



Special Education Manual

2024-2025

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Section

Child Find

Overview:

To enable the Commonwealth to meet its obligations under 34 CFR 300.111 (relating to child find), each charter school and cyber charter school shall establish written policies and procedures to ensure that all children with disabilities who are enrolled in the charter school or cyber charter school, and who are in need of special education and related services, are identified, located and evaluated.

Each charter school or cyber charter school's written policy must include:

(1) Public awareness activities sufficient to inform parents of children applying to or enrolled in the charter school or cyber charter school of available special education services and programs and how to request those services and programs. Written information shall be published in the charter school or cyber charter school handbook and web site.

(2) Systematic screening activities that lead to the identification, location and evaluation of children with disabilities enrolled in the charter school or cyber charter school.

According to IDEA, in order for a child to be declared eligible for special education and related services it must be determined that the child is a "child with a disability" and is in need of special education and related services.

A child may be eligible for special education if the child: 1) Has an intellectual disability, emotional disturbance, an orthopedic impairment, a hearing impairment, deafness, a speech or language impairment, a visual impairment (including blindness), autism, traumatic brain injury, other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities and 2) Needs special education, as determined by an evaluation team.

Signs of Physical, Sensory, Intellectual, or Emotional Disability:

Some indications that a child may have a disability are:

- Consistent problems in getting along with others
- Difficulty communicating
- Lack of interest or ability in age-appropriate activities
- Resistance to change
- Difficulty seeing or hearing that interferes with the ability to communicate
- Health problems that affect educational performance, including attention problems
- Difficulty performing tasks that require reading, writing, or mathematics
- Chronic behavior or social problems that affect your child's ability to learn

Public Awareness:

The LEA will send home annually as a parent correspondence, include in the Parent-Student Handbook disseminated annually, post on its website, and make available in the school, an annual notice informing parents of its child identification activities and of the procedures followed to ensure confidentiality of information pertaining to students with disabilities or eligible young children.

Screening:

Through a systematic screening and referral processes, the LEA identifies and refers for evaluation students who are thought to be eligible for special education services. These screening and referral processes may include the initial admissions academic placement tests, standardized reading and mathematics assessments, classroom performance, benchmark examinations, vision and hearing screenings, and the comprehensive Multi-tiered System of Support and Intervention.

The school regularly assesses the current achievement and performance of the child, designs school-based interventions, employs research-based interventions and assesses the effectiveness of interventions. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not to be considered an evaluation for eligibility for special education and related services. If a concern can be addressed without special education services, or if the concern is the result of limited English proficiency or the lack of appropriate instruction, a recommendation may be made for interventions other than a multi-disciplinary team evaluation.

Parents have the right to request a multidisciplinary team evaluation at any time, regardless of the outcome of the screening process. Moreover, screening or pre-referral intervention activities may not serve as a bar to the right of a parent to request an evaluation, at any time, including prior to or during the conduct of screening or pre-referral intervention activities.

If parents need additional information regarding the purpose, time, and location of screening activities, they should call or write the school's Director of Specialized Services.

Confidentiality:

Every effort is made throughout the screening, referral and evaluation process to strictly maintain the confidentiality of student information and protect the students' privacy rights.

The LEA shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. The Chief Executive Officer shall assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instructions regarding policies and procedures. The LEA shall maintain, for public inspection, a current listing of the names and positions of those school employees who may have access to personally identifiable information. Students shall be afforded the rights of privacy similar to those afforded to parents, taking into consideration the age of the student and type or severity of disability, if any.

See LEA's Student Educational Records Policy for further information.

Section

Initial Evaluation

Initial Evaluation Timelines

How is a referral initiated?

A student can be referred for initial evaluation following a pre-referral intervention such as Response to Instruction and Intervention (RTII), Student Assistance Program review (SAP) or a by a parent request.

- Parent Initiated Request Orally to ANY Professional or Administrator:** School must provide the *Permission to Evaluate-Evaluation Request Form* to the parents within **10 calendar days**.
- Parent Initiated Request in Writing:** The school must then make the *Permission to Evaluate-Consent Form* "readily available." Guidance from the Pennsylvania Department of Education: Bureau of Special Education indicates best practice of readily available is **10 school days**.
 - Important Note: A copy of the Procedural Safeguards Letter & Procedural Safeguards Notice must accompany the *Permission to Evaluate-Consent Form*. The procedural safeguards notice is a description of parent rights and responsibilities.
- Upon receipt of *Permission to Evaluate-Consent Form* from the parent with their consent, the LEA must date stamp the *Permission to Evaluate-Consent Form*. A copy of the evaluation must be presented to the parents no later than **60 calendar days** after the LEA receives written parental consent for evaluation. Note: The following days are not included in the definition of calendar days- the day after the last day of the spring school term for staff up to and including the day before the first day of the subsequent fall school term for staff will not be counted.

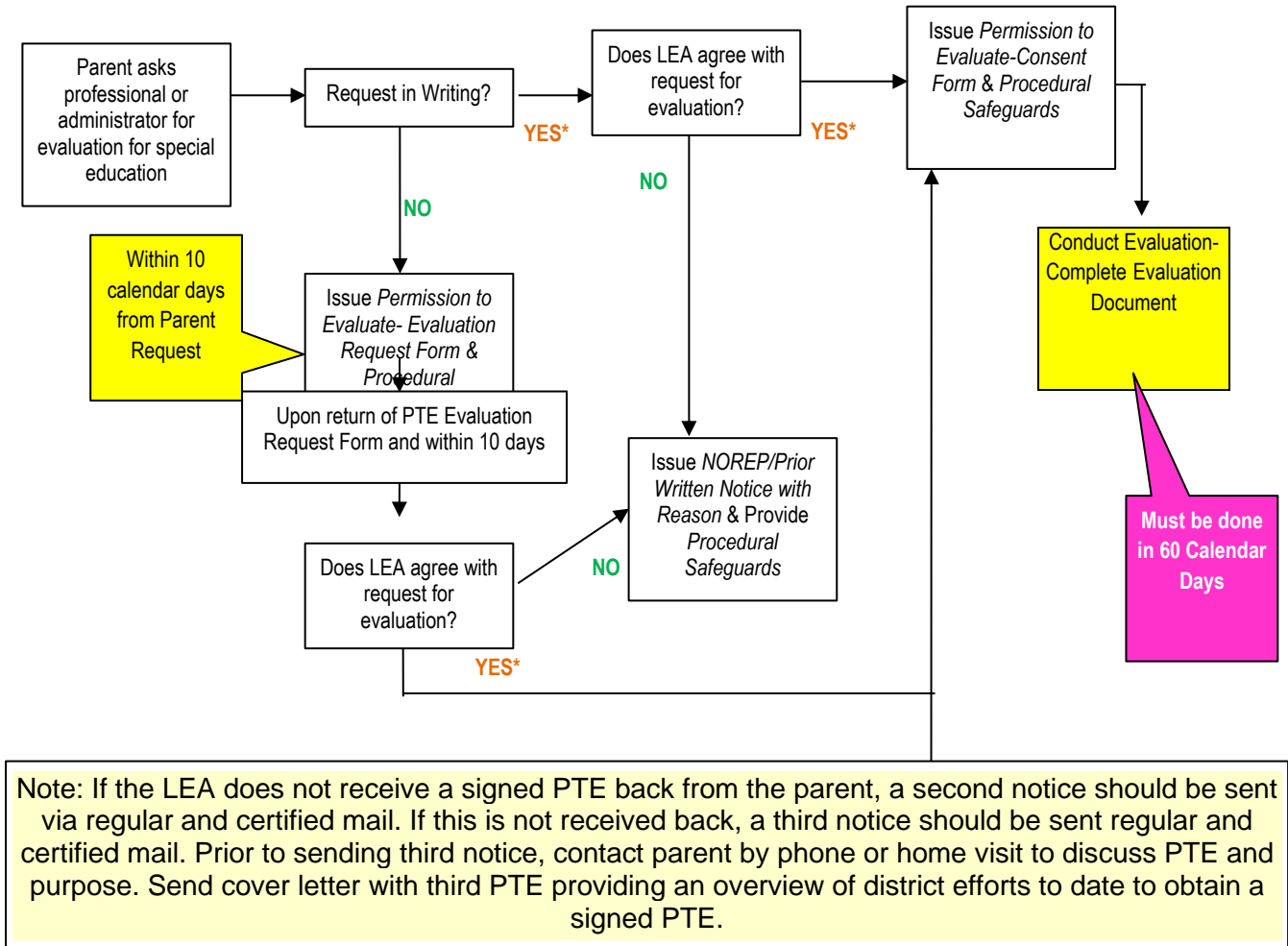
Important

If the parent requests a due process hearing or indicates dissatisfaction with the evaluation, requests an independent evaluation or refuses an evaluation, contact the Principal/Supervisor of Special Education immediately. There might be additional legal issues that must be addressed.

Initial Evaluation Flow Chart

Evaluation Request Initiated by Parent: [The Special Education Evaluation Process](#)

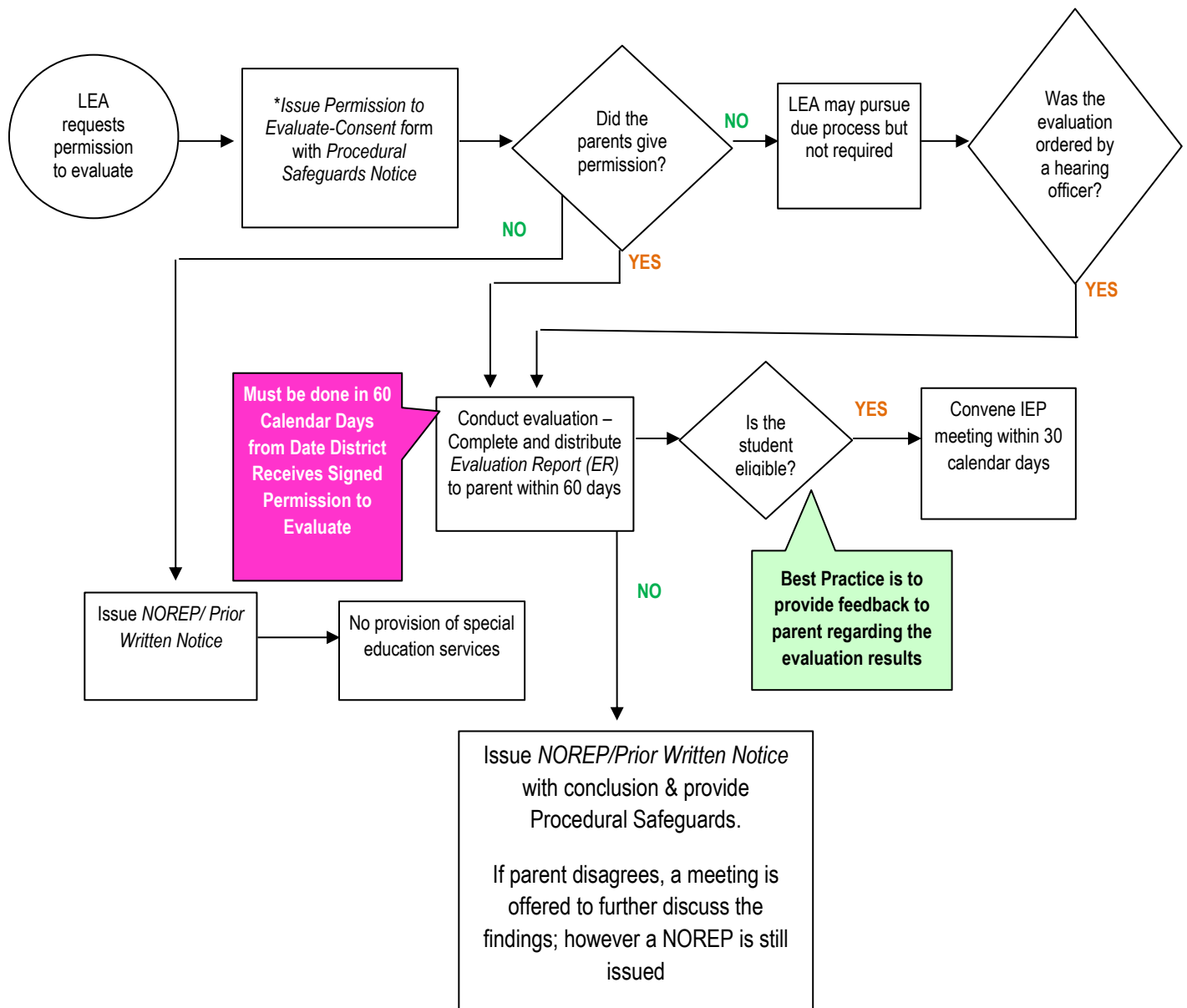
This flowchart shows the basic steps to be followed and the decisions to be made by Local Educational Agencies (LEAs) to meet the requirements for evaluation [when request is initiated by the Parent:](#)



Initial Evaluation Flow Chart

Evaluation Request Initiated by School: *The Special Education Evaluation Process*

This flowchart shows the basic steps to be followed and the decisions to be made by Local Educational Agencies (LEAs) to meet the requirements for when request is initiated by the LEA.



Overview:

A team of qualified professionals and the parent of the student [§614(4)(A)] shall make the determination of whether the student is a student with a disability. Evaluation teams may vary among LEAs, but Pa. Code 22 § 14.123(a) requires that a certified school psychologist participate when evaluating/considering students for autism, emotional disturbance, intellectual disability (formerly intellectual disability), multiple disabilities, other health impairments, specific learning disabilities, and traumatic brain injury.

When evaluating students, the evaluation team should include the following:

1. The student's regular education teacher;
2. If the student does not have a regular education teacher, a regular classroom teacher qualified to teach a student of his or her age;
3. For a student less than school age, an individual qualified by the state education agency to teach a student of his or her age;
4. At least one person qualified to conduct individual diagnostic examinations of student, such as a speech-language pathologist, school psychologist or remedial reading teacher.

In addition to personnel who are required to participate in all evaluations (e.g. , school psychologists, special education instructors), consideration for additional specialists that are needed to determine the student's need for related services should also be planned at this time. Related services are developmental, corrective, or supportive services that are needed by some students in order to benefit from their education program. Related services may include the following: occupational therapy, physical therapy, speech & language support, psychological services, vision or hearing support, social work services, orientation and mobility, and others. The LEA representative who is responsible for designing the evaluation must be familiar with the unique knowledge that specific related service providers bring to the evaluation process. Many students involved in special education evaluations have educationally related needs involving motor skills, sensory performance, communication/language performance, assistive technology, cognitive performance, and behavioral functioning. Such issues will require the inclusion of specific related service providers during the assessment process so that specific student strengths and needs can be appropriately addressed during the identification/evaluation process.

Fundamentally, the evaluation functions to assist the evaluation team in answering two questions that are necessary to determine if a student qualifies for special education services and supports. For special education, both answers must be "YES":

1. *Does the student have a disability as defined under IDEA & Chapter 14?*
2. *Does the student need specially designed instruction and related services?*

Question one is answered in terms of the definitions for each category of disability according to IDEA regulations and PDE Chapter 14. The second question is answered in terms of the student's educational needs. Special education is specially designed instruction to meet the needs of a student with a disability. It is only when a student with a disability needs specially designed instruction that she or he becomes a candidate for receiving special education services and programs. The fact that a student has a disability does not automatically determine that the student is eligible for special education. These students may qualify for services and accommodations under Chapter 15, Section 504 of the Rehabilitation Act of 1973 or under the Americans with Disabilities Act (ADA).

The evaluation for special education services must be comprehensive. According to IDEA & PDE Chapter 14, when conducting an evaluation, the LEA "shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent; shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability or determining an appropriate educational program for the student; and shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors [§ 614(b)(2)(A-C)]." As in the past, evaluation tools and materials used to assess a student need to be selected so as not to be discriminatory on a racial or cultural basis, are used for purposes for which the assessments

or measures are valid and reliable, are administered by trained and knowledgeable personnel, and are administered in accordance with any instructions provided by the producers of such assessments. New language in IDEA further states that the assessments “are provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer [§ 614(b)(3)(A)(ii)].” Consequently, native language may not be the form that yields the most accurate information.

Upon completion of the evaluation process, a team of qualified professionals and the parent of the student shall determine whether the student is a student with a disability and the student is in need of specially designed instruction. Consequently, it is the responsibility of the evaluation team to utilize sufficient procedures not only to make decisions regarding eligibility, but also to make substantive recommendations regarding the student’s program. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent, guardian, or surrogate.

The evaluation report needs to address the following topics:

- Reason(s) for referral;
- Sources of Evaluation Data: results including physical, social, or cultural background information relevant to the student’s disability and need for special education; parent input; current classroom based assessments and observations; local and/or state assessments; observations by teachers and/or related service providers; aptitude and achievement levels; involvement in and progress in the general education curriculum; relevant functional and developmental evaluation (ecological evaluation); vocational technical education and assessment results; interest, preferences, aptitudes (for secondary transition); and functional behavior assessment results;
- If Assessment is not conducted under standard conditions, describe the extent to which it varied from standard conditions;
- Determining factors;
- Summary of findings/interpretation of assessment results;
- The criteria used if evaluation determines the disability of Specific Learning Disability; and
- Conclusions – Determination of eligibility and educational needs.

The following link (<http://www.pattan.net/files/Forms/English/ER-ANN070108.pdf>) is the annotated Initial Evaluation Report from PaTTAN. This provides an overview of the contents for the Evaluation Report.

The official review of the results of an initial evaluation is conducted either by convening a meeting to discuss the findings or by sharing the results without conducting a meeting.

1. Initial Steps to Evaluate:

- Issue the **Permission to Evaluate – Consent Form**. Parental consent must be obtained for an initial evaluation. If permission is not given or the parent does not respond, an LEA may request a due process hearing to obtain the permission to evaluate.
- Complete the assessments procedures including the meeting (60 calendar days to complete the evaluation process) and provide the ER to the parent.
 - Obtain input from all team members (e.g., teachers, parents, nurse)
 - Conduct observations
 - Gather all data necessary to answer the reason(s) for the referral
 - Compile Draft Report and bring to the meeting or provide to the parent for review

2. Evaluation Report Meeting:

- Issue the **Invitation to Participate in the IEP Team Meeting or Other Meeting** form.
- Check “Other Meeting”

- Specify the reason for meeting (i.e., Determination of eligibility for special education programs and services)
- List the team members who will be invited to attend the meeting

Sharing Multidisciplinary Evaluation Team Findings:

- Convene MDT meeting within 10 calendar days of the date of the report.
- Review the data and determine eligibility as a team
- Finalize and distribute the Evaluation Report (ER)
- If the student is not eligible, the LEA should issue a Notice of Recommended Educational Placement (NOREP)
- If the student is found eligible for special education services, parents may wait 10 school days to convene the IEP meeting. Issue or mail the Invitation to Participate in the IEP Meeting or Other Meeting form to parents
- If the student is eligible for special education services and parents want to proceed with the IEP meeting, complete the Waiver Statement
- At this time, issue another Invitation to Participate in the IEP Meeting or Other Meeting form. Check the box for the Individualized Education Program Team Meeting, have the parent sign and date the form and then proceed to the IEP meeting
- Develop the IEP as a team
- The LEA should issue a NOREP

3. Option– No Meeting:

- The “no meeting” option is generally reserved for when a student is found not to be eligible. When this option is selected, the Evaluator (School Psychologist/Speech and Language Therapist) will contact the parent/guardian to review the evaluation findings within the 60 day evaluation timeline. If the parent agrees with the findings, a NOREP is issued. If the parent disagrees, a meeting is offered to further discuss the findings; however, a NOREP is still issued.

Evaluation of Students Who Are Culturally and Linguistically Diverse:

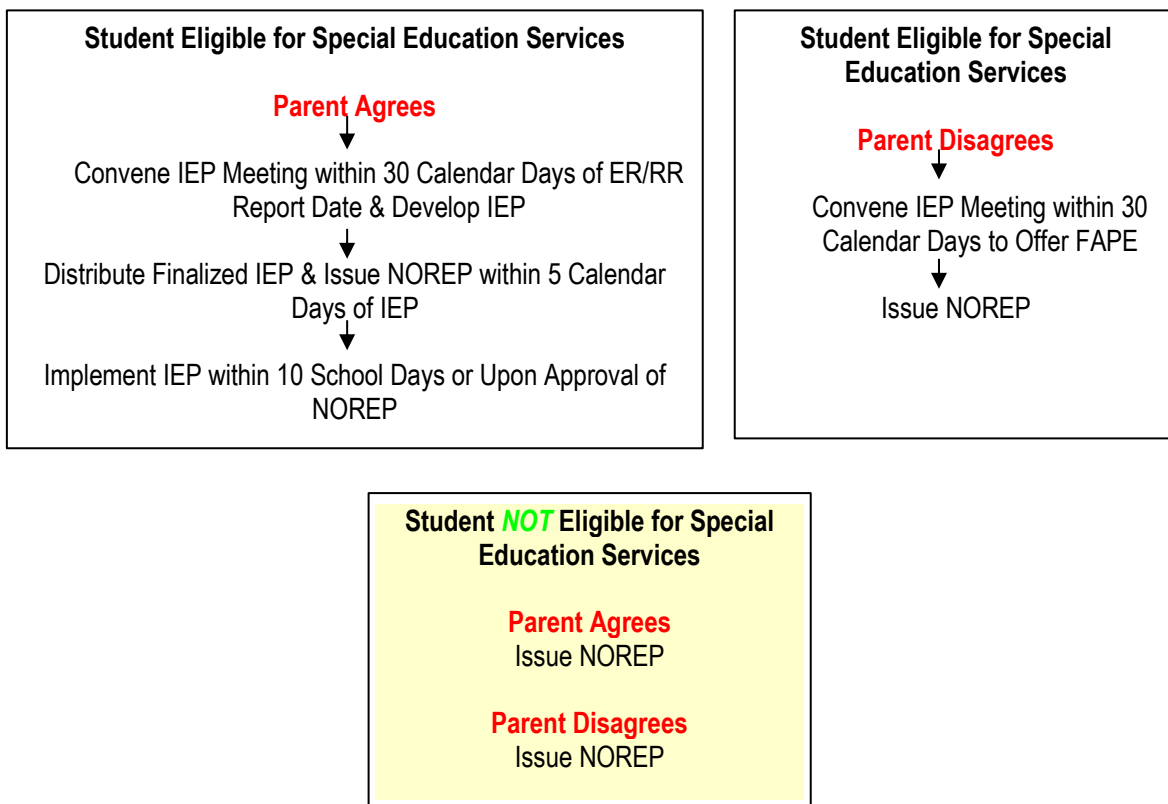
IDEA indicates that each local educational agency shall ensure that tests and other evaluation materials used to assess a student are selected and administered so as not to be discriminatory on a racial or cultural basis. Additionally it mandates that the “assessments and other evaluation materials must be provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide and administer” [§614(b)(3)(a)(i-iii)]. Native language may not be the form that yields the most accurate information. Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student’s English language skills.

These provisions reflect a concern that students who have linguistic, cultural, or racial differences from the majority may be erroneously identified as eligible for special education due to features of their language or culture that are mistaken for indicators of the presence of a disability. Students with limited English proficiency are candidates for special education services only when it is determined that their disability is unrelated to the student’s limited language proficiency in English. The disability must be present in the student’s native language. Speaking a language other than English is not a language disability. For many of these students, academic problems are related to the student’s lack of academic language proficiency, not to cognitive deficits or learning disabilities. If English language development programs have not been provided (e.g., bilingual education, English as a second language), students may experience communication or achievement problems. These problems are typically related to inappropriate instruction, not to a disability. While these students may pose difficulties for the regular education program, it is inappropriate to designate them as disabled in order to obtain extra services.

Under Title VI of the Civil Rights Act of 1964, in order to properly evaluate a student who may be limited English proficient (LEP), the public agency must first determine the student's proficiency in English and the student's native language. Under Title VI, an accurate assessment of the student's language proficiency must include objective assessment of reading, writing, speaking, and understanding. Information about the student's language proficiency must be considered in determining how to conduct the evaluation of the student to prevent misclassification. The public agency has a responsibility to ensure that students with limited English proficiency are not evaluated based on criteria that essentially measure English language skills.

If a staff member believes a student is in need of an evaluation in a language other than English, it is essential that the Special Education Office is contacted immediately.

Quick Tips for Initial Evaluations:



Section

Reevaluation

Reevaluation

Timelines

- Reevaluations are required **once every 3 years**, *unless the parent and the public agency agree that a reevaluation is unnecessary*. In this instance, the “Agreement to Waive” form should be utilized. PARC Consent Decree requires students with intellectual disability to be reevaluated every **2 years**. Reevaluation for students with intellectual disability may not be waived.
- The reevaluation still must be completed and presented to the parents within **60 calendar days** (not including summer days) **of parental consent and by the anniversary date of the previous Evaluation/Reevaluation Report**.
- A copy of the reevaluation report must be given to the parent **at least 10 school days prior to the meeting**
- Student’s IEP must be reviewed and revised within **30 calendar days** of the completion of the reevaluation report.

Quick Tips for Paper Work for Reevaluation

- **LEA & Parent agree to waive reevaluation process:** Signed Agreement to Waive Reevaluation form is included in student's educational record.

- **Parent orally requests reevaluation:**
 - Send parent Permission to Reevaluation – Reevaluation Request form within 10 calendar days (not including summer days) of oral request;
 - If LEA agrees to conduct reevaluation, send parent Permission to Reevaluate- Consent Form within reasonable time of receipt of Permission to Reevaluate – Reevaluation Request Form. Best practice identifies reasonable time as 10 school days;
 - If LEA does not agree to conduct reevaluation, send parent Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN) within reasonable time of receipt of Permission to Reevaluate – Reevaluation Request Form. Best practice identifies reasonable time as 10 school days.

- **Parent requests reevaluation in writing:** If LEA agrees to conduct reevaluation, send parent Permission to Reevaluate – Consent form within reasonable time of receipt of parental request; If LEA does not agree to conduct reevaluation, send parent Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN) within reasonable time of receipt of parental request. Best practice identifies reasonable time as 10 school days.

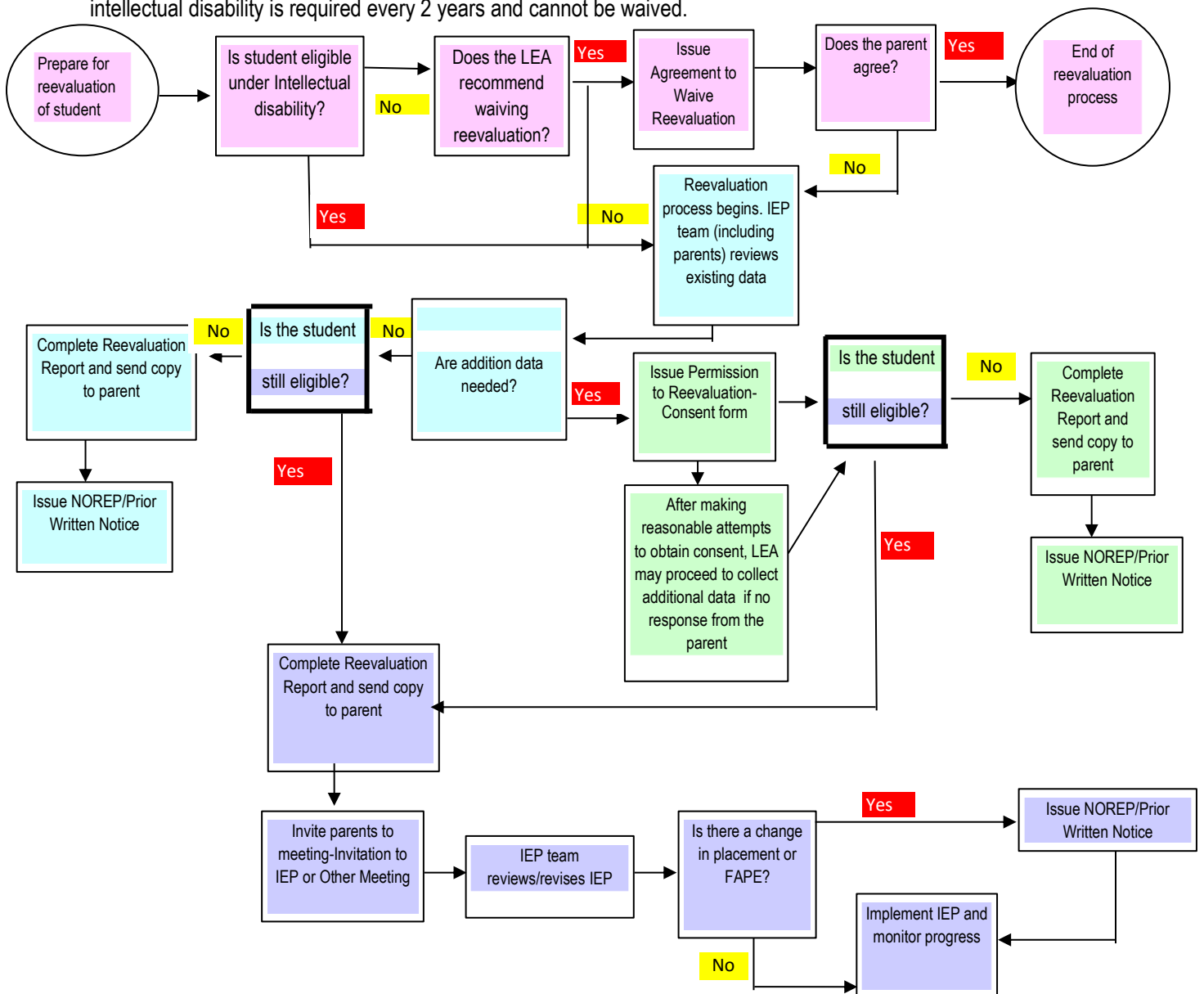
- **LEA proposes reevaluation process and team determines no additional data are needed:** Complete and send a copy of the reevaluation report to parent; and a newly revised IEP must be developed within 30 calendar days after completion of the reevaluation report. Copies are included in the student's educational record.

- **LEA proposes reevaluation process and team determines additional data are needed:** Issue Permission to Reevaluate-Consent Form and included in the student's educational record and:
 - Reevaluation must be completed within the **2 or 3 year timeline**;
 - The completed reevaluation report is conducted within **60 calendar days**;
 - The reevaluation report is provided to the parent at least **10 school days** prior to the IEP meeting;
 - A newly revised IEP is developed within **30 calendar days** after completion of the reevaluation report; and
 - Copies are included in the student's educational record.

Reevaluation Flow Chart

Reevaluation Request Initiated by School: *The Special Education* Reevaluation Process

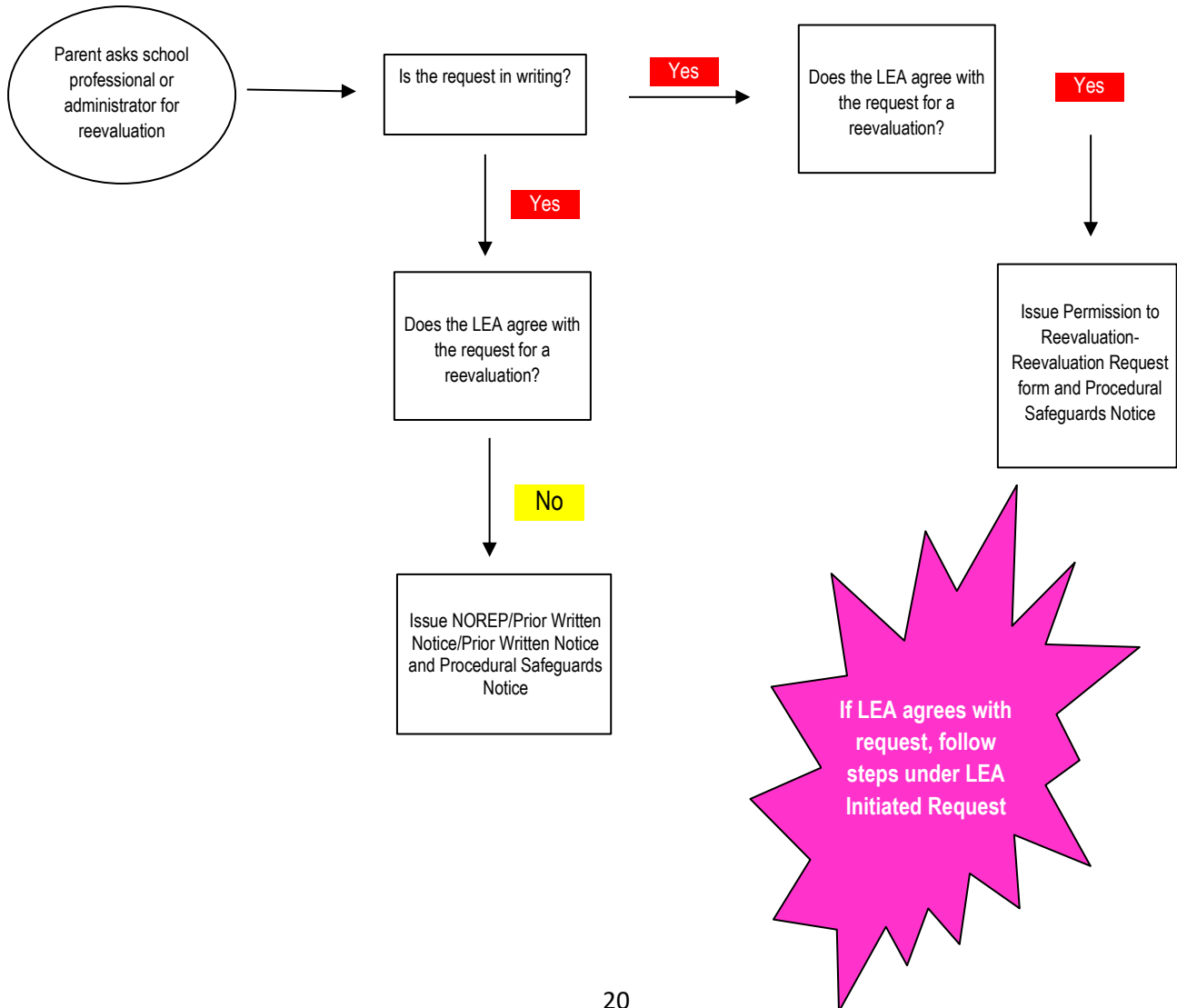
The Special Education Reevaluation: This flowchart shows the basic steps to be followed and the decisions to be made by Local Educational Agencies (LEAs) to meet the requirements for reevaluation. Reevaluation is required every 3 years unless it is waived by both LEA and parent(s). In Pennsylvania, a reevaluation for students with intellectual disability is required every 2 years and cannot be waived.



Reevaluation Flow Chart

Reevaluation Request Initiated by Parent: [The Special Education Reevaluation Process](#)

The Special Education Reevaluation: This flowchart shows the basic steps to be followed and the decisions to be made by Local Educational Agencies (LEAs) to meet the requirements for reevaluation. Reevaluation is required every 3 years unless it is waived by both LEA and parent(s). In Pennsylvania, a reevaluation for students with intellectual disability is required every 2 years and cannot be waived.



Overview:

IDEA Reevaluations state “reevaluation for students with disabilities must occur once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.” §300.303(b)(2). However, under the PARC Consent Decree, students with intellectual disability, now referred to as intellectual disability, must be reevaluated every 2 years in Pennsylvania, and neither the IEP Team nor the parents can waive the reevaluation for students with intellectual disability. There are no exceptions.

One purpose of a reevaluation is to decide if the student continues to have a disability and needs special education and related services. The reevaluation should also help the IEP Team decide whether the student is making reasonable progress towards IEP goals and, if reasonable, progress is not being made, what changes are needed.

The reevaluation process begins with a review of existing data about the student (i.e., PSSA scores, report cards, progress monitoring reports, and other relevant data) by the student’s IEP Team. The Team must decide if any additional information is needed to determine: 1) if the student **continues** to have a disability and what are the student’s **educational needs**; 2) the **present levels** of academic achievement and related developmental and functional needs; 3) whether the student **continues to need special education** and related services; and 4) whether any **additions or changes** to the special education and related services are needed to allow the student to meet the **measurable annual goals** in the IEP and **to participate**, as appropriate, in the **general education curriculum**.

There might be a condition that warrants a reevaluation be completed more frequently than every three or two years. This occurs when an IEP Team believes additional information is required to determine educational or related services needs of a student, or to try and determine why a student is not making academic or functional progress. Furthermore, a reevaluation is also required if:

- A student’s educational placement and/or services is being proposed to change to a more restrictive placement;
- A student is thought to no longer be in need of special education supports and services;
- A parent requests a reevaluation;
- A member of the student’s educational team requests a reevaluation.

If the student’s eligibility is not in question, but a parent requests a reevaluation to determine educational needs of the student, the LEA must respond to the parent’s request to conduct a reevaluation by: (1) conducting a review of data; (2) conducting a full reevaluation; or (3) declining to conduct the reevaluation. If the LEA declines to conduct the reevaluation, the LEA must issue a NOREP/PWN to the parent. The LEA must provide notice to the parent if the LEA refuses to initiate or change the identification, evaluation, or education placement of the student or the provision of FAPE to the student.

A reevaluation must be conducted prior to implementing a change in level of support and/or change in service on a student’s IEP (i.e., a change from full time learning support to itinerant learning support). One of the purposes of the reevaluation is to determine the educational needs of the student, including whether any additions or modifications to the specially designed instruction and related services are needed to enable the student to meet his/her IEP goals and/or to participate in the general education curriculum. Because the evaluation/reevaluation report outlines the unique needs of the student, the IEP Team develops an IEP based on the needs described in the evaluation/reevaluation. For example, if a student is in a full-time special education placement, that placement decision was based upon the needs described in the evaluation/reevaluation report. When the student’s placement is changed from full time to itinerant, there should be a basis for the change in educational placement. It is unlikely that that the student’s IEP developed for the full-time level of support could be implemented in the itinerant setting because the educational program in the itinerant setting is likely to be substantially and materially different from the educational program in the full-time setting. Therefore, the IEP Team will need new information available through the reevaluation process to support the change in type of support.

Reevaluation Process:

For all students (including those with intellectual disability), the reevaluation begins with a review of existing data by the IEP Team, including the parent. If a student has a disability category of autism, emotional disturbance, intellectual disability, multiple disabilities, other health impairment, specific learning disability, or traumatic brain injury, the school psychologist must be involved in the process. This review does not require permission from the parent nor is a meeting required. (“The group may conduct its review without a meeting.”§300.305 (b)). However, the parent must be included in the review.

The data review is documented in the section titled **Summarize Information Reviewed** of the reevaluation report. Next, the IEP Team determines whether there is a need for additional data. If the IEP Team determines that no additional data are needed:

- The appropriate box on the reevaluation report is checked and the reason(s) written on the reevaluation report. Findings (based upon existing data) are summarized and conclusions regarding eligibility are made.
- A copy of the reevaluation report is given to the parent and the reevaluation report becomes part of the student’s educational record. Please note, if additional data are not needed, the Permission to Reevaluate-Consent Form is not needed and, therefore, is not part of the student’s educational record.
- The student’s IEP must be reviewed and revised within **30 calendar** days of the completion of the reevaluation report.
- Reevaluation is not required for another **2 years for students with intellectual disability** and for **3 years for all other students with disabilities**.

If the IEP Team determines that additional data are needed:

- The appropriate box on the reevaluation report is checked
- The Permission to Reevaluate-Consent Form is provided to the parent. The LEA must indicate the reason for the reevaluation and the specific types of assessment tools, tests, and procedures that will be used. The Permission to Reevaluate-Consent Form is part of the student’s educational record.
- The reevaluation still must be completed and presented to the parents within **60 calendar days** (not including summer days) **of parental consent and by the anniversary date of the previous Evaluation/Reevaluation Report.**
- After the additional data are collected and analyzed, the findings and interpretation of the additional data are written into the reevaluation report and conclusions regarding eligibility are made.
- A copy of the reevaluation report must be given to the parent **at least 10 school days prior to the meeting of the IEP team.** The reevaluation report becomes part of the student’s educational record.
- The student’s IEP must be reviewed and revised within **30 calendar days** of the completion of the reevaluation report.
- Reevaluation is not required for another **2 years for students with intellectual disability** and for **3 years for all other students with disabilities**.

Waiving a Reevaluation:

If the Local Educational Agency (LEA recommends that the reevaluation is not necessary, the form titled Agreement to Waive Reevaluation must be provided to the parent. The LEA must indicate on the form the reasons it has made this determination. The parent has the option to agree to waive reevaluation or proceed with the reevaluation. A waiver of reevaluation requires written parental consent. **Important reminder: waiving a reevaluation is not an option for a student who has a diagnosis of intellectual disability.**

If the parent agrees to waive reevaluation,

- No reevaluation report is written.

- No Permission to Reevaluate-Consent Form is issued.
- The signed Agreement to Waive Reevaluation is included in the student's educational record.
- A reevaluation is not required for 3 years from the date of the parent signature on the Agreement to Waive Reevaluation.
- There is no requirement to revise the Individualized Education Program (IEP) as part of this process unless the IEP is due for its annual review.

Student Transfers from Out-of-State:

If a student with an IEP transfers from out-of-state into Pennsylvania, the LEA must issue a NOREP indicating that they will implement the current IEP (to the best ability). The LEA should issue a PTE. This evaluation would be considered an initial evaluation. The evaluation is conducted to determine eligibility for special education programs and services in Pennsylvania. During this process, the LEA must implement the existing IEP until the evaluation is completed.

If by chance the parent refuses to provide consent for the initial evaluation, the LEA may go to due process to override the parent's refusal to consent to the initial evaluation. If the LEA does not decide to go to due process, the LEA would not be in violation of FAPE. The LEA has a Child Find responsibility and would meet this responsibility by issuing the Permission to Evaluate. Since the purpose of the evaluation is to determine eligibility in Pennsylvania and the parent refuses consent, the LEA met its child find responsibility. Because the initial evaluation to determine eligibility in Pennsylvania cannot be conducted, the student is not considered eligible for special education programs and services.

Student Transfers from Private School:

For a student with a disability who attended a private school and then enrolls in the school district or a charter school, the school district or charter school must determine if a reevaluation needs to be conducted. If the student transfers to the public school or charter school and the reevaluation was not completed in a timely manner, the LEA must complete a reevaluation. Additionally, the LEA must complete a reevaluation if it determines it needs more information about the student's educational or functional needs or to determine related services needs. The LEA would also need to complete a reevaluation if a parent or school personnel request a reevaluation. If the LEA declines to conduct a parentally requested reevaluation, the LEA must issue a NOREP/PWN to the parent.

Section
Individualized
Education Plan
(IEP)

IEP Timelines

- Invite parents to IEP meeting- *Invitation to IEP or Other Meeting* at least **45 calendar days** prior to the annual review date of IEP. (45 days is a “best practice” suggestion: 10 calendar days for annual review is required.)

- IEP must be developed with the parents within **30 calendar days** after the evaluation report is issued

(or)

IEP must be developed with the parents on an **annual basis** based on the annual IEP review date

- IEP must be implemented no later than **10 school days** after the parents have approved the IEP and Notice of Recommended Educational Placement (NOREP).

- If no annual Notice of Recommended Educational Placement (NOREP) is issued, the IEP must be implemented **10 school days** after it is developed.

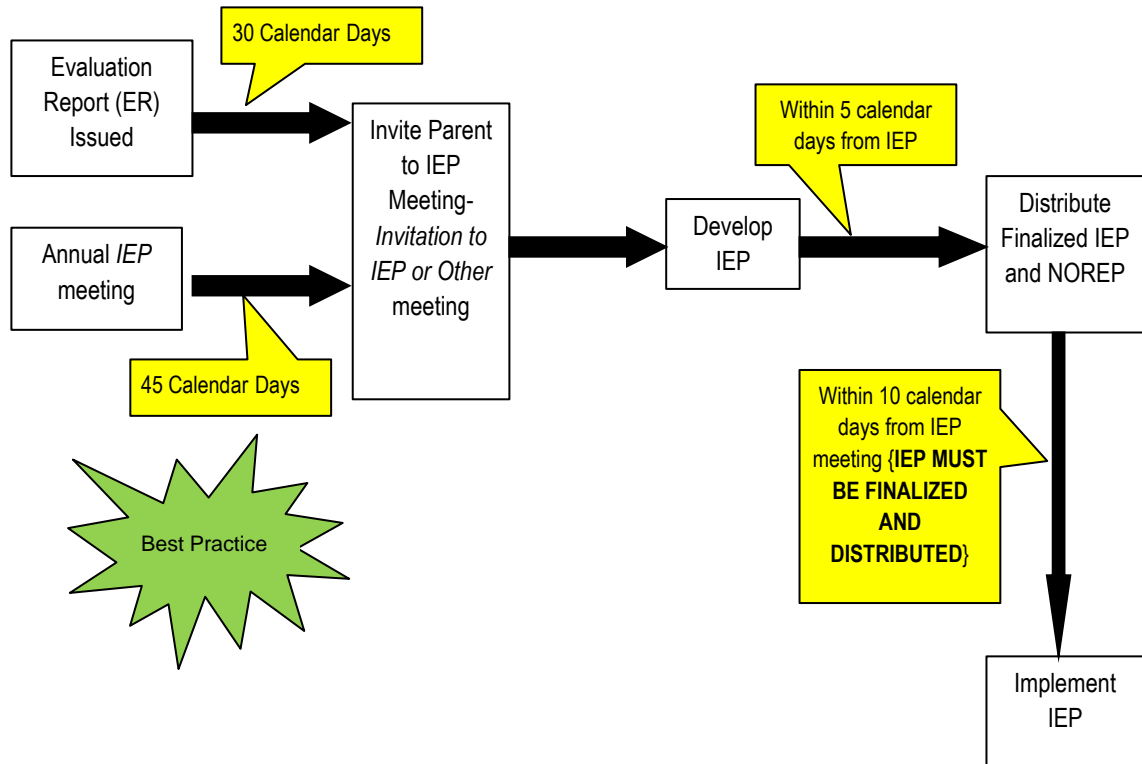
- Prior to implementation** of IEP in 10 school days, the IEP must be completed and distributed to the parents, student file, and teachers who must implement the IEP.

If Parent(s) do not approve the IEP, see Procedural Safeguards and Dispute Resolution process and timelines.

Important

If the parent requests the IEP and indicates need for formal dispute, contact the Special Education Administrator immediately. There are additional legal issues that must be addressed.

IEP Flow Chart



NOTE: if at any point in the IEP process, the parent rejects the IEP or indicates serious concerns about the IEP, contact your administrator in charge of Special Education. There are additional legal issues that must be addressed in preparation for the dispute resolution process.

Overview:

An IEP, or “**Individualized Education Program**” is a written plan that describes the unique needs of a student who is eligible for special education and explains the specific services that the school will give the student.

The IEP lists the special education, related services, and other supports the student needs to make meaningful progress in school. The IEP should explain *when* the services will begin, and *how frequently* and for *how long* they will be given (for example, two half-hour sessions of physical therapy every week). The IEP must also state *where* the services will be provided (for example, in a regular or special education classroom or a special school), and tell you what special training and equipment will be given to the school staff (teachers and aides) who work with the student. The IEP also tells how much of the school day the student will spend with classmates who do not have disabilities.

The IEP is written by a team of people, including the parents. The LEA *must* give the student all of the special education, related services, and other supports listed in the IEP. The IEP is the “**contract**” between the parent and student and the school for the services a student needs to make progress. If the school does not follow the IEP, a parent can file a complaint with Pennsylvania’s Bureau of Special Education (BSE).

IEP Development:

The IEP is written by a team of people. The IEP Team *must* include:

- The student's parents;
- At least one special education teacher or special education provider (for example, the student’s learning support teacher or speech therapist);
- At least one regular education teacher (if the student is, or may be, in any regular education classes);
- An LEA (a school official qualified to provide or supervise specially designed instruction, who knows about the school’s resources, and who is familiar with the general education curriculum (usually this is the building principal, assistant principal, special education director or designee such as guidance counselor or school psychologist);
- Someone who can interpret the student’s evaluations (this does not have to be a separate person, so the student’s case manager could fill this role – if it is a separate person, it is usually the school psychologist);
- A gifted education teacher if the IEP is being written for a student with a disability who is also gifted; and
- The student, when appropriate. The student *must* be invited to the meeting if postsecondary goals and transition needs are discussed at the meeting (**this is required if the student will be 14 during the course of an IEP.**) If transition needs are not going to be discussed, then it is up to the parent to decide whether the student should attend the meeting.

While the people listed above *must* attend IEP meetings (unless they are excused by the parent), **other people *can*** come to the meetings. The IEP Team can include *anyone* the parent or the school believes has knowledge or expertise about the student. This means that a parent can invite an advocate (either a lawyer or a non-lawyer. If a parent elects to bring an attorney to an IEP meeting, the LEA may choose to reconvene the meeting at a time where the LEA’s attorney is available to attend the IEP meeting). In addition, the school or the parent can ask an occupational therapist (OT), physical therapist (PT), or speech therapist who is working with the student to attend the IEP meeting.

IEP Members Excused from IEP Meeting:

A parent can agree *in writing* to excuse one (or more) of the IEP Team members listed above. If the IEP Team member's area of expertise *will not* be discussed at the meeting, then the parent and school may sign an agreement that the Team member can miss the meeting. If the Team member's area of expertise *is* going to be discussed at the IEP meeting, before that Team member can miss the meeting: (1) a parent must agree in writing and (2) the Team member must give the **parent and IEP team written input** about the student **before the IEP meeting**.

Parent Attendance at an IEP Meeting:

The law places great emphasis on parents' participation in the IEP Team meeting. The school must take steps to get one or both of the student's parents to attend the IEP meeting. That means the school must notify both parents of the meeting early enough so that they can attend, and schedule the meeting at a time and place that is convenient. The notice of the meeting must tell the parent the time, date, location, and purpose of the meeting. The *Invitation to Participate in the Individualized Education Program (IEP) Team Meeting or Other Meeting* form also informs the parent that one can bring other people to the meeting who have knowledge or expertise regarding the student.

There are times when an interpreter is needed for parents with deafness or parents whose native language is not English. The parents should let the school principal and the Special Education Office know as soon as possible that an interpreter is needed for the IEP Team meeting. If the parents cannot attend the meeting in person, the school must offer the family other ways of participating in the meeting, including conference calls. **If the family does not participate in person or by phone, the school can hold the meeting without the parent – but it must keep a detailed record of its efforts to get the parent to attend. These efforts should include three invitations.**

IEP Team Meeting:

LEAs are permitted to give parents a *draft* IEP at the meeting (or before the meeting); however, the IEP is a working document and must include the parents' input. When the IEP is finished, it should reflect the information discussed and decided by the IEP Team at the meeting. During the meeting, the IEP team must consider the student's strengths, the parents' concerns for enhancing the education of their child, the results of the most recent evaluation, and the student's academic, developmental, and functional needs in determining what services and placement are appropriate for the student.

[TIP: Notes should be taken at the IEP team meetings and retained by the case manager for future reference.]

It is important to ask everyone who attended the team meeting to sign the IEP signature page. By signing the IEP signature page, it *only* shows who attended the meeting. It does *not* mean that one agrees with the IEP. If someone participated via telephone or other electronic means, the signature section of the IEP should indicate how the team member participated.

Audio Recording of IEP Meetings:

Audio recording of IEP meetings is permissible but there is **no express right to record**. However, the LEA cannot have blanket prohibition denying audio recording. This is inappropriate under Law. Contrary to what many parents claim, neither the IDEA nor any other law provides a parent with an absolute right to record meetings. The "Parent Participation" provision, of the IDEA, found within 34 CFR 300.322(e), provides that "[t]he public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English." Section 504 and the ADA also require that individuals with disabilities be afforded reasonable accommodations for their disabilities. Under all three laws, however, it is the LEA's right and responsibility to determine what accommodations are appropriate. However, while there are circumstances under the ADA, Section 504, and the IDEA where accommodations must be made to ensure full participation by parents in special education meetings,

public schools and intermediate units may reserve audio and video recording of such meetings as an accommodation of last resort, to be used only where there are no other appropriate accommodations. Rarely is permitting recording of a meeting the only viable accommodation available. If a parent wishes to audio record any meeting, contact the Special Education Office for guidance. Written request to record a meeting should be given at least 5 days prior to the meeting.

IEP Components:

The Pennsylvania Department of Education's Bureaus of Special Education has developed an annotated IEP form to help individuals understand the contents of the document which can be found on the PATTAN website.

An IEP can be of any length and can contain any amount of information. However, what is really important is the information in the IEP needs to be useful to parents and school staff in guiding the student's educational program so the student can make meaningful educational progress.

Overview of IEP:

The following is a breakdown of the various sections of an Individualized Education Plan.

Special Considerations: In the first section of the IEP, the IEP team must ask whether the student is blind or visually impaired, deaf or hearing impaired, if the student has needs in the areas of communication, if the student needs assistive technology (AT) devices and/or services, if the student has limited English proficiency, or if the student has behaviors that get in the way of his/her learning or that of others. The Team should keep these "special considerations" in mind when it writes the student's IEP. PDE's annotated IEP form explains these considerations in detail.

Deaf or Hard of Hearing – IEP team must complete a communication plan (Input statement from IEP)
Assistive technology includes devices or special equipment that improve the student's functional or communication skills. Assistive technology services may include help in determining the need for a specific service (usually through the SETT process) and training for the student, school staff, and possibly the student's family on how to use the device.
Behavior that impedes the student's learning or the learning of others – a FBA must be completed
Positive Behavior Supports (PBS) addresses a student's behavior. These strategies must reflect individual student's needs and be based on **positive** – not punitive approaches. This could mean that behavior goals and support services are included in sections 5 and 6 of the IEP. Or, the IEP Team might write a positive behavior support plan as part of the IEP. Defensible behavior plans are developed following the completion of a functional behavior assessment (FBA) – [See section on Discipline and Behavior Support]

CURRENT EDUCATIONAL LEVELS: The second section of the IEP contains information on the student's **present levels of academic achievement** and **functional performance** (including social and daily living skills). It is important for this section to be completed because knowing where the student is currently helps the Team decide where the student should be going – meaning what goals should be written for the student. Questions that this section of the IEP should answer include: What can we learn about the student's strengths and needs from the latest LEA and other evaluations? What insight can the parents or the other Team members contribute from their experiences or training? This section should include the student's present levels related to current postsecondary transition goals (such as results of vocational evaluations, career surveys, etc.) Information from any Functional Behavioral Assessment (FBA) should also be part of this section. This section should include information on how the **student's disability affects involvement and progress** in the **general education curriculum**. Furthermore, with passage of Chapter 14, other specific questions need to be answered specific to the disability category of a student. These questions are as follows:

Autism: Services for students with the disability of autism who require services to address needs primarily in the areas of communication, social skills, or behaviors consistent with those of autism spectrum disorders. The IEP for these students must address needs as identified by the team which may include the verbal and nonverbal communication needs of the student; social interaction skills and proficiencies; the student's response to sensory experiences and changes in the environment, daily routine, and schedules; and, the need for positive behavior supports or behavioral interventions.

Blind-Visually Impaired: Services for students with the disability of visual impairment including blindness, who require services to address needs primarily in the areas of accessing print and other visually-presented materials, orientation and mobility, accessing public and private accommodations, or use of assistive technologies designed for individuals with visual impairments or blindness. For students who are blind or visually impaired, the IEP must include a description of the instruction in Braille and the use of Braille unless the IEP team determines, after the evaluation of the student's reading and writing needs, and appropriate reading and writing media, the extent to which Braille will be taught and used for the student's learning materials.

Deaf and Hard of Hearing: Services for students with the disability of deafness or hearing impairment, who require services to address needs primarily in the area of reading, communication, accessing public and private accommodations, or use of assistive technologies designed for individuals with deafness or hearing impairment. For these students, the IEP must include a communication plan (include link to forms (blank and annotated) to address the language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and assistive technology devices and services.

TRANSITION: The third section of the IEP lists the student's postsecondary goals (these are goals for life after high school) and the transition services that the school will give the student to help reach those goals. The point of "transition planning" is to build a bridge between school programs and the opportunities of adult life, including higher education, employment, independent living and community participation, and to make sure the student is being prepared for life beyond high school. This section **must** be filled out for **all students who are age 14** or older during the school year that the IEP will cover. The school and parent can agree to fill this section out earlier if that is appropriate for the student. Questions to ask include: What academic and other skills will the student need for adult living? Are the needed skills being taught? What does the IEP Team think should be the student's measurable postsecondary goals related to training, education, employment, and, where appropriate, independent living skills? Are these goals based on age-appropriate transition assessments and the student's own preferences? (If not, why not?) What transition services (including courses of study) are needed to help the student achieve the transition goals?

PARTICIPATION IN ASSESSMENTS: In the fourth section of the IEP, the IEP Team decides whether the student can participate in state-wide (the Pennsylvania System of School Assessment or PSSA or Keystone Exams) and districtwide (local) achievement testing and whether the student needs testing accommodations. A list of allowable accommodations can be found on PDE's website.

If the Team decides that the student has such significant cognitive abilities that taking the PSSA would not be appropriate, the student will take the Pennsylvania Alternative System of Assessment or PASA test. The Team's decision to have a student take the PASA instead of the PSSA must be explained in the IEP. Please refer to the PASA website for detailed information.

NOTE: The decisions to assign a student to PASA must be made in collaboration with a special education administrator. If you believe this could be an issue for a given student, you should discuss this prior to the IEP meeting. If it comes up during the IEP meeting, you need to defer that decision until you have reviewed it with your school's special education administrator. When it is decided that a student qualifies for PASA, you are required to do

short-term objectives, it is therefore important to be prepared to write these objectives if there is any question that the student qualifies for the PASA.

In order to help LEAs prepare their students for statewide assessments, the Pennsylvania Department of Education has developed “assessment anchors.” Assessment anchors tell schools which parts of the state standards are most important for students to learn. The assessment anchors are also helpful because they explain what students are expected to learn in simpler terms than the state “standards” and include helpful examples on what to teach the students and how. For more information on assessment anchors and eligible content visit:

<https://www.education.pa.gov/K-12/Assessment%20and%20Accountability/PSSA/Pages/Assessment-Anchors.aspx>

TIPS: The “assessment anchors” line up with the general curriculum. The IEP Team should focus on the anchors that are most essential to the student’s ultimate functioning because there are a lot of anchors, and the IEP could become unmanageable if the Team tried to develop goals for all the reading and math anchors.

As stated above; **For students who take the PASA or another alternative assessment test, the law requires that the IEP includes short-term objectives in addition to annual goals.**

MEASURABLE ACADEMIC AND FUNCTIONAL GOALS: The fifth section of the IEP explains what the IEP Team, including the family, wants the student to learn this year. The IEP must list annual (year-long) functional and academic goals for the student. These goals must be “**measurable**” and must be designed to meet the student’s needs.

TIP: Writing Effective Measurable Annual Goals – Annual goals in Individualized Educational Programs (IEPs) must be functional and measurable. They must provide a clear focus for instruction and address individual student needs identified in the present levels of academic achievement and functional performance. A well-written measurable annual goal contains four criteria: condition, student’s name, clearly defined behavior, and performance criteria.

Condition – The condition under which behavior is performed. It describes the situation in which the student will perform the behavior (e.g., accommodations, assistance provided prior to or during the assessment). **Example:** with consistent use of visual schedules

Student’s Name – **Example:** Tyler

Clearly Defined Behavior – A clear description of the behavior in measurable and observable terms. **Example:** Will independently transition from one activity to the next at school (i.e., end one activity and begin a new one).

Performance criteria –

- Criterion level** – The level the student must demonstrate for mastery
- Number** – How many times needed to demonstrate for mastery
- Evaluation schedule** – How frequently the teacher plans to assess the student, including the method of evaluation. **Example:** Four out of five transitions on three consecutive weekly probes.

Measurable annual goal example:

- ✓ With consistent use of visual schedules, Tom will independently transition from one activity to the next at school (i.e., end one activity and begin a new one) in four out of five transitions on three consecutive weekly probes.
- ✓ Given controlled passages at the third grade level, Bobby will apply learned decoding and word analysis strategies to read 120 words correctly per minute with 94% accuracy as measured by weekly timed reading probes.

- ✓ During group discussions in her academic classes, Jane will contribute appropriately (raise hand, ask and answer questions, contribute relevant ideas) with no more than two reminder cards for 80% of daily probes for two consecutive weeks by the end of the semester.

These are NOT measurable goals:

- X Bobby will improve his reading this year.
- X Jane will not act out in class.

The student's goals should be designed in a way so the student's needs can be met allowing one to make progress and be involved in the **general education curriculum**. The "general education curriculum" means the curriculum that your school follows for all students at a student's grade level. A good overview of goals can be accessed through the SAS (State Aligned System) system. More information on SAS can be found at www.pdesas.org. Students with disabilities should be taught what all other students at their grade level are taught unless there is a good, disability-based reason why they should be taught at a different level. The school cannot refuse to include the student in the general curriculum solely because the general education curriculum would need to be modified for the student.

As previously mentioned, for students who take the PASA or another alternative assessment test, the law requires the IEP includes short-term objectives in addition to annual goals. The short term objectives break down the yearly goals into small bites about what the student is expected to learn during the school year to achieve the annual goals. **Short-term learning outcomes are also required for students who are gifted. Short-term objectives are not required for other students, but the IEP team can choose to include them.**

TIP: Writing Effective Short-Term Objectives – Short-term objectives are required for students who take alternative assessments aligned to alternate achievement standards (i.e., PASA). Short-term objectives describe meaningful intermediate and measurable outcomes between the student's present levels of academic achievement and functional performance and the measurable annual goal. They must contain the following criteria: condition, student's name, clearly defined behavior, and performance criteria.

Condition – The condition under which behavior is performed. It describes the situation in which the student will perform the behavior (e.g., accommodations, assistance provided prior to or during an assessment). **Example:** Given visual and physical prompts when asked to copy simple lines and shapes

Student's Name – **Example:** Emma

Clearly defined behavior – A clear description of the behavior in measurable and observable terms
Example: Will stay within 1 inch accuracy

Performance criteria –

- Criterion level** – The level the student must demonstrate for mastery
- Number** – How many times needed to demonstrate for mastery
- Evaluation schedule** – How frequently the teacher plans to assess the student, including the method of evaluation. **Example:** Five out of five times within one week for three consecutive weeks

Short-term objective example: Given visual and physical prompts when asked to copy simple lines and shapes, Emma will stay within one inch accuracy five out of five times within one week for three consecutive weeks.

- PROGRESS MONITORING:** This section of the IEP must explain how the student's progress toward his/her IEP goals will be **measured** and when **progress reports** will be issued (for example, the IEP might say that the school will report the student's progress every six weeks when report cards are normally handed out).

TIP: Decide how you are going to monitor progress PRIOR to developing the goal.

SPECIFIC SPECIAL EDUCATION TO BE PROVIDED:

Program Modifications and Specially Designed Instruction: The sixth section of the IEP lists the **modifications and supports** the student needs to receive an appropriate education. *This is one of the most important parts of the IEP because it must indicate exactly what school personnel will do to help the individual student learn.* The IEP Team should ask: What specialized instruction, methods, and strategies will be used by the school this year to help the student advance toward reaching his/her IEP goals, be involved and make progress in general education curriculum, and participate in extracurricular and nonacademic activities? Are special gym classes (called “adaptive physical education”) needed? This section should state what specially designed instruction (SDI), supports, and services the school will provide to the student.

- An Example of specially designed instruction: Special education teacher will provide student with reading instruction using lower level materials for the same piece of literature that others are reading.
- It is *not appropriate* for this section to contain only things the student will do (such as, “Johnny will go find the guidance counselor when he feels anxious”).

In general, the schools have the right to pick the instructional approach and method that will be used to teach students. But, special education law requires that special education, related services, and supplementary aids and services (supports the student needs to be successful in a regular or special education classroom) included in the IEP be “based on peer-reviewed research to the extent practicable.” This means that if there are strategies that research studies show are successful in helping students with similar learning needs learn successfully, those strategies must be included in the student’s IEP – instead of approaches that do not have a proven track record of success. For more information on research-based practices and effective instruction, visit www.pattan.net or “What Works Clearinghouse (WWC) at <https://ies.ed.gov/ncee/wwc/>.

Supplementary Aids and Services: if a student is taught in a regular education classroom, the IEP Team should decide what services and supports the student will need to succeed in this setting. All aids and services needed for the student to succeed in the regular education class must be listed on the student’s IEP and provided by the school. Questions to ask about supplementary aids and services include: Are changes to the regular education program needed to help the student succeed in regular education classes? For example, does the student need more time to take tests? Are extra supports needed for the student in the regular education classroom? Does the special education teacher need to help the classroom teacher modify or adapt the curriculum for the student?

Related Services: This section of the IEP also lists the **related services** the student will receive. Related services are support services that will help the student benefit from his/her special education program. Examples of related services a student can receive include transportation, therapies (speech, physical, occupational, or psychological therapy), interpreting services for students who are deaf, parent training and counseling, and school health services (such as school nurse services). The IEP must tell you **how often** these services will be provided and **how long** each session will last. (For instance, instead of just stating “speech therapy,” an IEP should state: “Johnny will receive two 30-minute sessions of individual speech therapy per week.”) These services are determined by the IEP Team. The related service provider should participate in the IEP Team meeting. PDE’s annotated IEP also lists examples of related services. Changes to related services should not be made without documented input by service provider or representative or service provider. Case managers and LEAs should not make such changes unilaterally and when changes are made, such changes **must** be documented by NOREP.

The following list of related services is taken directly from Chapter 14:

- OT
- PT
- Vision

- Hearing
- Speech and Language

Supports for School Personnel: This section of the IEP tells what help the school will give to the staff who will be teaching the student. Staff may need support include administrators, regular education teachers, special education teachers, related service providers, bus drivers, and paraprofessionals (such as aides). Questions the IEP Team should ask include: Does the staff require special training to work with the student? Is a special education teacher needed to help the regular education teacher modify the curriculum or to provide extra support to the student in the regular education classroom?

Gifted Support Services: This section of the IEP must also list any **support services** that are needed to help a **gifted student** who is also a student with a disability benefit from gifted education. Examples of such support services include counseling services, career guidance, flexible grouping, and transportation.

Extended School Year: [See ESY Section for Detailed information]

- A) Criteria for Eligibility
- B) Timing

The last question that the IEP Team must answer in Section 6 of the IEP is whether the student needs extended school year (ESY) services. All students with a disability must be considered for ESY as part of their annual IEP meeting. ESY services are particularly appropriate for a student who regresses (loses skills) over the summer or a student who needs the extra time in the summer to learn skills that are crucial for the student to receive an appropriate education. **For school-aged students with severe disabilities** such as autism, serious emotional disturbance, severe intellectual disability, degenerative impairments with mental involvement, and severe multiple disabilities, **the IEP Team must meet by February 28 of each school year** to review the student’s need for ESY. **The ESY eligibility question must be answered by March 31 for those students and the parents must be given a NOREP/PWN so that the IEP Team can plan for the student’s summer program.** An IEP Team meeting must be scheduled by the beginning of February to discuss ESY eligibility. For other students, the school must decide whether the student is eligible and what program will be offered in a “timely manner.”

Educational Placement: The final two sections of the IEP (sections 7 and 8) explain *where* the student will receive services. The IEP must tell you if the student will be included in regular education classes and activities and, if so, for how much of the school day. The IEP Team must begin by deciding if the student can make progress in a regular class with **supplementary aids and services**. The Team must then decide what amount and type of special education support the student needs. The “**amount**” of **special education support** tells the team the total amount of time in a typical school day that the student receives special education supports from special education **professional staff**. The following terms are used to communicate the amount of special education support:

- “Itinerant support” (special education support provided for 20% or less each day);
- “Supplemental support” (special education supports provided for more than 20% of the day but less than 80% of the day); or
- “Full-time” support (support provided for 80% or more of the day).

The “**type**” of support listed in the IEP tells the student’s most important learning needs – to learn academic skills (learning support), to control behaviors (emotional support), to acquire basic living skills (life skills), etc.

TIP: Remember that students with disabilities must be taught with students who do not have disabilities to maximum extent appropriate (called the “least restrictive environment” requirement). If the student cannot be in regular education classes for the whole school day, the IEP Team must consider what part of the student’s program (including academic classes, non-academic classes, lunch, recess, and extracurricular activities) the student can attend with students who are not disabled. In some cases, an out-of-district or a private school placement is the least restrictive environment.

The “**location**” of the program is also found in this section of the IEP. If the student will not be in the home school, the IEP must explain why the student’s needs cannot be met in that school. Remember that preapproval from the Director of Special Education **MUST** be obtained prior to placing the student outside of their neighborhood school.

- **Penn Data Reporting: Section 8, the final section of the IEP**, contains information that the state uses to track whether LEAs are placing students with disabilities in programs with students who are not disabled, as opposed to separate special education programs. The IEP Team must figure out how much time a student with a disability is being educated in a regular education classroom.

Key Information about IEPs:

➡ An IEP must be in place for each student receiving special education services at the **beginning of each school year**. If a student has just been evaluated for the first time, an IEP Team meeting must be held within **30 calendar days** of the date listed on the Evaluation Report. The law requires the school to give the parent **10 calendar days** to review the Evaluation Report before this first IEP meeting, but parents can choose to waive (give up) this right in writing and to have the meeting sooner. This should be a rare occurrence rather than practice.

➡ After the IEP has been finalized, the school must give the parents a **free copy of the IEP** along with a form called a **Notice of Recommended Educational Placement/Prior Written Notice** (NOREP/PWN). The NOREP/PWN form asks the parents to say (in writing) whether they approve the IEP. If the IEP Team has just written the student’s first IEP, special education services cannot start unless the parent approves the IEP in writing on the NOREP/PWN. For later IEPs, the new IEP can start if the parent returns a signed NOREP/PWN that has the “I approve” box checked **or if the parent does not return the NOREP at all within 10 calendar days.**

➡ When the IEP is approved, the school must explain to its staff their responsibilities and the specific supports, modifications, and accommodations that they must give the student under the IEP. The IEP document itself must also be available for the staff to review. “Staff” includes: the student’s regular and special education teachers, his/her related services providers, and any other person who is responsible for following the IEP. Don’t assume that all the people who are working with the student have access to the most recent copy of the student’s IEP. The IEP case manager needs to check with all educators, therapists, and anyone else who may have a role to play, to make sure that they have a copy of the student’s most recent IEP.

➡ A student in any public school must be given the services in his/her IEP (at the location listed on the IEP) no later than **10 school days** after the IEP is completed.

- ➡ The IEP team *must* meet at least **once every year** to review and revise the IEP based on: the student's progress on his/her annual goals, the student's progress in the general education curriculum, any reevaluations that have been done, and parent or teacher concerns.

- ➡ *If the parent agrees*, the IEP can also be amended (changed) between the yearly meetings *without holding an IEP Team meeting*. The IEP amendment must be in writing. The school *must* tell all of the IEP Team members about the change.

- ➡ While the school must make sure the IEP Team meets every year, **parents or school staff have the right to ask for more frequent IEP Team meetings**. The law does not limit the number of IEP meetings the parents can request.

Transfer Student with IEP:

For students transferring from one LEA to another within the state of Pennsylvania, the receiving LEA must provide services comparable to those described in the IEP from the sending school. The LEA can choose to either adopt the previous IEP or develop and implement a new IEP.

For students transferring between states, IDEA requires that the new LEA must also continue comparable services until it conducts an evaluation of the student. If the LEA determines it to be necessary and develops a new IEP, it must be consistent with federal and state law.

Both old and new schools are required to take reasonable steps to ensure that the student's IEP, supporting documentation, and other records are promptly transferred.

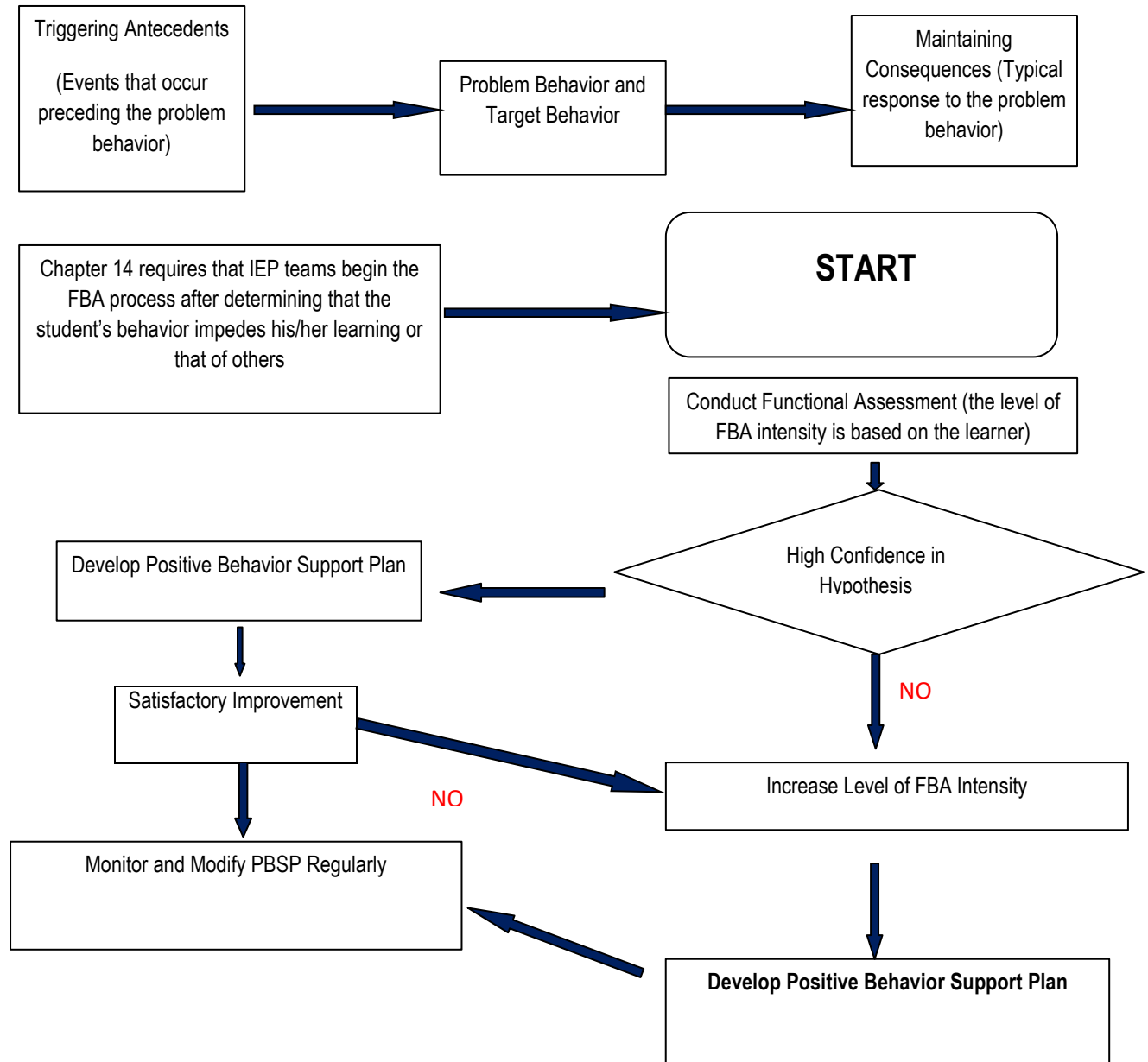
Procedure for Transfer Students:

- 1) The LEA designee reviews incoming transfer records to determine if IEP can be implemented within the LEA or an outside placement.
- 2) If the IEP is current, follow procedures for Revising an IEP and convening a meeting.
- 3) If student with an IEP transfers from out-of-state into Pennsylvania and the student requires an evaluation, the LEA should conduct an initial evaluation to determine eligibility for special education and services. The LEA must implement the existing IEP until the evaluation is completed. If a parent refuses to consent to an initial evaluation, refer to Initial Evaluation section of this manual for guidance.

Section
Positive Behavior
Supports
(FBA & PBSP)

Functional Behavior Assessment Flow Chart

Goal of a FBA is to develop a testable hypothesis.



Overview:

In accordance with IDEA and PDE Chapter 14, positive rather than negative measures must form the basis of behavior support programs for students who have been determined to be eligible for special education supports and services. All eligible students must be free from demeaning treatment, the use of aversive techniques, and the unreasonable use of restraints. Behavior support programs should include evidence-based or research-based practices and techniques to develop and maintain skills that will enhance an individual student's opportunity for learning and self-fulfillment. Behavior support programs and plans must be based on a functional assessment of behavior and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student must be the least intrusive necessary. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including de-escalation techniques [§14.133(a)].

Chapter 14 behavior support requirements in Pennsylvania require a functional behavior assessment (FBA) prior to developing a behavior plan. An FBA usually consists of a team-based assessment and inquiry process through which the team identifies target behaviors and determines the antecedent conditions and consequences in order to arrive at the hypothesized function(s) of the behavior. Then, the team would use this information to design an individualized positive behavior support plan for the child. Under the IDEA, an FBA is required when the behaviors in question result in disciplinary exclusion from school and are determined to be a manifestation of the child's disability. Under revised Chapter 14, however, an FBA is also required as a prerequisite to all individualized behavior support plans. Further, a positive behavior support plan must be developed by the IEP team for eligible children "who require specific intervention to address behavior that interferes with learning." The annotated IEP forms promulgated by PaTTAN reinforce the point that an FBA and a positive behavior support plan are required whenever the IEP team determines that the "special consideration" of behavior impeding the learning of self, or others, applies to the student in question.

The FBA Process:

Functional Behavior Assessment (FBA) is a process for gathering information to understand the function (purpose) of behavior in order to write an effective Positive Behavior Support Plan (PSBP). Functional Behavior Assessment is a valuable process to identify positive behavior practices and learning. The identification of the function or purpose of a behavior of concern, guides a team through the development of function-based strategies. Function-based behavior plans are an effective method of addressing behaviors, developing positive proactive behaviors, and increasing academic achievement.

In addition, according to regulatory requirements an FBA must be conducted:

1. When the IEP team checks (√) "yes" under "Special Considerations for behavior that impedes the student's learning or the learning of others.
2. When a behavior violates a "code of student conduct" and is determined by the IEP team to be a manifestation of the student's disability.
3. When a student is removed from his/her current placement as a result of weapon possession, and/or illegal drug possession/use, and/or serious bodily injury.
4. When the student is removed from his/her placement for more than 10 consecutive or 15 cumulative school days and the behavior is determined not to be related to his/her disability.
5. When the school contacts law enforcement.
6. Whenever the IEP team (1) determines that a student's behavior is interfering with his/her learning or the learning of others, and (2) requires additional information to provide appropriate educational programming.

The ultimate goal of an FBA is to develop a testable hypothesis. The hypothesis is an educated guess based on measurable and observational data, which leads a school team to identify the function of the behavior of concern. The information gathered through the FBA process identifies the situations or circumstances when the student

engages or does not engage in a target behavior, and identifies the consequences that reinforce the student's engagement in that behavior. This identification process leads to the development of a testable hypothesis. A hypothesis derived from a completed FBA must provide (a) a precise definition of the target behavior, (b) the antecedent conditions under which the behavior does or does not occur, (c) the consequences that consistently maintain the behavior, and (d) the perceived function the behavior serves the student.

A completed FBA fills in the missing information of the hypothesis statement. **When this occurs (antecedent) _____, the student does (target behavior) _____, in order to get or avoid (function) _____.**

There is no one way to complete an FBA; rather the goal of this process is to develop a testable hypothesis. Horner & Sugai (2007) define three levels of FBA as: *Informal FBA*, *Indirect/Simple FBA*, and *Complex FBA* (see below)

F B A L E V E L S	1. Informal	<input type="checkbox"/> Archival Review <input type="checkbox"/> Problem-Solving Meeting <input type="checkbox"/> A-B-C Data
	2. Indirect/Simple	<input type="checkbox"/> Checklist <input type="checkbox"/> Functional Assessment Interview <input type="checkbox"/> Initial Line of Inquiry <input type="checkbox"/> Brief Observation/Scatter Plot <input type="checkbox"/> A-B-C Data
	3. Complex	<input type="checkbox"/> A-B-C Data <input type="checkbox"/> Structured, Direct Observation

- An **Informal FBA** is conducted in school by staff who regularly interact with the student. It is conducted as part of school team problem-solving activities.
- An **Indirect/Simple FBA** is conducted by the school entity by individuals such as a school psychologist, special education teacher, or guidance counselor in collaboration with the student team. This level of FBA typically involves interviews, checklists, and brief observation.
- The most intense level of FBA, known as a **Complex FBA**, is conducted by an IEP team or MDT team member of the school, district, or intermediate unit with the school-based student team. This level is the most time intensive and involves interviews and extensive direct observations.

All three levels of FBA maintain the same goals:

- Define the target behavior.
- Identify the events/antecedent triggers that reliably predict the occurrence or nonoccurrence of the target behavior.
- Identify the consequences that maintain the behavior.
- Identify setting events that increase the likelihood of the occurrence of the targeted behavior.

Permission to Evaluate or Reevaluate:

A FBA is generally understood to be an individualized evaluation of a child in accordance with 34 CFR §300.301 through 34 CFR §300.311 to assist in determining whether the child is, or continues to be a child with a disability. The FBA process is frequently used to determine the nature and extent of the special education and related services that the child needs, including the need for a positive behavior support plan (PBSP). **As with other individualized evaluation procedures and consistent with 34 CFR §300.300 (a) and (c), parental consent is required for an FBA to be conducted as part of the initial evaluation or a reevaluation.**

Positive Behavior Support Plan:

A Positive Behavior Support Plan can be used as a proactive action plan to address behavior(s) that are impeding learning of the student or others. PBSPs are appropriate for all students. If developed for a student with an IEP, this becomes a part of IEP. The PBSP includes positive behavioral interventions, strategies, and supports. Behavior Support Plans should focus on understanding 'why' the behavior occurred (i.e., 'the function' or 'communicative intent'), then focus on teaching an alternative behavior that meets the student's need in a more acceptable way. This includes making instructional and environmental changes, providing reinforcement, reactive strategies, and effective communication." The PaTTAN website has a sample PBSP.

Members of Positive Behavior Support Team:

The members of the Positive Behavior Support Team will depend upon the specific needs of the student in question. In most cases the team may consist of the same members as required and outlined for members of an IEP team. In addition, other experts may be part of the team.

Positive Behavior Support Plan Process:

Developing a PBSP is a process. For the process to be successful, several steps must occur. These steps are as follows:

Address the Problem Behavior

- Teacher/staff member makes personal contact with parent/guardian to establish a working relationship, discuss concerns, and brainstorm possible solutions
- School and classroom interventions are implemented and data collection on outcomes begins
 - If classroom interventions are unsuccessful, teacher informs other professionals that this student exhibits behavior that is interfering with the learning of student and/or peers

Understanding the Problem Behavior/ Conducting the FBA

- Team professionals (parents, teachers, counselor, administrator, psychologist, program specialist, language/speech specialist, nurse, etc.) consult to understand the cause of the misbehavior and brainstorm solutions
- Conduct the appropriate level FBA

Developing a Positive Behavior Support Plan (PBSP)

- The Positive Behavior Support Plan Team (If the student has an IEP, this is an IEP team function) meets to formally discuss and strategize on:
 - THE RESULTS OF THE FBA
 - Contributing environmental factors
 - Functional factors (**why** the student is misbehaving)
- A formal plan of action, the PBSP, is developed with behavior goals developed.
- Roles/responsibilities are assigned. Many people can be designated on the PBSP.
 - A system of communication between the involved parties is formalized

Implementing the Behavior Support Plan

- The environment and/or curriculum is changed to support the identified replacement behavior(s) AND general positive behaviors
- New appropriate behaviors are taught and reinforced
- Goal(s) acquisition is continuously monitored as specified
- The communication plan to progress monitor the interventions is followed

Monitoring/Evaluating the Plan

- Team members monitor the success of the plan and document progress
- The team reconvenes to review progress, as appropriate
- If unsuccessful, team plans next steps (revise, redo, assess, etc.)

Section

Physical

Restraints

Overview:

22 Pa. Code Chapter 14 provides guidance on physical restraints. The regulations state that restraints are only to be considered as a measure of last resort, only after other less restrictive measures have been used, and the use of **prone restraints is prohibited** in PA educational settings. Prone restraints are those in which a student is held face down on the floor.

A **Restraint** defined in Chapter 14 indicates:

A restraint is the application of physical force, with or without the use of any device, for the purpose of restraining the free movement of a student's body.

The term does not include briefly holding, without force, a student to calm or comfort him, guiding a student to an appropriate activity, or holding a student's hand to safely escort him/her from one area to another. The term does not include hand-over-hand assistance with feeding or task completion and techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's parents and specified in the IEP.

Devices used for physical or occupational therapy, seatbelts in wheelchairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices are examples of mechanical restraints which are excluded from this definition.

Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to himself/herself, to other students, or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.

The regulations specify that AVERSIVE TECHNIQUES ARE PROHIBITED. These are:

- Corporal punishment
- Punishment for a manifestation of disability
- Locked rooms, boxes, or other structures or spaces from which the student cannot readily exit
- Noxious substance
- Deprivation of basic human rights, such as withholding meals, water, or fresh air
- Suspension constituting a pattern
- Treatment of a demeaning nature
- Electric shock

Requirements When Restraint Used:

The school must notify the parent of the use of restraint to control the behavior of a student. The Bureau of Special Education recommends this notification be within one school day of the restraint. Additionally, there needs to be an IEP team meeting **within 10 school days** of the inappropriate behavior causing the use of restraints. The only

reason for an IEP meeting to not take place is if the parent, after written notice, agrees in writing to waive the meeting.

When an IEP meeting occurs, the team shall consider whether the student or eligible young child needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan, or a change of placement to address the inappropriate behavior. The outcome of this meeting must be documented.

Restraint Contained in IEP:

The use of restraints may be included in a student's IEP ONLY if the following conditions apply:

- The restraint is utilized with specific component elements of positive behavior support.
- The restraint is used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior.
- Staff is authorized to use the procedure **and have received the staff training required.**
- There is a plan in place for eliminating the use of restraints through the application of positive behavior support.
- The use of restraints may not be included in the IEP for the convenience of staff, as a substitute for an educational program, or employed as punishment.

Reporting of Restraints:

Chapter 14 requires reporting of restraints in the Commonwealth. The reporting system developed by the Pennsylvania Department of Education is known as RISC (Restraint Information System of Collection). *Anytime a restraint is used, it must be reported to PDE via RISC.* It is also the responsibility of the home school district or LEA to report all incidences of restraints, even for those students attending an Approved Private School or out of district placement.

If a LEA does not have any restraints within a school year, this also must be reported quarterly each year.

The web-based system for reporting all restraints of special education students (RISC) is located at https://www.leaderservices.com/_risc/index.aspx. This system is only accessible to LEA designated individuals. It is important staff understand all of the elements that are required to be reported. The data fields required are as follows:

- PA Secure Student ID#.
- Student's Disability (drop down list provided).
- Student's Grade Level (drop down list provided.)
- Age of Student
- School Building Attended (drop down list provided).
- Program Location (drop down list provided).

- Date when the restraints was used to control aggressive behavior (calendar appears).
- Physical location where intervention occurred (drop down list provided).
- Type of restraint(s) used (drop down list provided).
- Length of time restraint lasted (drop down list provided).
- Number of staff who conducted the restraint (drop down list provided).
- Staff titles (NOT NAMES) of individuals who conducted the restraint.
- Were the staff involved in the restraint trained and certified in the use of de-escalation techniques and the use of safe physical restraints?
- Did any injury occur to student and/or staff? If so, what kind?
- Date the injury of student or staff was reported to the BSE (maximum of three school days from incident).
- Was the student who was restrained referred to law enforcement?
- Date of parent notification of the use of a restraint (within one school day from the incident).
- Was the use of restraints listed in the student's IEP?
- Date IEP team meeting held (calendar appears)..
- If appropriate, date waiver of IEP team meeting signed by parent (calendar appears).
- Were a Functional Behavioral Assessment (FBA), Reevaluation, new or revised behavior support plan or change of placement considered and discussed?
- Restraint reports may be entered and then saved as "in process" until after the IEP meeting is held. At that time they may be updated and saved as final.
- If an LEA does not finalize the report by entering either an IEP meeting date or the date of receipt of the signed parental waiver within **20 days of the restraint**, the system will log the school as **out-of-compliance** and your Special Education Adviser will contact you for follow-up.

Monitoring of Restraint Reporting:

Each time a restraint is entered into RISC, the Bureau of Special Education (BSE) staff is notified. A person from the Bureau reviews the data within ten working days of recording. If BSE has questions, the contact person for the school entity will be notified.

Section

Supplementary Aids & Services

Overview:

IDEA {§ 300.42} defines **supplementary aids and services** to mean aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate. The purpose of providing supplementary aids and services is to support students with disabilities as active participants with nondisabled peers as well as to enable their access to the general curriculum. Supplementary aids and services include modification to the general curriculum.

Supplementary aids and services must be available to all students who need them, designed to provide meaningful educational benefit, and provided in a manner that avoids stigmatizing students. A framework for considering the full range of supplementary aids and services can be found on a publication titled, “Supplementary Aids and Services Fact Sheet” available on the PaTTAN website. This framework includes four categories of supplementary aids and services (collaborative, instructional, physical, and social-behavioral). PaTTAN has developed the following grid to provide an overview of these supports:

<p>Collaborative Adults working together to support students</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Scheduled time for co-planning and team meetings <input type="checkbox"/> Instructional arrangements that support collaboration (e.g., co-teaching, paraeducator support) <input type="checkbox"/> Professional development related to collaboration <input type="checkbox"/> Coaching and guided support for team members in the use of assistive technology for an individual student <input type="checkbox"/> Scheduled opportunities for parental collaboration <input type="checkbox"/> School personnel collaborate in the development and delivery of SAS
<p>Instructional Development and delivery of instruction that addresses diverse learning needs</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Providing modified curricular goals <input type="checkbox"/> Providing alternate ways for students to demonstrate learning <input type="checkbox"/> Providing test modification <input type="checkbox"/> Providing alternate materials and/or assistive technology (e.g., materials on tape, transcribe text into Braille, large print, alternate computer access) <input type="checkbox"/> Providing instruction on functional skills in the context of the typical routines in the regular classroom <input type="checkbox"/> Changing method of presentation <input type="checkbox"/> Using reader services <input type="checkbox"/> Providing research-based supplementary materials <input type="checkbox"/> Providing instructional adaptations (e.g., pre-teaching, repeating directions, extra examples and non-examples, providing visual cues, using scaffolding to plan for written work, providing guided notes)
<p>Physical Adaptations and modifications to the physical environment</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Furniture arrangement in environments <input type="checkbox"/> Specific seating arrangements <ul style="list-style-type: none"> <input type="checkbox"/> Individualized desk, chair, etc. <input type="checkbox"/> Adaptive equipment <input type="checkbox"/> Adjustments to sensory input (e.g., light, sound) <input type="checkbox"/> Environmental Aids (e.g., classroom acoustics, hearing, ventilation) <input type="checkbox"/> Structural Aids (e.g., wheelchair accessibility, trays, grab bars)
<p>Social-Behavioral Supports and services to increase appropriate behavior and reduce disruptive or interfering behavior</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Social skills instruction <input type="checkbox"/> Counseling supports <input type="checkbox"/> Peer supports (e.g., facilitating friendships) <input type="checkbox"/> Individualized behavior support plans <input type="checkbox"/> Modification of rules and expectations <input type="checkbox"/> Cooperative learning strategies

Adaptations [Accommodations or Modifications]:

There are many adaptations an IEP team can use when developing programs for students with disabilities. The following are types of adaptations a team might consider when developing an individualized program for a student:

I. **Curricular Adaptations-** changes in educational environments that allow students equal opportunity to obtain access, results, benefits, and levels of achievement. These adaptations consist of both accommodations and modifications. These changes make learning – or work – more manageable for the individual. Some curricular adaptations **do not** fundamentally alter or lower standards or expectations in either the instructional or assessment phases of a course of study and can be designated as “**accommodations.**” These accommodations provide access to participate in the Least Restrictive Environment (LRE) and an opportunity to demonstrate mastery of performance standards.

Some adaptations **do** alter or lower standards or expectations and can be termed “**modifications**”. These modifications, although providing access, will necessitate careful selection of assessment components to achieve accountability for performance.

II. **Accommodations** are adaptations which change course content, teaching strategies, standards, test presentation, location, timing, scheduling, expectations, student responses, environmental structuring, and/or other attributes which provide access for a student with a disability to participate in a course/standard/test, which **DO NOT fundamentally alter or lower the standard or expectations of the course/standard/test.**

Modifications are changes in course content, teaching strategies, standards, test presentation, location, timing, scheduling, expectations, student responses, environmental structuring, and/or other attributes which provide access for a student with a disability to participate in a course/standard/test, which **DO fundamentally alter or lower the standard or expectations of the course/standard/test.**

It is important to note that accommodations and modifications are both considered adaptations. The difference is that accommodations do not alter expectations of students, while modifications alter expectations of students.

The Supplementary Aids and Services (SaS) Consideration Toolkit:

PaTTAN developed the SaS Toolkit to assist IEP teams to determine necessary supplementary aids and services for students with significant educational challenges. The following link contains valuable SaS resources:
<https://www.pattan.net/Supports/Inclusive-Practices/Supplementary-Aids-and-Services-Consideration-Tool>

In considering the types of supports needed by students, refer to the following list of questions in order to make an informed decision:

HIERARCHICAL DIFFERENTIATED SUPPORTS/ACCOMMODATIONS/MODIFICATIONS

1. **Needs nothing special** in this class

Ask:: Can the student participate successfully in this activity just like the other students?

2. **Change in something in the instruction/environment affecting everyone** accommodates this student

Ask:: Can changes that benefit all students in this class likely result in effectively accommodating this student’s learning difference? Will this increase the student’s:

- Participation?
- Task completion?
- Quality of work?

- Motivation enhancement?

Ask::

Can classroom organization and instructional practice benefit all students? Does enhancing fun, freedom, empowerment, belonging opportunities for all students accommodate this student's learning difference?

- Access to reinforcing activities following this lesson?
- Praise increase for everyone?
- Scaffolding for everyone?
- Strategy-based instruction for everyone?
- PALS? Peer Assisted Learning Strategies?

3. **Change in individualized access to reinforcers** that provide: fun, freedom, empowerment, belonging (i.e., behavior support) accommodates this student's learning difference

Ask::

What does this student really seek in this environment, or protest in this environment? Would a change in the student's ability to get basic needs met in this environment address his/her learning difference?

- Increasing relevance of learning for this student,
- Providing freedom (of movement, of pacing, of task completion),
- Enhancing his/her ability to achieve status in the group for individual achievement

4. **Can the student participate with additional environmental accommodations** (level of support from peers, teacher, and other adults? Level of engagement/participation)

Ask::

What will enhance engagement and motivation; what will support sustaining student's attention to task completion?

- Enhance participation?
- Enhance support? (peers, adults, partners)
- Enhance home/school communication and parental role in reinforcing progress?

5. **Can the student participate with INPUT or OUTPUT adaptations?**

Ask::

What will assist the student in better understanding the instruction and assist the student in demonstrating what was learned?

- Input adaptations? (scaffolds: advanced organizers; strategy-based instruction, preteaching) and/or
- Output adaptations?

6. **Can the student learn better and demonstrate that knowledge with changes in TIME allotted for work and/or testing?**

Ask::

Can the student demonstrate the standard after additional time to complete work? After redoing assignments or completing alternate assignments to demonstrate mastery (i.e., more time to master the material)?

7. **Can the student master the material without completing all the work assigned? Reduce QUANTITY.**

Ask::

Accommodation: Can the student demonstrate the standard even though less quantity of work is produced? Modification: Can the student master some essential standards with extra assistance and reduction in number of standards taught? Beware: reduction in standards taught will likely affect ability to achieve on the PSSA.

8. **Can the student master the material with reduction in DIFFICULTY of material presented?**

Ask::

Accommodation: Can the student demonstrate the essential standards, but require reduction in task difficulty? Modification: Can the student participate in activities to achieve alternate individualized goals when the tasks are greatly reduced in difficulty?

9. **Can the student participate in activities to master ALTERNATE GOALS, not completing work to master the standards?**

Ask::



Modification: Can the student participate in the least restrictive environment, working on highly individualized instruction? Assumption: High school diploma will not be attained if instruction to master standards is not delivered. Accommodation: Can the student work on alternate goals, while simultaneously demonstrating mastery of standards. (e.g., social pragmatics instruction during a time when other students are working on written language assignments far beyond this student's ability – for a student with Autism on grade level in reading with output difficulties)

10. **Can the student master different curricular components, ALTERNATE FUNCTIONAL SKILLS CURRICULUM for a student with severe disabilities.**

Ask::

Can this student be included in the educational environment in which other students are working towards grade level standards mastery if his/her educational programming focuses on curricular domains to enhance quality of life, independence, leisure skills, etc.?

Examples of Accommodations, & Modifications: The chart below provides a snapshot of types of accommodations an IEP team might use when developing an individualized plan. It is essential accommodations relate to areas of student needs.

<p>Instructional Development and delivery of instruction that addresses diverse learning needs</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Providing modified curricular goals <input type="checkbox"/> Providing alternate ways for students to demonstrate learning <input type="checkbox"/> Providing test modification <input type="checkbox"/> Providing alternate materials and/or assistive technology (e.g., materials on tape, transcribe text into Braille, large print, alternate computer access)  Using a keyboard/portable device  Instruction in keyboarding skills <input type="checkbox"/> Providing instruction on functional skills in the context of the typical routines in the regular classroom <input type="checkbox"/> Changing method of presentation <input type="checkbox"/> Using reader services <input type="checkbox"/> Providing research-based supplementary materials <input type="checkbox"/> Providing instructional adaptations (e.g., pre-teaching, repeating directions, extra examples and non-examples, providing visual cues, using scaffolding to plan for written work, providing guided notes)
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<p>Physical Accommodations and modifications to the physical environment</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Furniture arrangement in environments <ul style="list-style-type: none"> ▪ Arrange furniture differently or provide specialized furniture <input type="checkbox"/> Specific seating arrangements <ul style="list-style-type: none"> ▪ Individualized desk, chair, etc. ▪ Provide access to specific areas of classroom or other settings outside of classroom <input type="checkbox"/> Adaptive equipment <input type="checkbox"/> Adjustments to sensory input (e.g., light, sound) <ul style="list-style-type: none"> ▪ Allow for water bottle or sensory object during instruction <input type="checkbox"/> Environmental Aids (e.g., classroom acoustics, hearing, ventilation) <input type="checkbox"/> Structural Aids (e.g., wheelchair accessibility, trays, grab bars)
<p>Social-Behavioral Supports and services to increase appropriate behavior and reduce disruptive or interfering behavior</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Social skills instruction <input type="checkbox"/> Counseling supports <input type="checkbox"/> Peer supports (e.g., facilitating friendships) <input type="checkbox"/> Individualized behavior support plans <input type="checkbox"/> Modification of rules and expectations <input type="checkbox"/> Cooperative learning strategies

Furthermore, Adaptations can be broken down into nine categories:

Nine Types of Curriculum Adaptations

Quantity	Time	Level of Support
<p>Adapt the number of items that the learner is expected to learn or number of activities student will complete prior to assessment for mastery.</p> <p><i>For example:</i> Reduce the number of social studies terms a learner must learn at any one time. Add more practice activities or worksheets.</p>	<p>Adapt the time allotted and allowed for learning, task completion, or testing.</p> <p><i>For example:</i> Individualize a timeline for completing a task; pace learning differently (increase or decrease) for some learners.</p>	<p>Increase the amount of personal assistance to keep the student on task or to reinforce or prompt use of specific skills. Enhance adult-student relationship; use physical space and environmental structure.</p> <p><i>For example:</i> Assign peer buddies, teaching assistants, peer tutors, or cross-age tutors. Specify how to interact with the student or how to structure the environment.</p>

<p style="text-align: center;">Input</p> <p>Adapt the way instruction is delivered to the learner.</p> <p><i>For example:</i> Use different visual aids, enlarge text, plan more concrete examples, provide hands-on activities, place students in cooperative groups, pre-teach key concepts or terms before the lesson.</p>	<p style="text-align: center;">Difficulty</p> <p>Adapt the skill level, problem type, or the rules on how the learner may approach the work.</p> <p><i>For example:</i> Allow the use of a calculator to figure math problems; simplify task directions; change rules to accommodate learner needs.</p>	<p style="text-align: center;">Output</p> <p>Adapt how the student can respond to instruction.</p> <p><i>For example:</i> Instead of answering questions in writing, allow a verbal response, use a communication book for some students, allow students to show knowledge with hands on materials.</p>
<p style="text-align: center;">Participation Sometimes called “engagement”</p> <p>Adapt the extent to which a learner is actively involved in the task.</p> <p><i>For example:</i> During the instruction, using “every pupil response techniques” or “choral responding.” In geography, have a student hold the globe, while others point out locations. Ask the student to lead a group. Have the student turn the pages while sitting on your lap (kindergarten).</p>	<p style="text-align: center;">Alternate Goals</p> <p>Adapt the goals or outcome expectations while using the same materials. When routinely utilized, this is only for students with moderate to severe disabilities.</p> <p><i>For example:</i> in a social studies lesson, expect a student to be able to locate the colors of the states on a map, while other students learn to locate each state and name the capital.</p>	<p style="text-align: center;">Functional Curriculum</p> <p>Provide different instruction and materials to meet a learner’s individual goals. When routinely utilized, this is only for students with moderate to severe disabilities.</p> <p><i>For example:</i> during a language lesson a student is learning toileting skills with an aide.</p>

Implementation of Adaptations:

All educational personnel (including regular education and specialty teachers) are responsible for providing adaptations or accommodations and modifications in the general education classroom in accordance with a student’s IEP.

TIP: Remember that the Director of Special Education MUST be present or you MUST have approval prior to recommending or offering any Supplementary Aids and Services outside of what can be provided (funded) by the school team.

Assistive Technology:

An assistive technology device, as defined by IDEA 2004, is any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. Assistive technology devices range in complexity from no- or low-tech tools such as a pencil grip or a customized mouse to high-tech tools, such as specialized software or electronic voice-output communication devices. This definition does not include medical devices that are surgically implanted such as a cochlear implant.

Assistive technology (AT), as defined by the federal law, may also be a service - any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. AT services may include evaluating a student’s need for assistive technology; selecting or adapting AT devices; or coordinating AT services such as training for the student, the student’s family, and educational team members.

Determining Use of Assistive Technology:

IDEA – and Pennsylvania Chapters 14 and 711 – require that teams consider assistive technology needs (also referred to as assistive devices) for every student with an IEP. Not all students with disabilities will need AT to access the curriculum or work toward their IEP goals, but the team must consider AT needs as part of the IEP process.

At least one person on the AT assessment team must be qualified and knowledgeable in the area of need (i.e. Speech-language Pathologist, Occupational Therapist). Assistive Technology Consultants may be utilized as team members when necessary. The AT assessment may result in recommendations that include developmentally-appropriate assistive technology devices and/or services or other strategies or accommodations deemed necessary to provide the student with access to FAPE.

Once it is determined that a student may need AT, a multidisciplinary team should take a systematic approach to exploring AT options for that student. The team should consider the following when exploring options for a student:

- Activities and routines of the student's day (participation demands and opportunities, including expressive communication, reading, writing, and activities of daily living).
- Academic tasks (curricular demands and local and state assessments).
- AT options that may help the student to meet the above demands.
- Data available on AT devices and services that have been tried already.

Questions for the IEP Team to Consider:

Does the student need AT:

- To meaningfully participate in the general curriculum?
- To participate in academic or functional activities?
- To access print materials?
- To access auditory information?
- For written communication and/or computer access?
- For augmentative/alternative communication (AAC)?
- To participate in state and local assessments?

Does the student require AT services for:

- Evaluating AT needs?
- Purchasing, leasing, or acquiring AT devices?
- Selecting, designing, fitting, customizing, and/or adapting AT devices?
- Coordinating and using other therapies, interventions, or services with AT devices (i.e., who will charge/maintain device and provide updates)?
- Training or technical assistance for student, family, professional?

Implementation of AT:

New student records are reviewed to identify students with predetermined AT needs. The Director of Specialized Services contracts with the appropriate consultants or specialists such as an Occupational Therapist, Teacher of the Deaf, Educational Audiologist, and/or Teacher of the Visually Impaired to work with the student. The team then coordinates with the family/student and trains staff to ensure proper student support.

When a potential need for AT is identified for a currently enrolled student, the IEP team confers with the Director of Specialized Services. The Director would confirm next steps and authorize a contract for consultation or an additional AT assessment if necessary. If an evaluation by the IEP team or a specialist confirms the need for AT, the Director would authorize the loaning or purchase of necessary devices, services, and/or AT equipment. The IEP team would then establish implementation and maintenance steps and make any necessary IEP revisions.

Maintenance of AT Devices:

The LEA is responsible for the maintenance and repair of all assistive technology devices deemed necessary to provide a student with access to FAPE. Routine checks and tests of those devices are administered. If a technology device owned by the LEA is in need of an update or repair, the Director of Specialized Services and the IT department would be contacted. Assistive Technology Consultants may be utilized to support in the maintenance, repair, or replacement of assistive technology devices. When devices must be sent out for repair, the student is provided with a comparable device as a loaner until the original device is returned in working condition.

The LEA properly maintains all AT, including hearing aids and external components of surgically implanted medical devices. The School Nurse supports the maintenance of equipment and devices to address hearing loss, including hearing aids and surgically implanted devices. A contracted Educational Audiologist can also support students with hearing loss if necessary. This may include the management and maintenance of equipment and devices that are temporarily loaned or owned by the student or LEA.

Section

Related

Services

Overview:

IDEA ensures that students eligible to receive special education services are provided with the supports and services necessary to make progress in the general education curriculum. Included among these supports are related services. Related services are provided to students that receive special education services through their Individualized Education Programs (IEP) and allow students to benefit from their education program.

Related services are included in the IEP to ensure that students benefit from their special educational program and are intended to provide additional support to the student and parent. Examples of related services may include, but are not limited to:

- Speech and language services
- Interpreting services
- Orientation and mobility services
- Social work services
- Physical and occupational therapy

In addition, as defined by IDEA, related services can be provided for both students and parents. If the IEP team concludes that providing the student's parents with services would allow the student to benefit from his/her education, those services should be included in the student's IEP. Parent counseling and training, as defined by IDEA, includes:

- a. Parent counseling and training means assisting parents in understanding the special needs of their child;
- b. Providing parent with information about child development; and
- c. Helping parents to acquire the necessary skills that allow them to support the implementation of the child's IEP or ISFP.

The parent, as a member of the IEP team, will be involved in the discussion and decision making regarding the need for related services.

Psychological Services:

Included in the list of related services found in IDEA are Counseling Services and Psychological Services. Counseling services are defined in IDEA as: *Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.*

Psychological Services are defined by IDEA as follows:

- (i) Administering psychological and educational tests, and other assessment procedures;
- (ii) Interpreting assessment results;
- (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
- (iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
- (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and
- (vi) Assisting in developing positive behavioral intervention strategies.

Psychological Services as a Related Service includes psychological services as defined by IDEA, administered by the qualified personnel listed and designed to allow students to benefit from their special education. If, through assessment or annual review, the IEP team finds that a student would benefit from receiving psychological counseling, it must be included in the IEP, and delivered until it is demonstrated that the student no longer has the need.

A continuum of services is available to address the psychological counseling needs of students. This includes individual and group counseling provided by a Social Worker, School Psychologist, or a variety of trained behavioral health staff. The LEA may also partner with other community agencies, such as JJPI which provides evidence-based social and psychological services for survivors of trauma and/or a history of sexual/relationship violence.

All psychological counseling services included in a student's IEP are provided at no cost to the parents. If a student requires psychological counseling as a related service and this service must be provided outside of the school setting, transportation would be provided, if necessary, at no cost to the parents.

Section
Extended
School Year
[ESY]

ESY Eligibility

Determination Timelines

- September – February**

Gather information regarding student progress on all IEP goals (especially after breaks in the school schedule).

- Prior to February 28**

Make the determination regarding ESY eligibility at an IEP team meeting (can be done via phone conference with parents as an IEP Revision).

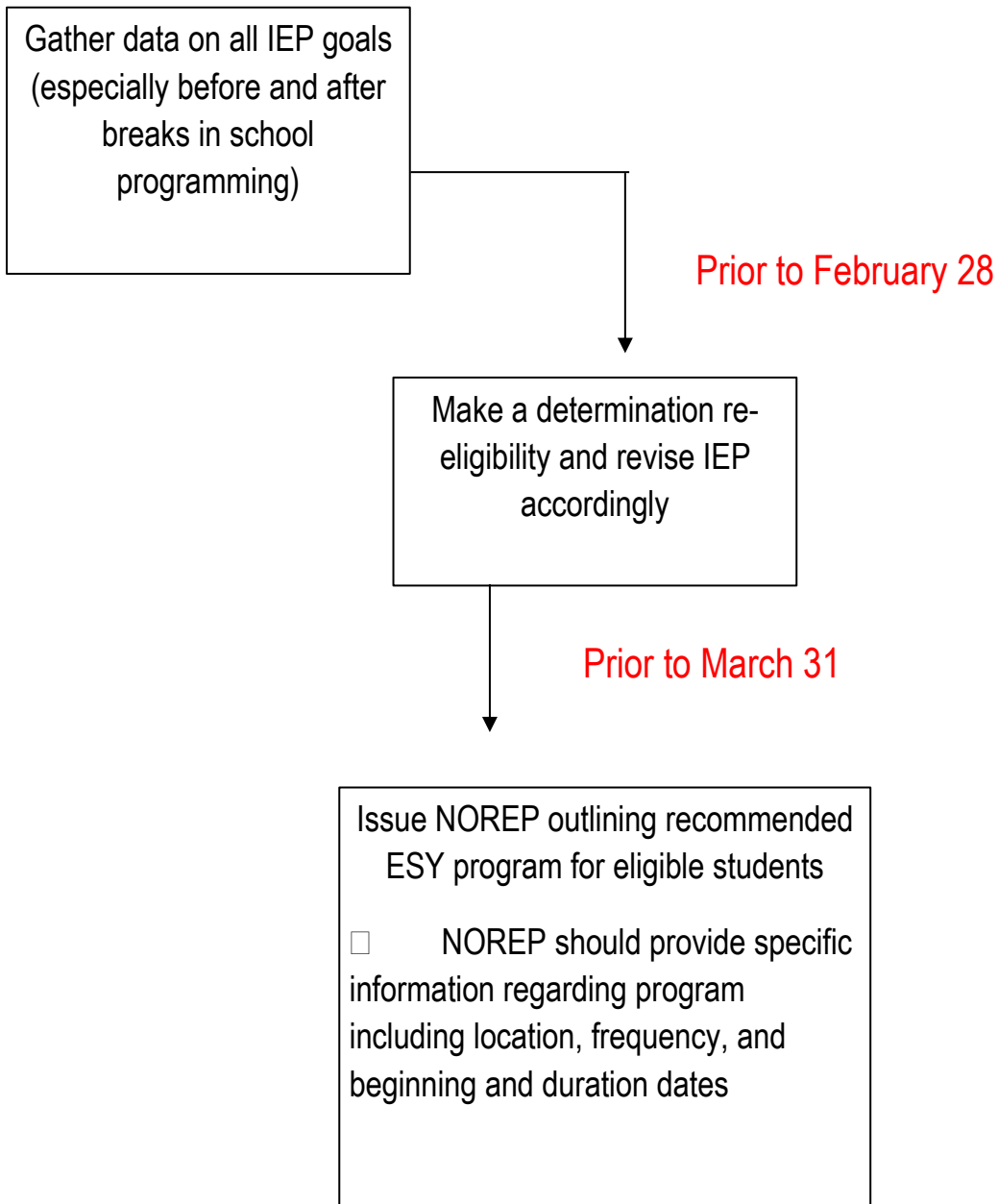
Document the ESY determination on the IEP.

- Prior to March 31**

Issue the Notice of Recommended Educational Placement (NOREP), if appropriate.

Flow Chart for ESY Eligibility and Determination

September – February



Overview:

Extended School Year (ESY) services are special education and related services provided to students with disabilities beyond the regular school year. IDEA requires schools to provide extended school year services if a student needs these services to receive a *free appropriate public education (FAPE)*. In some cases, interruptions in the school schedule, such as summer break, will result in students with disabilities to lose many of their basic skills or take a long time to get those skills back once school begins again. ESY services are provided during breaks in the educational schedule to prevent this loss.

Conversely, Extended School Year is not day care or respite services. ESY is not a summer recreation program or other programs or services which are not required to ensure the provision of a free, appropriate public education (FAPE) to a student – even if they provide some educational benefit.

Determination of ESY:

An IEP team determines if a student with a disability qualifies for ESY. One issue discussed and decided upon at the IEP meeting is whether or not the student needs ESY services as part of the special education program. Extended School Year must be considered each year for **every student** with a disability at the IEP meeting. However, there are certain groups of students that have specific timelines associated with when the IEP must make a termination for ESY. These timelines came about from the legal case titled **Armstrong v. Kline**. The outcome of this case requires IEP teams of students identified with autism, serious emotional disturbance, intellectual disability, degenerative impairments with mental involvement, and severe multiple disabilities to determine eligibility for ESY no later than **February 28** of each school year. For students in this target group, the Notice of Recommended Educational Placement (NOREP) containing the ESY decision is to be issued to parents no later than **March 31**. Timelines for other students must allow for parents to have sufficient opportunity to exercise due process rights if they disagree with the IEP team recommendation for ESY.

ESY Decision:

The IEP team makes its decision about providing ESY services by looking at information about the student's performance that has been gathered all year. Some reliable sources to help the IEP team determine this need consist of information regarding a student's educational needs, propensity to progress, recoupment potential and year-to-year progress. This may include the following:

- 1) Progress on goals in consecutive IEPs.
- 2) Progress reports maintained by educators, therapists, and others having direct contact with the student before and after interruptions in the education program.
- 3) Reports by parents of negative changes in adaptive behaviors or in other skill areas.
- 4) Medical or other agency reports indicating degenerative-type difficulties which become exacerbated during breaks in educational services.

Some of this information measures student achievement **before and after** breaks from school. The team can also gather information from teachers' and parent's observations of the student's behavior and skills **before and after** breaks. Medical or other agency reports can also be accessed. The following questions should guide the team's decision.

- Will the student regress (revert to a lower level of functioning) in skills or behaviors as a result of an interruption in educational programming?
- Will the student take a long time to recoup (recover) the skills or behavior patterns that were lost during a break in educational programming?
- Will a pattern of difficulties with regression and recoupment make it unlikely that a student will maintain the skills and behaviors relevant to IEP goals and objectives?

- Will a lapse in services substantially reduce a student's chances of ever learning a critical like skill or behavior related to the IEP?
- Is the student at a crucial stage in mastering a life skill that is related to the IEP goals of self-sufficiency and independence from caregivers?
- Does the student have a severe disability such as autism/pervasive developmental disorder, a serious emotional disturbance, severe intellectual disability, degenerative impairments with mental involvement or severe multiple disabilities? (Note: Students are not automatically eligible for ESY if they have one of the above disabilities but , if they are determined to be eligible, the timelines for the target group must be followed.)

No one factor, however, can be used to determine eligibility for ESY services.

Services for Extended School Year:

The IEP team will determine which services and how much of these services will be provided during the extended school year. The team may decide that the student will continue all the services received during the regular school year, or it may decide that the student will only receive a portion of services or one specific service. This decision is based on the need of each student.

The IEP team determines where ESY will be provided. It can be provided at many different places, like in school or at a job site. It is always provided in the least restrictive environment (LRE) that is appropriate for the student. This means that the student with disabilities is placed in the situation that allows opportunities to be with students who are not disabled. However, the school district, IU, or charter school is not required to assemble non-disabled students just to make the ESY environment less restrictive.

ESY & NOREP:

LEA notice to the parent concerning ESY eligibility or ineligibility must be by NOREP. The NOREP only needs to be issued if the LEA is:

- Proposing to add ESY services to an IEP that previously did not have it.
- Proposing to delete the provision of ESY services from an IEP.
- Refusing to initiate the provision of ESY services requested by the parent.
- Proposing or refusing to change the provision of the ESY program.

When ESY services are offered by the LEA, the IEP that accompanies the NOREP must contain the following:

- Description of the type and amount of ESY service;
- Projected beginning dates and anticipated duration of service;
- Frequency;
- Location.

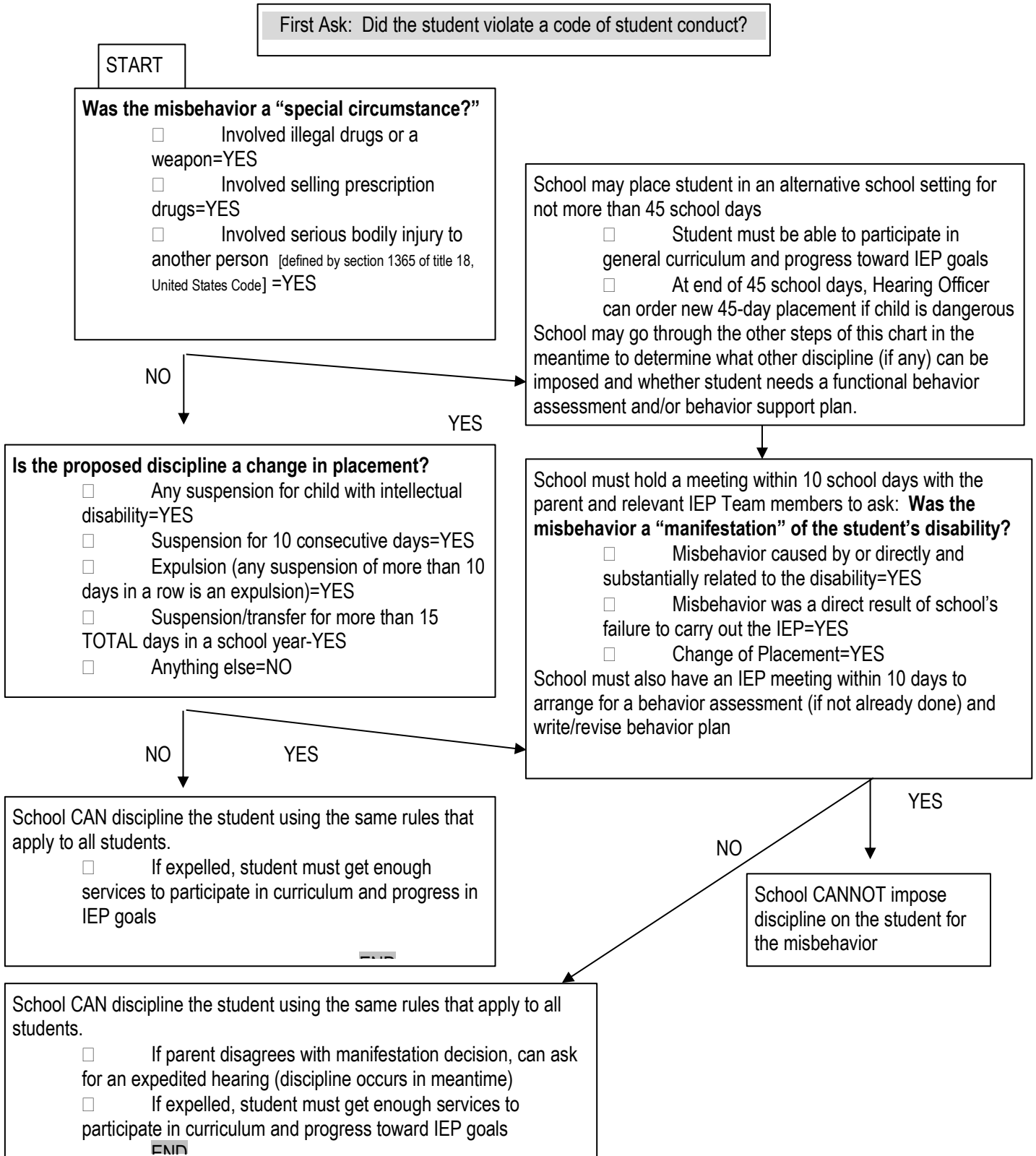
Of course, as with all IEP team decisions, the ESY components of the IEP must be individualized to meet specific student needs and must be developed with the participation of the parents at an IEP team meeting.

Section

Discipline & Manifestation Determination

Discipline Flowchart:

Students with IEPs



Quick Tips: Discipline for Students with IEPs

Pennsylvania	Federal or National
<p>CORPORAL PUNISHMENT is Prohibited</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Not a violation of the Constitution unless shockingly excessive <input type="checkbox"/> Possible consequences of state tort liability and teacher termination
<p>PHYSICAL RESTRAINT (Requires prior parental consent)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Allowed only when the student is clear & present danger to self or others & when less restrictive measures, including de-escalation techniques, have proven to be less effective <input type="checkbox"/> Requires timely written notice & IEP meeting within 10 school days unless written waiver by the parents <input type="checkbox"/> Allowed in IEP only upon specified conditions, including staff training and positive behavior support <input type="checkbox"/> Requires PDE-prescribed data collection and reporting for cyclical compliance monitoring <input type="checkbox"/> Prone position restraint (i.e., student held down facing the floor) is prohibited. 	<ul style="list-style-type: none"> <input type="checkbox"/> Not a violation of the Constitution unless shockingly excessive or gross departure from professional norms
<p>MECHANICAL RESTRAINT</p> <ul style="list-style-type: none"> <input type="checkbox"/> Allowed only when in IEP agreed to by the parents and as determined by a qualified medical professional <input type="checkbox"/> May not be in prone position 	<ul style="list-style-type: none"> <input type="checkbox"/> Not a violation of the IDEA where within limitation of the IEP
<p>TIME-OUT</p> <ul style="list-style-type: none"> <input type="checkbox"/> Prohibited if in locked structures or in “spaces from which the student cannot readily exit” 	<ul style="list-style-type: none"> <input type="checkbox"/> Possible violation of the Constitution where shockingly excessive <input type="checkbox"/> Not a violation of the IDEA where in accordance with the IEP or otherwise accepted limits
<p>OTHER</p> <ul style="list-style-type: none"> <input type="checkbox"/> Requires positive behavior support program (including a preceding functional behavioral assessment) in the IEP (1) when an intervention is needed to address problem, learning-interfering behavior, and (2) after referral to law enforcement authorities. Also prohibits other aversive techniques such as: <ul style="list-style-type: none"> <input type="checkbox"/> Punishment for a manifestation of the student’s disability <input type="checkbox"/> Noxious substances 	<ul style="list-style-type: none"> <input type="checkbox"/> IDEA requires the IEP team to consider “positive behavioral interventions and supports, and other strategies” to address behavior that impedes the student’s learning or that of others <input type="checkbox"/> IDEA allows reporting a crime to law enforcement authorities for prosecution of the eligible student

<ul style="list-style-type: none"> <input type="checkbox"/> Withholding meals, water, air, or other basic human rights <input type="checkbox"/> "Treatment of a demeaning nature" <input type="checkbox"/> Methods implemented by untrained personnel or which have not been outlined in the LEA's plan <input type="checkbox"/> Requires school entity policy and procedures on behavior support services, including training in the use of positive behavior supports 	
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Overview:

Laws and regulations have established procedural requirements that all public school entities must follow when it comes to discipline and suspension of students with disabilities. These laws and regulations span the U.S. Constitution's due process clause in the Fourteenth Amendment (interpreted by the U. S. Supreme Court in *Goss v. Lopez*), IDEA, PDE Chapter 14, and PDE Chapter 12. For the purposes of this manual, the focus will be on discipline and suspension for students with disabilities. In addition to this section, the school should also be familiar with the school entity's policy that may provide further procedural requirements.

The following are the legal requirements for all students regarding suspensions. More information can be obtained by reviewing IDEA, Chapter 14, and Chapter 12 of the Pennsylvania School Code.

In-School Suspension (ISS):

Students without Disabilities: Give the student prior oral notice and an opportunity to respond plus:

- Notify the parents or guardian within a reasonable time afterwards
- Make provision for the student's education during the ISS
- Informal Hearing:** If ISS exceeds 10 days, provide an informal hearing before day 11. For the informal hearing, administration must provide notification to the parents and the student that includes the reasons for the suspension and the time and place of an informal hearing sufficiently in advance, but within first 5 days, of the suspension. Provide informal hearing with appropriate school official, where student has right to question witnesses present, to speak, and to produce his/her own witnesses.

Student with Disabilities: Give the student prior oral notice and an opportunity to respond. Notify the parents or guardian and the Special Education Administrator as soon as possible.

- ➡ **Critical Note:** If instruction is not continued during the ISS in accordance with the student's IEP, the ISS might count towards a formal change of placement, which would require full special education procedures, including a Notice of Recommended Educational Placement (NOREP) and the right to a hearing. It is also a denial of FAPE. A Special Education Administrator should be consulted to help determine if ISS constitutes a change in placement and additional due process rights are required.

Suspension of 1 to 3 Consecutive School Days:

Students without Disabilities: Give oral notice to the student and an opportunity to respond prior to the suspension. The **Exception-** When it is clear the student poses a threat to the health, safety, or welfare of the school community, this informal notice and hearing may be delayed until as soon as possible afterwards.

- Immediately notify the parents and the other school officials as required in writing.
- Give the student the right and responsibility to make up missed work and exams.

- ➡ **Student with Disabilities:** Use the same 1-3 day suspension procedures as for students without disabilities. If instruction is not continued during the suspension in accordance with the student's IEP, the suspension could be considered a denial of FAPE. The special education administrator can

help determine if the suspension would constitute a change in placement and, therefore, additional due process rights are required.

➔ **Student with Disabilities Diagnosed with Intellectual Disability (formerly Intellectual disability):** This step is a **formal change in placement**, which requires full special education procedures, including a NOREP and the right to a hearing. **Exception:** Unless the student's actions involve weapons, illegal drugs, or infliction of serious bodily injury. If this occurs, **immediately contact a special education administrator for direction.**

Suspension of 4 to 10 Consecutive School Days:

Students without Disabilities: Give oral notice to the student and an opportunity to respond prior to the suspension. The **Exception-** When it is clear the student poses a threat to the health, safety, or welfare of the school community, this informal notice and hearing may be delayed until as soon as possible afterwards. In addition:

- Provide written notification to the parents and the student that includes the reasons for the suspension and the time and place of an informal hearing sufficiently in advance, but within first 5 days, of the suspension.
- Provide informal hearing with appropriate school official, where student has right to question witnesses present, to speak, and to produce his/her own witnesses.
- Immediately notify other school officials as required in writing

➔ **Student with Disabilities:** Use the same 4-10 day suspension procedures as for students without disabilities. **If instruction is not continued during the suspension in accordance with the student's IEP, the suspension could be considered a denial of FAPE.** A special education administrator can help determine if suspensions would constitute a change in placement and, therefore, additional due process rights are required.

➔ **Student with Disabilities Diagnosed with Intellectual Disability (formerly Intellectual disability):** This step is a **formal change in placement**, which requires full special education procedures, including a NOREP and the right to a hearing. **Exception:** Unless the student's actions involve weapons, illegal drugs, or infliction of serious bodily injury. If this occurs, **immediately contact a special education administrator for direction.**

Suspension of More than 10 Consecutive Days or More than 15 Cumulative School Days:

If this step were to occur, it is necessary to involve central office staff and special education administrator.

Students without Disabilities: The following are the various steps to implement after consultation with central administration:

1. Notify the parents by certified mail of the charges and provide at least three days notice of the time and place of a formal hearing, a copy of the expulsion policy, notice that legal counsel may represent the student, and the hearing procedures.
2. Keep the student in his/her current class unless informal hearing determines that
 - Student would constitute threat to health, safety, or welfare of to others, and
 - It is not possible to hold the formal hearing within 10 days

Note: If the student is determined to be a threat, the student may be excluded for more than 10 school days, but not more than 15 school days without a formal hearing, unless the parties agree and the student excluded shall be provided with alternative education.

3. Provide a formal hearing with the school board, its committee, or its hearing officer, where student has these rights:
 - ✓ Choice of private or public hearing

- ✓ Right to counsel at own expense
- ✓ Requirement that attorney prosecuting the student be separate from and not subordinate to the attorney advising the board
- ✓ Names of adverse witnesses and copies of their statements or affidavits
- ✓ Right to confront and cross examine these witnesses
- ✓ Right to testify and to present his/her own witnesses
- ✓ Record of the hearing
- ✓ Right to judicial appeal
- ✓ Make provision for compulsory school-age student if parents are unable to provide education



Student with Disabilities:

Have the specified team, including the parents, determine within the 10 school day period whether the misconduct is a manifestation of the disability (see section in this manual on manifestation determination). If the team determines that the misconduct is not a manifestation of the student's disability, the LEA may either use the same disciplinary procedure as for students without disabilities, except that it must continue to provide FAPE, or implement an Interim Alternative Education Setting. If the team determines that the misconduct is a manifestation of the student's disability, IEP team must conduct a Functional Behavior Assessment (FBA) and develop a Positive Behavior Support Plan. If the student has an IEP that includes a Functional Behavior Assessment and Positive Behavior Support Plan, revise if needed and do one of the following:

- Return the student to the current placement
- Move the student to a new placement (with signed NOREP)
- Unilaterally implement Interim Alternative Education Setting if weapons, illegal drugs, or infliction of serious bodily injury are present
- Arrange for a *due process* hearing or parental agreement (with signed NOREP) to place student in an interim alternative education setting while a reevaluation is conducted.



Student with Disabilities Diagnosed Intellectual Disability (formerly mental retardation): This step is a formal change in placement, which requires full special education procedures, including a NOREP and the right to a hearing. **Immediately contact a special education administrator.**

Manifestation Determination:

A Manifestation Determination is a process, required by the Individuals with Disabilities Education Act (IDEA 2004), which is conducted when considering the exclusion of a student with a disability that constitutes a change of placement.

STATUTORY REQUIREMENTS: A manifestation determination must be conducted when a disciplinary change of placement occurs. Disciplinary change of placement occurs when a student with a disability, because of a violation of the school code of conduct, is removed from his/her current educational setting for:

- More than 10 school days consecutively, OR
- More than 15 school days cumulatively in a school year, OR
- When school days 11-15 constitute a pattern of exclusion, OR
- An exclusion of even one school day for a student with intellectual disability, OR
- Under the following circumstances, school personnel may unilaterally remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:
 1. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a local educational agency (LEA);

2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an LEA; or
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an LEA. In these circumstances, the LEA must notify the parent

Manifestation Determination Process:

Within **10 school days** of the decision to change the student's placement, the LEA, parent, and relevant members of the IEP team conduct a review to decide if the behavior of concern is a manifestation of the student's disability. The team must determine:

1. *Was the behavior caused by, or directly and substantially related to, the student's disability?*
OR
2. *Was the behavior a direct result of LEA's failure to implement the Individualized Education Program (IEP)?*

If the answer to either question is "Yes," the behavior **IS** a manifestation of the student's disability. The IEP Team must either:

1. Conduct a functional behavioral assessment (FBA), unless the LEA had conducted a FBA before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan (BIP) for the child; or
2. If a BIP already has been developed, review the BIP, and modify it, as necessary, to address the behavior; and return the student to the placement from which the student was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the BIP.

If the answer to both questions is "No", the behavior **IS NOT** a manifestation of the student's disability. The student may be disciplined in the same manner as a student without a disability who has violated the same or similar code of conduct.

PaTTAN has developed a Manifestation Determination Worksheet for Teams to use.

Special Education Services in Alternative Education Settings:

Any student who is suspended has the right to make up the school work missed. This state law applies even if the suspension is so short that it does not count as a "change in placement." If a school "changes the placement" of a student with a disability, federal law requires the school to provide the student with a free and appropriate public education (FAPE). ***When the school "changes the placement" of a student for discipline reasons, it must hold an IEP meeting to schedule a functional behavior assessment for the student (if one has not already been done). This assessment should give the IEP Team information on the things that "trigger" the student's misbehavior and give the Team suggestions on how to prevent the misbehavior.*** The IEP Team should also write or revise the student's behavior plan.

Discipline and Thought-To-Be Exceptional:

The law says that a public school entity is considered to have "knowledge" that the student has a disability in three situations:

1. Prior to the incident, the parents had expressed a concern that the student needed special education in writing to the student's teacher or school administrator; or
2. Prior to the incident, the parent had requested an evaluation; or

3. Prior to the incident, the teacher or other school staff expressed specific concerns about the student's pattern of behavior to others, the principal, the director of special education or other supervisory personnel of the school.

If none of these rules apply to the situation, a student can be punished by the school under the rules that apply to students who do not have disabilities. However, if a parent asks for an evaluation while a student is being punished, the school must conduct the evaluation quickly (for example, parent put in the request after the student was sent to an alternative school or expelled).

It is important to note that a school does not have to treat the student as eligible and follow the special education discipline rules if: (1) the parent has refused to allow the school to evaluate the student in the past, (2) the parent has refused special education services for the student in the past, or (3) the school evaluated the student in the past and concluded that the student did not have a disability.

Rules for Bus Suspension:

A proposed suspension from the school bus is also subject to the same rules as proposed in out-of-school suspension if transportation is listed on the student's IEP as a related service. For example, if a student acts out on the bus, the school may want to suspend the student from the bus for an extended period of time (example three weeks). If this is the case and bus transportation is listed as a related service on the student's IEP, it constitutes a "change in placement" (since it is for more than **10 school days** in a row). The school must hold a manifestation determination meeting within **10 school days** and also must have an IEP meeting to arrange for a functional behavior assessment and draft or revise a positive behavior support plan for the student on the bus. If the student's behavior is a manifestation of his/her disability, then the school cannot change his/her placement (so, after **nine (9) school days**, the student must be allowed back on the bus). Remember that even one day of school or bus exclusion is a "change in placement" for a student with intellectual disability.

Discipline Prohibited:

Pennsylvania state law prohibits public school entity from ever using the following types of discipline for students with disabilities:

- Corporal punishment
 - Punishing a student for behavior that is a manifestation of the student's disability
 - Using "noxious" substances (for example, pepper spray or mace)
 - Withholding meals, fresh air, or water
 - Serial suspensions
 - Electric shock
 - Locking or keeping the student in a room, space, or box from which he/she cannot easily leave,
- and
- Any treatment that is demeaning

Section

Independent

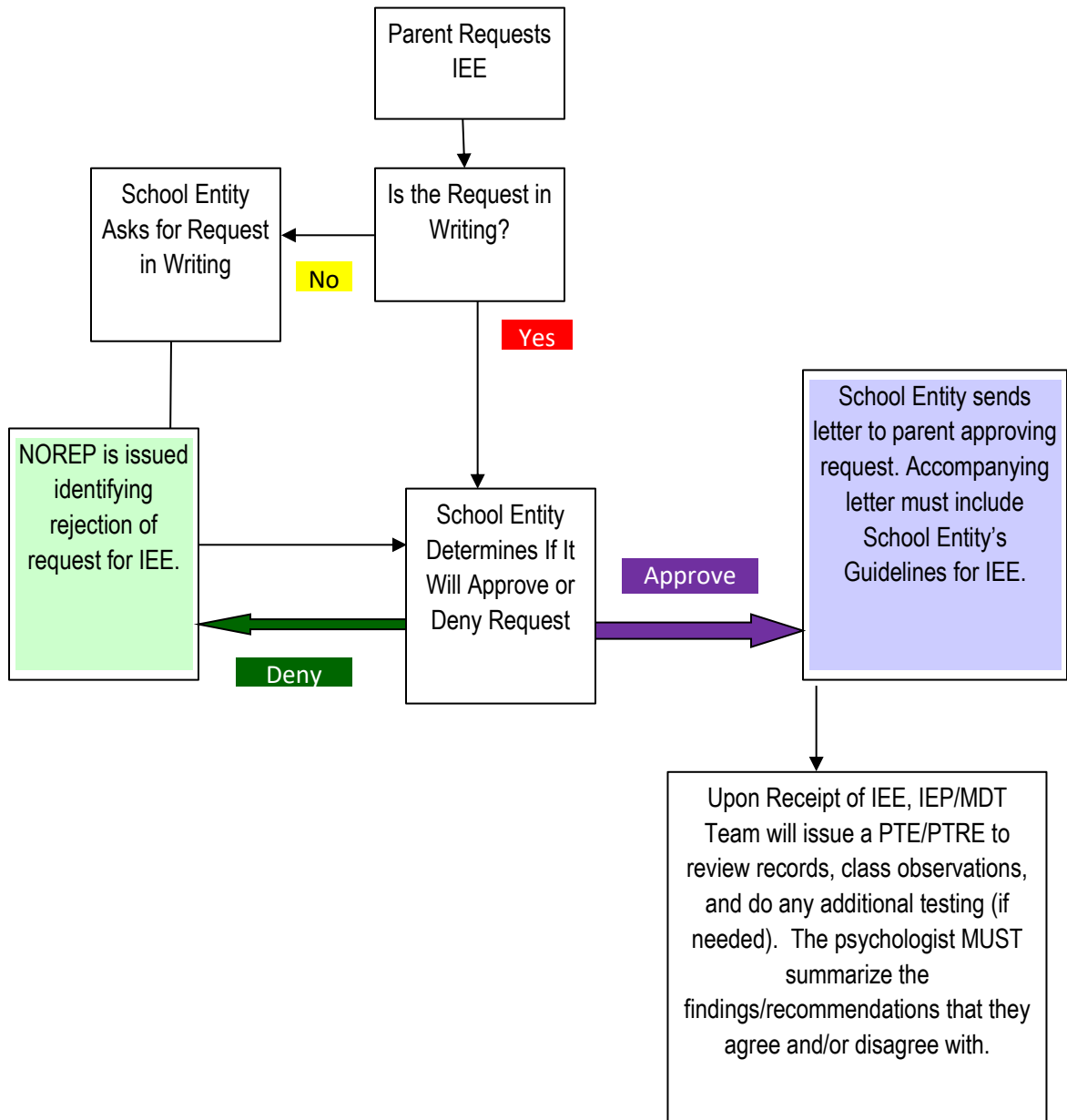
Educational

Evaluation

Independent Educational Evaluation Timelines

- Neither IDEA nor PDE Chapter 14 establish mandatory timelines when a school entity must respond to a parent request for an IEE.
- A school entity cannot unreasonably delay a request for an IEE.
- Best practice has established a school entity should consider responding to a parent's request for an IEE within **10 school days**.

Independent Educational Evaluation Flow Chart



Overview:

An independent educational evaluation (“IEE”) is an evaluation conducted by an independent qualified examiner (a person who does not work for the school or district). A qualified examiner is defined as an individual who meets the same requirements as a school employee. It is important that if a school is to consider the results of the independent evaluation, the person conducting the IEE must have the same “credentials” as required by the school or intermediate unit, and the evaluation meets the same criteria the school entity would use to evaluate students.

Parents Right to Request IEE:

Parents are always entitled to an IEE, [34 CER §300.502 (a)(1)]. However, parents are not always entitled to an IEE at public expense (i.e., paid for by the school district or LEA) [34 CER §300.502 (b)(1)-(5)].

The regulations state that the public agency is permitted to ask the parent what their reason is for rejecting the school’s evaluation. However, the IDEA is also clear that parents are not required to provide an explanation, and reiterates that the school entities inquiry cannot unreasonably delay the decision to either request a hearing or agree to fund the IEE [34 CER §300.502 (b)(4)]. Since there is not a set period, it is very important to promptly respond to any request for an IEE at public expense, as a failure to do so (i.e., failure to request a timely hearing) could be interpreted by a hearing officer as a tacit strategy/attempt not to pay for the parent’s IEE. A guiding best practice would suggest the school entity should act within 10 school days unless documentation shows a good effort has been attempted and a timeframe of 10 school days cannot be adhered to by the LEA or intermediate unit.

Procedures When Parent Requests IEE:

A parent needs to make the request in writing to the LEA. A special education administrator must review the request. The school entity must notify the parent indicating approval or denial of the request. If the LEA approves the request, a list of approved evaluators will be provided to the parent. If the school entity denies the request for an IEE at public expense, the LEA must request a due process hearing.

If the LEA **approves the request**, the following guidelines are recommended to be followed:

- Completion of “Release of Information” form(s):** Parent must sign for the release of information to share current evaluation report and IEP, if available, with the Independent Evaluator. The release should also require the evaluator to release all information to the LEA or intermediate unit.
- Requirements of IEE:**
 - The LEA will require as part of the evaluation an observation of the student in the student’s current educational setting, unless the student is not then in such a setting. The evaluator shall obtain information concerning the performance of the student directly from at least one current teacher of the student, unless the student does not have a current teacher.
- The IEE Needs to Comply to Following Guidelines:**
 - (a) A clear explanation of the testing and assessment results;
 - (b) A complete summary of all test scores, including, for all standardized testing administered, all applicable full scale or battery scores, domain or composite scores, and subtest scores reported in standard, scaled, or T-score format;
 - (c) A complete summary of all information obtained or reviewed from sources other than testing conducted by the evaluator;
 - (d) Specific recommendations for educational programming;
 - (e) The evaluator must sign the report;
 - (f) The complete report must be submitted to the LEA concurrently with submission to the parent.
 - (g) Administration of all testing and all assessment procedures should rule in or rule out the existence of disabilities defined in IDEA and Chapter 14. These disabilities include Traumatic Brain Injury, Hearing

Impairment, Specific Learning Disability, Gifted without Disability, Intellectual disability, Orthopedic Impairment, Emotional Disturbance, Speech or Language Impairment, Visual Impairment, Multiple Disabilities, Autism, and Developmentally Delayed (early intervention only). Administration of assessments needs to be based on the reasonable suspicion of above-stated disability(ies) expressed by staff, parents, and/or evaluator.

Timelines for IEE:

Neither IDEA nor Chapter 14 delineates a time frame when an IEE must be completed.

Payment for IEE:

After the school entity has approved the request, a letter should be sent to the parent. The contents of the letter should include:

- ➡ An assurance that the LEA/intermediate unit will pay for an independent educational evaluation as long as the evaluation meets all of the requirements of an appropriate evaluation identified under section Procedures when Parents Requests IEE;
- ➡ A direction that LEA shall not pay for the evaluation until it receives directly from the evaluator a complete copy of a report of that evaluation and determines that the evaluation meets all of the requirements of this procedure;
- ➡ A request that the parents consider accessing reimbursement for all or part of the evaluation from public or private sources of insurance or reimbursement. However, the LEA will make it understood to parents that any reimbursement not covered by such sources, will then be assumed by the LEA;
- ➡ Directions that the parent is responsible for arranging for the evaluation and for ensuring that the evaluator contacts the Special Education Office to arrange for payment of the evaluation. If the evaluation has already been conducted and paid for, the correspondence shall advise the parent that the LEA will not reimburse the parent for the reevaluation until it receives
 - (1) A complete and unredacted copy of the report of the evaluation and determines that the evaluation meets all of the requirements of this procedure, and
 - (2) Documentation substantiating that the parents paid for or incurred the obligation to pay for the evaluation without reimbursement from a public or private source of insurance or reimbursement.

The Special Education Office shall send the correspondence to the parent by certified mail or by other independently verifiable means of conveyance and enclose a copy of LEA's "Procedures When Parent Requests IEE".

Allowable Number of IEEs:

Certainly the cost of going to hearing is a factor to consider whenever an LEA is deciding between requesting a hearing to defend its own evaluation or paying for an IEE. However, the IDEA regulations state that a parent is only entitled to one IEE at public expense each time the public agency conducts an evaluation with which the parent disagrees. Obviously, the parent is free to obtain as many IEEs at their own expense as they wish 34 CER §300.502 (b)(5).

Guidelines Once an IEE Received:

The school entity must consider the results of the IEE. Regardless of who funds the IEE, the LEA or the parent, if the IEE is shared with the LEA, then the LEA must consider those results with respect to providing FAPE to the student [34 CER § 300.502 (c)(1)]. It is important to remember, a school's obligation is only to "consider" the results of any IEE. There is no requirement about how much weight the school must give the IEE or that the school must incorporate any of the IEE recommendations into the student's educational program. This is true even if the IEE was at public expense.

Section

Revocation of

Special Education

Revocation of Special Education Timelines

- After the school receives a written request from a parent, the school must issue a NOREP/PWR within **10 calendar days**
- Revocation of services will commence on **day 11**. Student no longer receives Special Education supports and services.

Overview:

Revocation occurs any time subsequent to the initial provision of special education and related services when a parent of a student revokes consent in writing for the continued provision of special education and related services. When this occurs, the LEA:

- (i) Must provide prior written notice in accordance with §300.503 before ceasing the provision of special education and related services. Written notice is defined as issuing of a NOREP for revocation;
- (ii) May not go to due process to maintain services to the student;
- (iii) May not continue to provide special education and related services to the student;
- (iv) Will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with further special education and related services; and
- (v) Is not required to convene an IEP Team meeting or develop an IEP under §300.320 and §300.324 for the student for further provision of special education and related services.

The regulation governing *Revocation* provides that a student who was previously identified by a LEA for special education or related services under the IDEA/Chapter 14 may be withdrawn from services by his or her parent(s) at any time and for any reason, provided that such withdrawal is in writing.

There are five points to remember about *Revocation*.

1) **Revocation of consent must be in Writing.**

A parent may request his or her student's withdrawal orally or in writing. If a parent requests it orally, ask the parent to put it in writing.

2) **Parents cannot revoke some service:**

Revocation of consent requires the LEA to cease all special education and services. The parents cannot submit a *revocation* for some special education programs or services. *Revocation* is all or nothing.

3) **LEAs may not invoke due process and/or mediation procedures to dispute the Parent's attempted revocation of consent:**

Despite the fact that the best interests of the student presumably are not served by parents' unilateral withdrawal of their student from the receipt of special education, LEAs may not challenge revocation through the Dispute Resolution process. This precludes LEAs from seeking a ruling that special education services must be provided to a student.

4) **FAPE and Service After Revocation:**

After revocation, LEAs will not be bound to provide FAPE to the student. Once *revocation* of special education services has been properly affected by way of parental written consent and the issuance of a NOREP/PWN, LEAs are no longer bound to provide a FAPE to that particular student. The student should be treated as a regular education student from that point forward.

5) **Discipline After Revocation of Consent Goes into Effect:**

Regular discipline rules apply. The LEA would not be considered to have knowledge that the student is a student with a disability who needs special education and services and not required to determine whether the conduct was a manifestation of the student's disability before implementing regular discipline.

Records of Students When Parent Elects Revocation:

LEAs will not have to remove references to special education services and eligibility from a withdrawn student's record. Parental withdrawal of a student from special education pursuant to this regulation does not require LEAs to remove special education documentation from that student's record. The LEA should preserve these records. Parents who have realized that their student is not receiving the supports and services that he or she needs

may later have second thoughts, opting to bring “child find” claims against the district. It is in those instances where it will be vital for LEAs to demonstrate that they properly identified and programmed for those students.

Procedure Required for Revocation:

The following are the LEA’s requirements when *revocation* is requested:

1. Parent must submit a signed, dated, written request revoking consent for special education programs and services.
2. The LEA must issue prior written notice (NOREP/PWN) within a reasonable period of time. PaTTAN has provided an example NOREP to use for revocation of services.
3. Reasonable notice is defined as 10 calendar days.
4. The parents are informed that all special education programs and services will cease on the eleventh day from the receipt of the parents’ revocation letter.

When Parents Disagree Regarding Revocation:

If both parents have legal custody to make education decisions, either parent may revoke consent. According to Letter to Cox, staff in the Office for Special Education Program (OSEP), United States Department of Education stated that one parent could submit a written revocation of consent to cease special education programs and services even though the other parent disagrees. Even though both parents may have educational rights, one parent can stop education programs and services and the local education agency (LEA) *must* abide by that parent’s wishes. The LEA would issue notice in accordance with 34 CFR 300.503 and cease providing special education programs and services. If subsequent to the revocation of consent by one parent, any request for an evaluation would be an initial evaluation. The LEA and the dissenting parent cannot use due process to stop the other parent’s revocation of consent.

Section
Exiting from
Special Education
Services

Overview:

The goal of a special education program should be to support a student appropriately so that the student's weaknesses can be remedied to the point where the student no longer needs special help. Some students with significant disabilities will always require specially designed instruction, but others may, at some point in their education, no longer require special education supports and services.

A student's IEP Team can decide that the student no longer requires special education services. For instance, a student who had been receiving services due to an emotional disability may have improved so much that the student no longer needs special supports in school. A student may be learning at or above grade level, be advanced on all PSSA subtests, and no longer requires special services (although it's important to note that a student is not ineligible for special education just because the student is passing from grade to grade).

A student becomes ineligible for special education if he/she graduates from high school or "ages out" (students with disabilities have the right to attend school and receive special services until the end of the school term in which they turn 21) – whichever comes first.

Before a Student Can Exit Special Education Services:

The school must reevaluate the student before deciding that the student is no longer eligible for services. The school must then give the parent a Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN) that explains why the student will no longer receive services and on what information the school based this decision. On the NOREP/PWN, the parent must check whether the parent agrees or disagrees with this decision. If the parent disagrees with the school's decision to remove the student from special education, the parent can ask for mediation or a special education hearing to resolve the dispute. If the parent does disagree and asks for mediation or a hearing, the student will remain in special education until the dispute is resolved.

Reevaluation Guidelines for Exiting Students:

The IEP team should develop referral questions to be answered to assist the team in determining if a student no longer requires special education supports and services. The following questions are some ideas the team can consider but it does not constitute an exhaustive list of ideas:

- What is the student's academic function compared to LEA grade level standards? Is the student functioning at grade level?
- What is the student's performance on PSSA and benchmark assessment of the LEA?
- What do the school/district-based assessments tell the team about student's academic performance compared to student's peer group?
- Does the student's emotional functioning allow him/her to appropriately cope with emotions in a safe and appropriate manner?
- Is the student able to demonstrate appropriate behaviors in school as outlined by school's code of conduct?
- Does the student manage his/her behaviors in an appropriate manner that does not interfere with other students?
- Does the student need related services supports and services to access the general education curriculum? (Identify related services)
- Does the student attend school on a regular basis and over a prolonged period of time (school year)?

Exiting Procedures from Special Education:

- 1) For a student who no longer needs specially designed instruction, a reevaluation is proposed by the IEP case manager, and a reevaluation is conducted.
- 2) The Reevaluation Report is prepared by the IEP case manager and/or school psychologist (or by speech/language therapist for those students whose primary disability is Speech/Language Impairment).
- 3) The Reevaluation Report is provided to the parent/guardian ten days prior to the IEP meeting.
- 4) The case manager completes the Invitation to Participate in the IEP Meeting and mails it to the student's parent/guardian. A copy of the Invitation Letter or e-mail notification is provided to all members of the IEP team (psychologist, counselor, regular education teacher(s), OT, PT, speech therapist, OVR, behavior special, I. U., Tech School, etc.). A copy of the Invitation Letter is made for the student's file to document the effort to invite the parent/guardian to the IEP meeting.
- 5) The IEP meeting is held, at which time no IEP is prepared but an IEP meeting signature page is used to document attendance. A Chapter 15 Service Agreement (504 plan) or Plan for reasonable accommodations to regular education may be prepared by the IEP team and specifying any regular education accommodations that are proposed for the student if necessary.
- 6) The parent/guardian is asked to sign a NOREP that includes a statement that the student is returning to regular education as well as the rationale for the return to regular education only.
- 7) The completed packet, containing all original documents as specified on the Special Education Document Transmittal slip (RR, Invitation to IEP, IEP signature page, and NOREP) is sent by the IEP case manager to the Director of Special Education. A copy of all completed special education documents is retained at the building level.
- 8) The information is recorded to ensure accurate information for Penn Data Special Education Child Count.

Parents Wants Student Out of Special Education:

A parent can decide he/she no longer wants his/her child to receive special education. If this is the case, a parent can request revocation of services. (Refer to Revocation Section of Manual)

Section

Procedural

Safeguards

Procedural Safeguards

Timelines

- Must be provided to the parent **1 time per year** for students already receiving special education supports and services
- Must be given upon initial referral or parent request for evaluation
- Must be given when a complaint is placed by parent to the Pennsylvania Department of Education
- Must be given when parent requests a copy of the Procedural Safeguards
- Must be given when there is a manifestation determination hearing
- Must be published on LEA's website

***Copies of Procedural Safeguards can be found on the PATTAN website in multiple languages.**

Overview:

The Procedural Safeguards Notice includes a full explanation of all the rights available to parents of a child with a disability ages 3-21 when their child has been referred for or is receiving special education services.

The Individuals with Disabilities Education Act (IDEA), the Federal law concerning the education of students with disabilities, requires the Local Education Agency (LEA) to provide parents of a child with a disability with this notice containing a full explanation of the procedural safeguards available under the IDEA and the U.S. Department of Education regulations. A copy of this notice must be given to parents only once a school year, or: (1) upon initial referral or parent request for evaluation; (2) upon filing by parents of their first State complaint under 34 CFR §§300.151 through 300.153 and upon filing by parents of their first due process complaint under §300.507 in a school year; (3) when a decision is made to take a disciplinary action that constitutes a change of placement; and (4) upon parent request. [34 CFR §300.504(a)].

Office for Dispute Resolution (ODR):

The Office for Dispute Resolution (ODR) is the agency in Pennsylvania that coordinates the administration of the statewide special education dispute resolution system. There are several official processes in place to assist when a dispute arises. These are:

- IEP Facilitation
- Mediation
- Due Process Hearing

These processes are used to resolve disputes between a parent and the Local Education Agency (LEA) responsible for providing the student with an education (e.g., a school district, intermediate unit, charter school, or Department of Corrections). These disputes concern the identification, evaluation, educational placement, or the provision of a free appropriate public education (referred to as FAPE) for students with disabilities, students who are gifted, protected handicapped students, and students with disabilities.

Informal Meeting:

Often, if a parent disagrees with an educational issue involving their child, the first and best step to take is to ask to meet with the parent and members of the school team to discuss the concern. This may be all that is needed to resolve the matter to the parent's satisfaction, however, the parent must remember that timelines applying to a request for due process may continue to run while such a meeting is set-up and held, so that a request for an informal meeting should not be delayed.

IEP Facilitation:

IEP Facilitation is a voluntary process that can be utilized when all parties to the IEP meeting agree that the presence of a neutral third party would assist in the facilitation of communication and the successful drafting of an IEP for the student. This process is not necessary for most IEP meetings – it is most often utilized when there is a sense from any of the participants that the issues at the IEP meeting are creating an impasse or acrimonious climate, and it may be helpful to have a neutral, trained facilitator guide the process.

The facilitator's primary task is to assist the IEP team's effort to communicate, to ensure that the IEP team focuses on developing the IEP while addressing any disagreements that may arise during the meeting. The facilitator does not make recommendations or decisions for the IEP team. The members of the IEP team remain the sole decision-makers.

Either the parents or LEA can request IEP Facilitation; however, since the process is voluntary, both parties must agree. If either the parents or the LEA decline to participate, facilitation cannot be used. Therefore, both parties must sign a request form that is available from ODR.

Mediation:

Mediation is a voluntary process in which the parent and the LEA involved in a dispute regarding special education both agree to obtain the assistance of an impartial mediator. Mediation is available whenever a due process hearing is requested or it may be requested by the parent or LEA to try and resolve a dispute rather than initiating due process.

When one calls to request mediation, the ODR case manager forwards the request to the other party. Usually within 10 days of the request, the case manager establishes a date, time, and place for the mediation. Mediation sessions are scheduled for an entire day but typically last three to five hours.

If parents want to bring advocates or educational experts, parents are responsible to invite participants and pay any fees they require. At this time, attorneys do not participate in mediation.

The goal of mediation is to establish a positive relationship between parents and school personnel through collaborative problem solving. Any agreement that results from this collaboration is one the parties can live with because they created it together. The mediator does not decide what outcome is correct for the parties. If an agreement is reached, the mediator will develop a written agreement with the assistance of the parties. The parties determine the terms of the agreement and compose the wording. All parties (parent, LEA, and mediator) sign the agreement. Copies of the agreement are distributed to the parties as documentation of the meeting. If the agreement requires a change in the student's IEP, the school or school district should hold an IEP meeting to make the changes to the IEP. If the school signs the agreement but does not follow the agreement, a parent can file a complaint with the Bureau of Special Education to enforce the IEP, or go to court to enforce the agreement.

Due Process Hearing:

If a parent files for due process or discusses with a staff member of the school that they intend to file due process, the Director of Special Education needs to be contacted immediately.

Due process is a legal proceeding presided over by a hearing officer who makes determinations about a student's educational program. There are many legal requirements and timelines associated with this action. The oversight of this process will be out of the special education office. There are some specific requirements mandated once a due process request is initiated. Since there will be an attorney representing the school entity and most likely the parent, many of the mandated processes will be led by counsel. With this, there are requirements the LEA or intermediate unit must adhere to during this process: The following is just a snap shot of the requirements:

- Within 15 calendar days of receiving notice of parent's due process complaint, and prior to initiation of a due process hearing the LEA must convene a **resolution meeting** with the parent and the relevant member(s) of the IEP team who have specific knowledge of the facts identified in the due process complaint (within 7 calendar days for expedited hearing).
 - The purpose of the resolution meeting is for the parents to discuss the due process complaint and supporting facts so the LEA has the opportunity to resolve the dispute. A resolution meeting gives the parents and the LEA a chance to work together to avoid a due process hearing. The parents and the LEA determine which members of the Individualized Education Program (IEP) team will attend the resolution meeting. Participants include the parents, the LEA representative who can make decisions on behalf of the school, and any IEP team member who has relevant information about the issues that are being discussed. Schools may not bring an attorney to the resolution meeting unless the parents bring an attorney.

- If the LEA has not resolved the due process complaint to the satisfaction of the parents within 30 calendar days of the receipt of the due process complaint, the due process hearing may occur (15 calendar days for expedited hearing).
- If the LEA resolves the due process complaint to the satisfaction of the parents within 30 calendar days of the receipt of the complaint, then the timelines end.

Student Placement During Mediation or Due Process:

If parents or the school have requested mediation or a hearing, the student must “stay put” in his or her current program until the disagreement is resolved. That means that the school cannot change the program until the mediation and hearing have ended.

Section

Surrogate

Parents

Overview:

Each public agency must ensure that an IDEA-eligible or thought-to-be-eligible child, including unaccompanied homeless youth and wards of the state, has a parent to represent him or her in all matters related to the identification, evaluation, educational placement, and provision of FAPE. The LEA is required to ensure that the rights of a child are protected when:

- (1) No parent (as defined in § 300.30) can be identified;
- (2) The public agency, after reasonable efforts, cannot locate a parent;
- (3) The child is a ward of the State under the laws of that State; or
- (4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).

Under IDEA, a parent is defined as:

- A biological or adoptive parent of a child;
- A foster parent;
- A guardian authorized to act as the child's parent, or authorized by a court to make educational decisions for the child (Note: with limited exceptions as discussed in the Special Circumstances Section of this Basic Education Circular, this does not include a representative of a child welfare agency);
- An individual acting as a parent in the place of the biological or adoptive parent with whom the child lives (including a grandparent, stepparent, or other relative) or a person who is legally responsible for the child's welfare; or
- A surrogate parent who has been appointed by an educational agency or an educational decision maker appointed by a court in accordance with IDEA

A surrogate parent is an individual who represents the student determined eligible for special education services under IDEA, or thought-to-be-eligible student, in matters relating to the identification, evaluation, educational placement, and the provision of a free appropriate public education (FAPE).

Since the IDEA includes a surrogate parent within the definition of a parent, a surrogate parent, once appointed, has all the procedural rights provided to the parent. It is the surrogate parent's responsibility to assert these rights on behalf of the assigned child.

Identifying Students in Need of a Surrogate Parent:

The LEA must make reasonable effort to discover the whereabouts of an IDEA parent before assigning a surrogate parent. If the LEA cannot locate a biological, adoptive parent, or a foster parent, a surrogate parent must be appointed.

The LEA would attempt to locate a parent through mail, email, phone calls, home visits to last known address, and outreach to local agencies. If a parent still cannot be found, or the parents' rights to make educational decisions have been limited or terminated, there is no adoptive or foster parent, or the student is an unaccompanied homeless youth, then the process would be initiated to select and assign the student a surrogate parent.

Recruitment and Training:

A surrogate parent is an individual who meets specific qualifications and volunteers to perform the duties of a parent or guardian in the special education process. Surrogate parents can be appointed by a judge or a public agency, such as a school district or public charter school or intermediate unit, to make decisions related to the special education process.

A surrogate parent must:

- Not be an employee of a public or private agency involved in the education or care of the child. This includes an employee of PDE, the LEA, or any other agency that is involved in the education or care of the child, and includes public and private child welfare caseworkers, group home parents, and staff of residential placements;
- Not have a personal or professional interest that conflicts with the interest of the child whom he or she represents; and
- Have knowledge and skills that ensure adequate representation of the child.

Because the surrogate parent must have knowledge and skills to ensure adequate representation of a child, the LEA must provide training to surrogate parents. The surrogate parent training sessions must be comprehensive and, at minimum, should include the following areas:

- Legal rights and responsibilities
- The role of the surrogate parent
- Developing an effective special education program
- Understanding procedural safeguards, mediation, and due process.

LEAs may contact intermediate units when a surrogate parent is needed. IUs often maintain lists of trained surrogate parents. LEAs may also utilize PaTTAN and other organizations to assist in training surrogate parents.

Selection:

When appointing a surrogate parent, the LEA should give first preference to a relative, friend, or other person already in the child's life. If none of these individuals is willing or able to act as a surrogate parent, the LEA must be prepared to appoint another qualified responsible adult in that capacity. A child welfare caseworker may be a source for identifying a potential surrogate parent who already has a relationship with the child. Appropriate community groups should be contacted for purposes of recruiting surrogate parents. Some examples of community groups that could assist in identifying surrogate parent volunteers include:

- Big Brothers/Big Sisters
- Local Parent-Teacher organizations
- Retired business men's/women's organizations
- Retired educator's groups
- Service clubs
- Intermediate Unites

The following should be considered when selecting a surrogate parent:

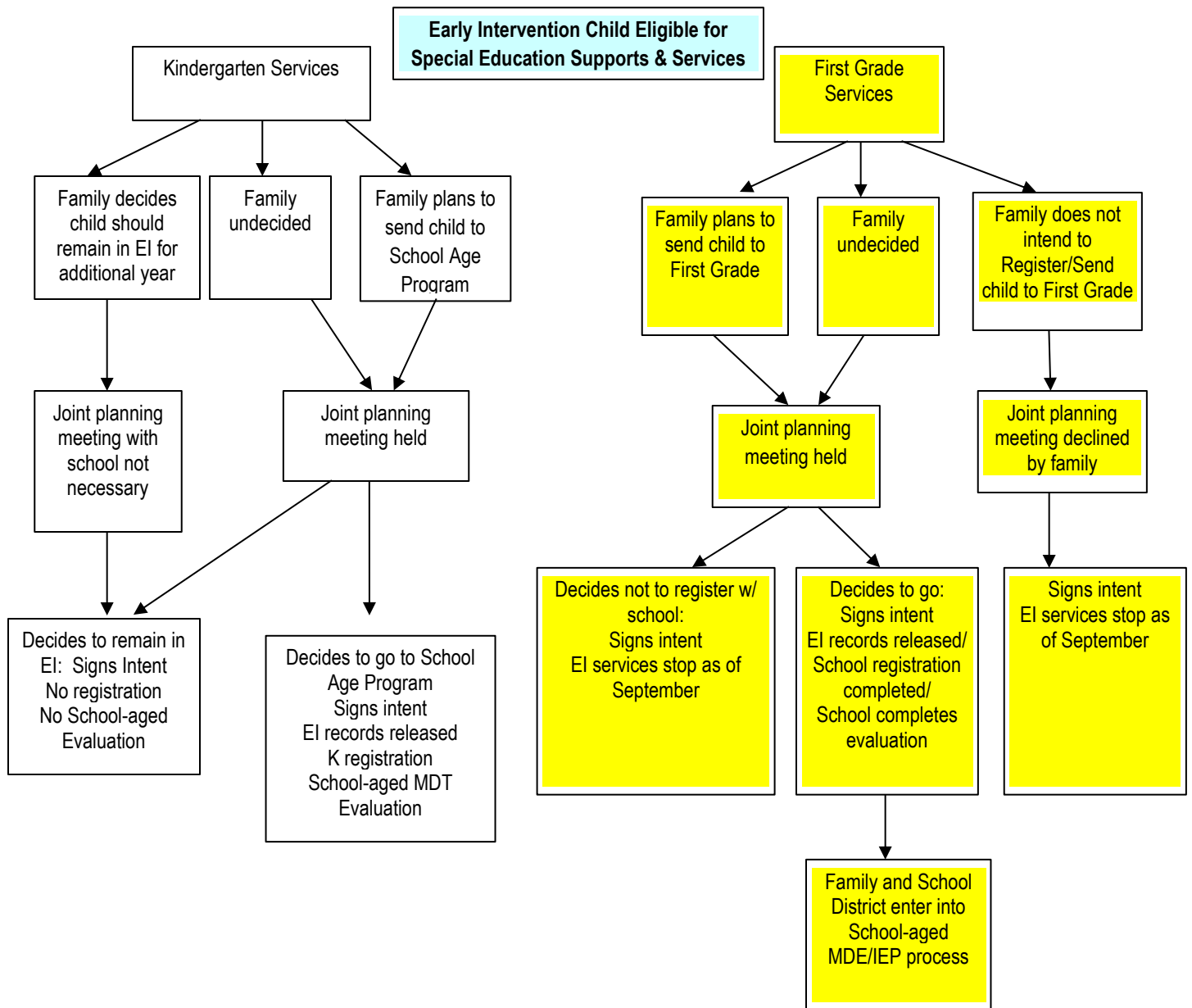
- Match the student's needs to the strengths of the potential surrogate parent
- Introduce the student and potential surrogate parent
- Obtain written agreement from the surrogate parent to serve the specific student in his/her IEP process and to maintain the student's and the family's rights to confidentiality
- Inform all involved persons and agencies responsible for the care and education of the student of the surrogate parent's appointment

The LEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after the LEA determines that the child needs a surrogate parent.

Section

Transition from Preschool to School-Aged Programs

Transition from Early Intervention to School-Aged Programs Flow Chart



Overview:

Each year, children receiving services from Preschool Special Education, or Early Intervention, transition to school districts and charter schools. This process is mandated by regulations and there are required tasks that must occur. The Bureau of Special Education (BSE) and the Bureau of Early Intervention Services (BEIS) developed a Basic Education Circular (BEC) entitled *Early Intervention Transition: Preschool to School-Aged Programs* to assist school entities with this process.

Students eligible for transition to school-aged programs are either eligible for Kindergarten or are considered Age of Beginners. **Kindergarten Eligible** (K eligible) are students eligible to begin the kindergarten program in the district of residence. It is important to note that parents have the option to keep their kindergarten eligible children in preschool special education for an additional year. When this option is chosen, the school district of residence is responsible for the costs of the program during this year. **Age of Beginners** is defined as students who are eligible for first grade. If a student is classified as age of beginner, the student can go right into first grade and the district of residence cannot require the child to attend kindergarten.

The Transition Process:

- By February 1, the Preschool Special Education programs should identify all children who are approaching age of K or grade 1, notify families that if the child is K eligible he/she can remain in EI for another year and about the transition process, convene a meeting (which must also be attended by a school district of residence representative) and ascertain whether the family intends to enroll the child in the school district or a charter school the following year.
- *Notice of Your Child's Transition to School Age Meeting* (a required document) must be sent to parents no later than February 1. In addition, the *Notice of Options for Your Child's Transition* is included with the document.
 - Transfer of Records – If a child is no longer eligible for preschool special education services, the student's records cannot be shared with school districts or charter schools without parental consent (§301(14) of Act 212 of 1990). It is recommended that the records of children who will be transitioning to the local school district or charter school should be transferred from the Preschool Early Intervention program to the local school district or charter school at the time of the transition meeting or before, if a records release is signed. If a transition meeting is not held, the records should be transferred upon the child being registered with the local school district or charter school.
 - This includes those children who are identified as eligible young children between February 1st and the end of the EI session prior to the start of a school year.

The Transition Meeting:

- The Preschool Early Intervention program must convene transition meetings by the end of February for all children who are Kindergarten eligible or Age of Beginner (first grade) eligible.
 - If the family has already decided their child is staying in preschool special education for one more year, it may be deemed that a meeting is not necessary.
 - If the family is uncertain or has decided their child will move on to a school aged program, a transition meeting must be held and a school district representative must be in attendance.
- The Preschool Early Intervention program must provide the parents with the appropriate *Intent to Register* form (Kindergarten eligible or Age of Beginner eligible).
 - The parents must indicate on the *Intent to Register* form whether or not they intend to register their child in the school district or a charter school for the next school year.
 - Other options must be explained by the Preschool Early Intervention program staff person.
- The school district's responsibilities for the transition process for the next school year commence with the receipt of the parents' signed *Intent to Register* form, if indeed the parents intend to register their child with the school district.

- School districts may conduct a reevaluation to determine school age eligibility and develop a new IEP if appropriate, in accordance with timelines mandated in 22 Pa. Code Chapter 14.
- School district needs to conduct a reevaluation for any child eligible in early intervention as Developmentally Delayed.
- School districts and the parent may agree to waive a required reevaluation that is allowed under 34 DFR Sec. 300.303 (b)(2) or may agree to implement the existing evaluation and/or IEP.

Reevaluations and IEPs:

During the transition meeting, if the parents intend to register their child with the school district, *the Notice of Options for Your Child's Transition (as discussed above)* must be reviewed with the parents by the school district.

The following options should be considered by the school district and parents:

- Agree to adopt and implement the child's current preschool special education IEP. School District issues the NOREP indicating this recommendation
- Agree to adopt the preschool special education IEP *with revisions*. The School District and parents would discuss the revisions and the School District would then issue the revised IEP and NOREP indicating this recommendation.
- Decide that a reevaluation is necessary. (*Note: Developmental Delay is a disability category under Preschool Special Education Chapter 14 regulation and is NOT a disability category under School-Age regulations. In such a case, the school district needs to reevaluate the child to determine eligibility for school-age services.*)
 - School District may conduct a reevaluation consisting of a review of existing data and information prior to the development of an IEP.
 - The district is not required to issue the *Permission to Reevaluate – Consent Form* to obtain parental consent prior to a reevaluation limited to a review of existing data.
 - If the team is meeting to review existing evaluation data, the *Invitation to Participate in the IEP Team Meeting or Other Meeting* notice can be used, noting that the meeting is to review data as part of a reevaluation. This review of existing data should commence within a reasonable amount of time after receipt of the Intent to Register.
 - The *Reevaluation Report* will summarize the data reviewed during reevaluation, the decision about whether additional evaluation data are needed, and a determination about the child's continued eligibility for special education services.
 - The team may, through the review of existing evaluation data, determine that additional data are needed.
 - The school district will issue the *Permission to Reevaluate – Consent Form* to obtain parental consent to collect the additional data.
 - Within 60 days of the date that the school district receives parental consent to collect additional data (not including summer days), the parent will receive a copy of the *Reevaluation Report*. The *Reevaluation Report* will summarize the data reviewed during reevaluation, the decision about whether additional evaluation data are needed, and make a determination about the child's continued eligibility for special education services.
 - An IEP meeting will be held within 30 calendar days of the *Reevaluation Report*, and a new *IEP* and *NOREP* will be issued.
 - An IEP will be implemented no later than 10 school days after its completion in order to ensure that the special education programs of the child with disabilities is not interrupted when he/she transitions from Preschool Special Education programs to school-age programs.

If parents disagree with the IEP offered by their school district and initiate a due process hearing or both parties agree to mediation, the child who will transition into kindergarten or school-age programs must continue to receive the services described in his/her preschool IEPs (ensuring “status quo”) pending completion of dispute resolution options of mediations or due process hearings. However, these services are typically provided at the school district.

There is another key timeline that is required by the school district:

- Within a reasonable period of time from the receipt of the signed *Intent to Register* form, but no later than April 15, the school district will notify the parent in writing and initiate one of the options as noted above.

All children currently eligible for special education in Preschool Special Education and registered with the school district remain eligible for special education in their school districts unless the school district, charter school, or Preschool Early Intervention Program completes a reevaluation that determines the child is no longer eligible for special education. If no longer eligible for special education services, the school district, charter school, or Preschool Early Intervention program must issue a NOREP.