternative education programs?

Only middle and high school students may be sent to AEDY programs. If your child is in elementary school and you are being told that they have to attend in school in a different classroom or building for discipline reasons, you may challenge this by filing a complaint as described below.

What are some reasons a student can be placed in an AEDY program?

Students can only be placed in an AEDY program if their behavior falls into one of the following six categories:²

1. Persistent violation of school policy and rules
2. Possession of controlled substances on school property or during school activities
3. Violent behavior on school property or during school activities
4. Possession of a weapon on school property
5. Commission of a criminal act on school property
6. Misconduct that would merit suspension or expulsion

Note: Students can no longer be placed in an alternative education program due to truancy/attendance issues.

Can a child be placed in a AEDY program that has not been approved by Pennsylvania Department of Education (PDE)?

No. Many district and charter schools operate alternative education programs that have not been formally approved by PDE. It is important that you check whether your child's placement is an

approved AEDY program. Students with disabilities and English learners cannot be placed in unapproved programs.³ It is sometimes hard to tell if a program is approved or not.

- PDE has a list of approved private programs available at: http://www.leaderservices.com/_aedy/approved_providers_list.aspx. This list is not always up to date, so the best way to tell if your program is approved is by contacting PDE's Bureau of Special Education at 717-783-6134.
- A program may not have formal PDE approval if it has one or more of the following features:
 - It is located in a school basement or other non-classroom setting.
 - The program does not have a full-time teacher or special education teacher.
 - The program only operates for a few hours each day.
 - The majority of classroom time is spent on computers, watching movies, and/or completing worksheets.

If your child has a disability or is an English learner and attends or is being forced into an AEDY program that you do not think is approved, file one of the complaint options described above.

HELP BEFORE YOUR CHILD IS PLACED IN ALTERNATIVE EDUCATION

What are you and your child's rights before a school can place your child in an AEDY program?

Before your child can be transferred, **you have the right to a hearing.**⁴ This is your opportunity to argue that your child should not be moved to an AEDY program. You should also ask questions about whether or not the program meets all of the requirements under the law and meets your child's needs.

Schools are required to use other supports and services to help your child succeed in school before they recommend an AEDY program. At the hearing, you can ask the school to explain how they have exhausted all other options before seeking to transfer your child.

School staff may ask you to sign a "waiver." By signing the waiver, you are agreeing to the alternative program. If you do not want the school to move your child, do not sign the waiver!

What is supposed to happen before and during the hearing?⁵

Before the hearing:

- The school must tell you the time and place of the hearing in advance with sufficient time for you to prepare.
- The school must tell you in writing why it wants to move your child to an AEDY placement.
- The hearing must be offered within the first five days of out-of-school discipline, but you can ask for more time if you need it to prepare or find a lawyer.
- If the school moves your child immediately, you still have the right to a hearing. Ask for the hearing even if your child has already changed schools.

Tip: If any of these things did not happen before the hearing, say so at the hearing. Keep written notes of what did not happen to use if you file a complaint as explained below.

During the hearing:

- You may question any witnesses the school brings and review any written statements.
- You may review your child's education records.

- You may bring people to the hearing who can talk about why your child should not go.
- You may bring letters of support from teachers, counselors, people who know your child.
- You can bring an attorney; one will not be provided for you.

NOTE: A school entity must hold the informal hearing prior to placement in the program. However, if the student's presence in the general education classroom poses a danger to persons or property or provides a disruption of the academic process for students, immediate placement in the approved AEDY program may occur with the informal hearing to follow.

Does my child with disabilities have additional protections that may stop the school from moving them to an AEDY program?

Yes. Before a child with disabilities can be placed in an AEDY program, there must be a manifestation determination meeting as part of your child's Individualized Education Program (IEP) team, and you have a right to participate in that meeting.⁶ During this meeting, you and the school will review information from your child's education records, your child's IEP, input from the school, and any information from you to help answer two questions:

1. Was the child's behavior caused by or directly related to the child's disability?
2. Was the child's behavior a direct result of the school's failure to follow the IEP?

If the answer to either question is "yes," your child cannot be transferred to the AEDY program, unless the behavior involved drugs, weapons, or serious injury to another person.

If the team determines that the behavior was NOT a manifestation of your child's disability and your child is transferred to an AEDY program after an informal hearing, the program must still be appropriate for your child, comply with your child's IEP, and meet all their educational needs.

If you do not agree with your child's manifestation determination, you can challenge the proposed change in placement through an expedited review process. Information on the expedited review process can be found [here](#). Children with disabilities also have other important rights and protections in an AEDY setting. For more information, see ELC's fact sheet [Alternative Education for Students with Disabilities](#).

Does my child who is an English learner have additional protections that may stop the school from moving them to an AEDY program?

Yes. An English learner cannot be placed in an AEDY program that cannot meet the student's language instruction needs, including providing English as a Second Language (ESL) from teachers holding appropriate ESL teaching credentials. For more information, see ELC's fact sheet [Alternative Education for English Learners](#).

Can youth be placed in an AEDY program if they are returning from mental health services or residential facility or a juvenile justice placement?

No. If your child returns to school from a mental health facility, a juvenile justice placement, or other residential setting, the school cannot automatically place your child in an AEDY program.⁷ Instead, your child is presumed to return to the traditional school setting. If the school still wants to send your child to an AEDY program, you have the same right to a hearing as any other child prior to any proposed transfer into an AEDY program.

What if we lost the hearing, and I still do not want my child to go to AEDY?

You can file a complaint with your school, the AEDY program, or the Pennsylvania Department of Education if you disagree with the decision to put your child in an AEDY program and if you think these rules have not been followed. Please see below for more details about how to file the complaint and use [PDE's complaint form](#).

HELP WHEN YOUR CHILD IS ALREADY IN ALTERNATIVE EDUCATION

My child has already been placed in an AEDY program. What type of education and support must they receive while in the AEDY program?

Planning for Returning to School: Within five days of placement, you, your child, and your child's transition team must create clear and measurable behavior goals that your child can reasonably achieve within the 45 days of placement. This information is to be shared with all staff who work with your child to ensure achievement of these goals. Your child must be provided with appropriate academic instruction and behavior support to make certain that your child does not fall behind in their academic progress and can successfully transition back into the traditional school setting.

Academic Instruction:

- During placement in an AEDY program, your child must receive at least 20 hours of academic instruction a week in math, science, social studies, health skills, and life skills.
- Your child must be able to participate in at least one elective.
- All curriculum and teaching materials should be grade level- and age-appropriate and keep your child on track to graduation in their original school district or charter school.

Behavioral Supports:

- Your child is required to receive a behavior assessment using state-approved behavior assessment tools when placed in an AEDY program.
- The behavior goals should be developed by you and your child's school district based on the results of the behavior assessment. Once your child meets their behavior goals, they should be allowed to return to their original school.
- Your child must receive at least 2.5 hours of counseling a week.
- Your child must receive data-driven and evidence-based positive behavior interventions and supports to address behaviors that keep students in school and do not rely on exclusionary practices and out-of-school discipline.
- Your child must receive a progress review at least once a semester, and such reviews should be more frequent. This review must include you, your child, the AEDY staff, school district staff, and any other agency staff involved.

What is an AEDY program required to provide for students with disabilities?

When a child with disabilities is placed in an AEDY program, they must receive all the above and these additional requirements⁸:

- The AEDY program must be approved by the state.
- Your child's instructors must be certified to work with students with disabilities.
- Your child must have access to non-disabled peers and cannot be segregated.
- Your child must receive same number of hours of instruction as students in the sending school district.

- Your child must receive all supports and services listed in their IEP or 504 plan.
- The AEDY program must be an appropriate placement for your child.
- Your child has the right to be free from the use of restraints except as a “last resort” in accordance with Pennsylvania law.

Note: Please see [Alternative Education for Students with Disabilities](#) for more information.

What is an AEDY program required to provide for English learners (ELs)?

ELs are entitled to additional supports and rights under the law when placed in an AEDY program. Below are the additional supports and rights you and your EL student are required to receive⁹:

- The right to a language instruction program that enables ELs to overcome barriers to equal access to education.¹⁰
- The right to be taught by teachers with ESL teaching credentials.
- The right to an English language instruction program that uses materials that are appropriate for the EL’s age and level of English proficiency.
- The right to interpretation and translation services for ELs and limited English proficient parents, guardians, or other caregivers.
- The right to understand the AEDY program’s language instruction program.
- The right to know the criteria for your child to exit the AEDY program and return to the general education setting.
- The right to know about your child’s progress in learning English.

Note: Please see [Alternative Education for English Learners](#) for more information.

HOW TO FILE A COMPLAINT

Can I challenge and/or file a complaint about my child’s placement in an AEDY program?

Yes. All schools and AEDY programs must have a complaint process available for all students.¹¹ You can use this process to complain about all aspects of the AEDY program, including whether or not your child should be in the program, the quality of the program, trouble transitioning out of the program, and/or failure to communicate in the preferred language.

How do I file a complaint?

Filing a complaint is a two-step process:

- **Step 1:** File a complaint directly with the AEDY program or the school district or charter school that sent your child to alternative education.
- **Step 2:** File a complaint with the state if you are not satisfied with the results of Step 1 or if the AEDY program and sending school do not have a complaint process.

All school districts, charter schools, and AEDY programs are required to provide you with information about the complaint process, including policies, response time frames, complaint status, and possible outcomes. See PDE’s Alternative for Disruptive Youth (AEDY) webpage [here](#) for more information about filing a complaint and for a copy of the complaint form.

NOTE: The filing of an AEDY complaint described above does not limit any other rights or remedies available under federal or state law.

Additional Complaint Options for Students with Disabilities

As a parent of a student with disabilities, you have additional options to enforce your child's rights in an AEDY program. In addition to filing an AEDY complaint, you can also file a due process complaint or file a complaint with the Division of Compliance of PDE's Bureau of Special Education. See ELC's fact sheet, [Resolving Special Education Disagreements](#), for more on filing a special education complaint.

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, community engagement, 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 statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice – visit www.elc-pa.org/contact or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) – or contact another attorney of your choice.

¹ 24 P.S. §19-1901-C

² 24 P.S. §19-1901-C; AEDY Basic Education Circular (BEC): <https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/Alternative-Education-for-Disruptive-Youth.aspx> (AEDY BEC)

³ *Id.*

⁴ 22 Pa. Code §12.8(c); AEDY BEC

⁵ 22 Pa. Code §12.8; AEDY BEC

⁶ 34 CFR §§ 300.530-300.536; 22 Pa. Code § 14.133; Settlement Agreement on Alternative Education for Disruptive Youth Programs Between the United States and the Pennsylvania Department of Education, Mar. 22, 2019, available at: <https://www.justice.gov/crt/case-document/pennsylvania-department-education-alternative-education-disruptive-youth-aedy>; AEDY Basic Education Circular (BEC): <https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/Alternative-Education-for-Disruptive-Youth.aspx>

⁷ 24 P.S. §19-1901-C; Settlement Agreement on Alternative Education for Disruptive Youth Programs Between the United States and the Pennsylvania Department of Education, Mar. 22, 2019, *Section VI(A)(iii)*.; AEDY Basic Education Circular (BEC): *Students Charged or Convicted of a Crime, Returning from Mental Health Services, or Residential Placement*. <https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/Alternative-Education-for-Disruptive-Youth.aspx>

⁸ *Id.*

⁹ Settlement Agreement on Alternative Education for Disruptive Youth Programs Between the United States and the Pennsylvania Department of Education, Mar. 22, 2019, available at: <https://www.justice.gov/crt/case-document/pennsylvania-department-education-alternative-education-disruptive-youth-aedy>; AEDY Complaint Resolution: <https://www.education.pa.gov/K-12/Alternative%20Education%20for%20Disruptive%20Youth/Pages/AEDY-Complaint-Resolution.aspx> ; AEDY Basic Education Circular (BEC): <https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/Alternative-Education-for-Disruptive-Youth.aspx>

¹⁰ 20 U.S.C. 1703(f); *Castaneda v. Pickard*, 648 F.2d at 1009 (5th Cir. 1981); *Issa v. Sch. Dist. of Lancaster*, No. CV 16-3881, 2016 WL 4493202, at *6 (E.D. Pa. Aug. 26, 2016), *aff'd and remanded*, 847 F.3d 121 (3d Cir. 2017).

¹¹ Settlement Agreement on Alternative Education for Disruptive Youth Programs Between the United States and the Pennsylvania Department of Education, Mar. 22, 2019, *Section IV(A-E)*.; Pennsylvania Department of Education AEDY Complaint Resolution: *Referring LEAs and Approved AEDY Programs*. <https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/Alternative-Education-for-Disruptive-Youth.aspx>