

Initial Evaluation Timelines

How is a referral initiated?

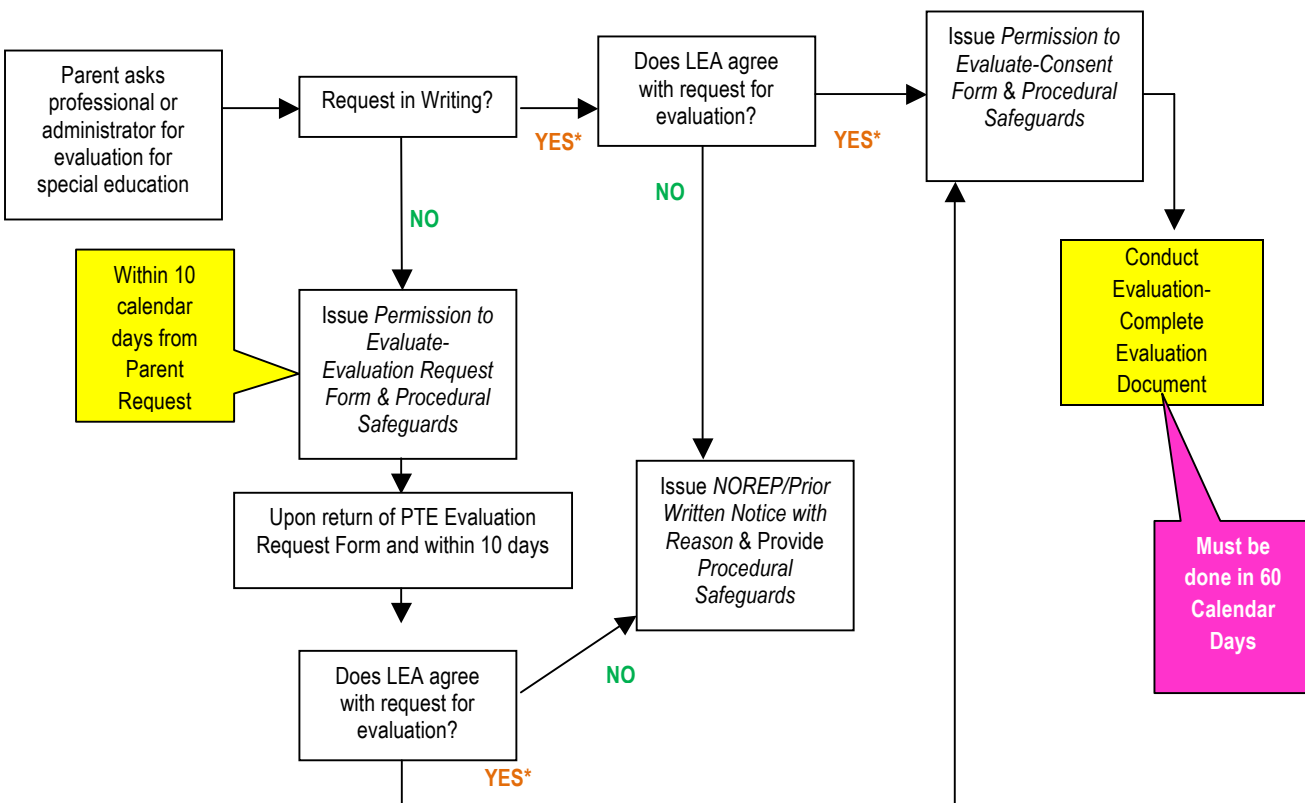
A student can be referred for initial evaluation following a pre-referral intervention such as Instructional Support Team (IST), Student Assistance Program review (SAP) or a by a parent request.

- **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 district 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 district 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.

Initial Evaluation Flow Chart

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

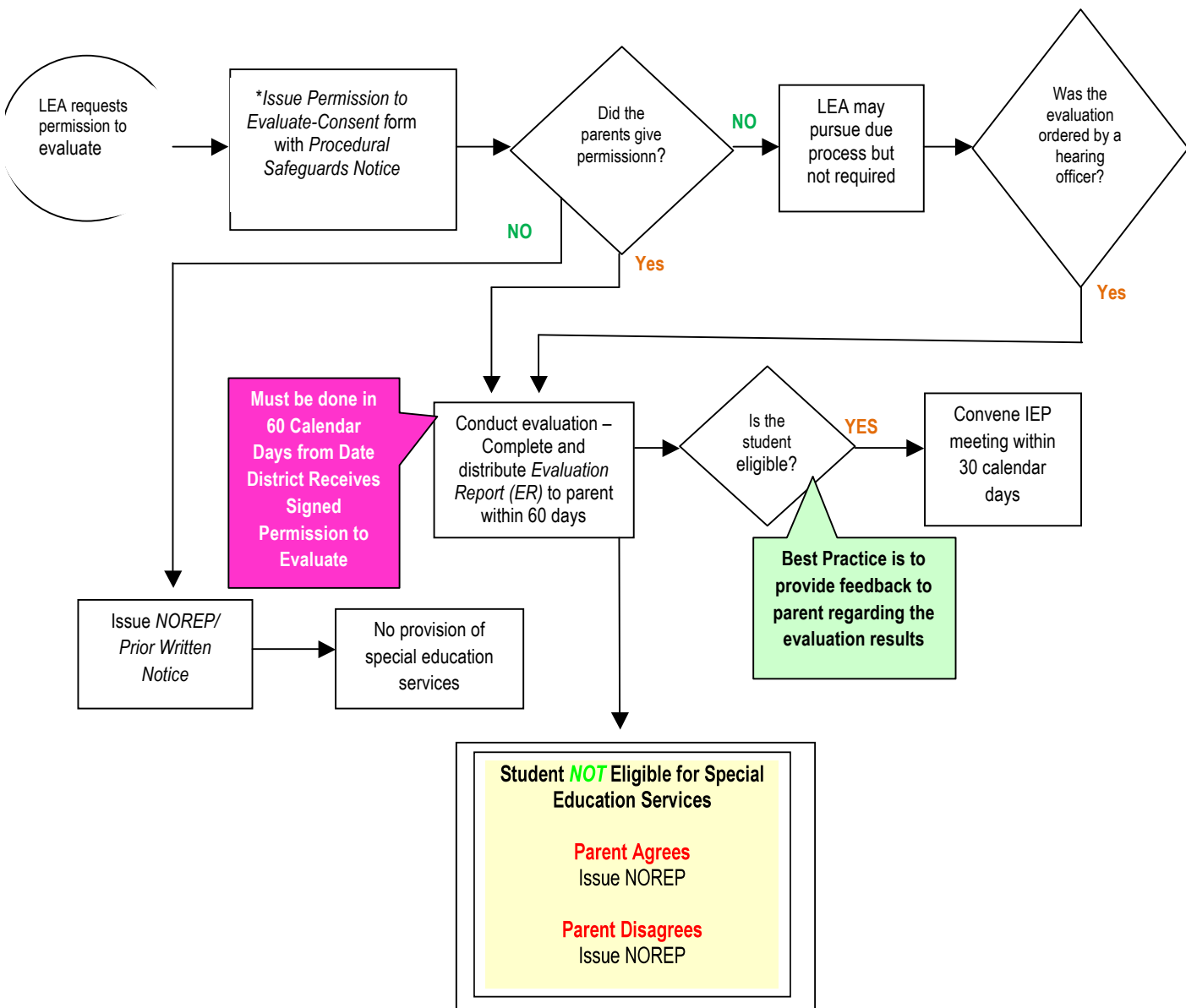
This flowchart shows the basic steps to be followed and the decisions to be made by Local Educational Agencies (LEAs) to meet the requirements for evaluation when request is initiated by the Parent:



Note: If the District does not receive a signed PTE back from the parent, a second notice should be sent via regular and certified mail. If this is not received back, a third notice should be sent regular and certified mail. Prior to sending third notice, contact parent by phone or home visit to discuss PTE and purpose. Send cover letter with third PTE providing an overview of district efforts to date to obtain a signed PTE.

Evaluation Request Initiated by School District: 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](#).



Initial Evaluation Overview

Composition of the Evaluation Team

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 school districts, Pa. Code 22 § 14.123(a) requires that a [certified school psychologist](#) participate when [evaluating/considering students for autism, emotional disturbance, 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 district 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

2. Evaluation Report Meeting:

- Team may conduct this meeting at the same time as the IEP, if the student is found to be eligible.

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.

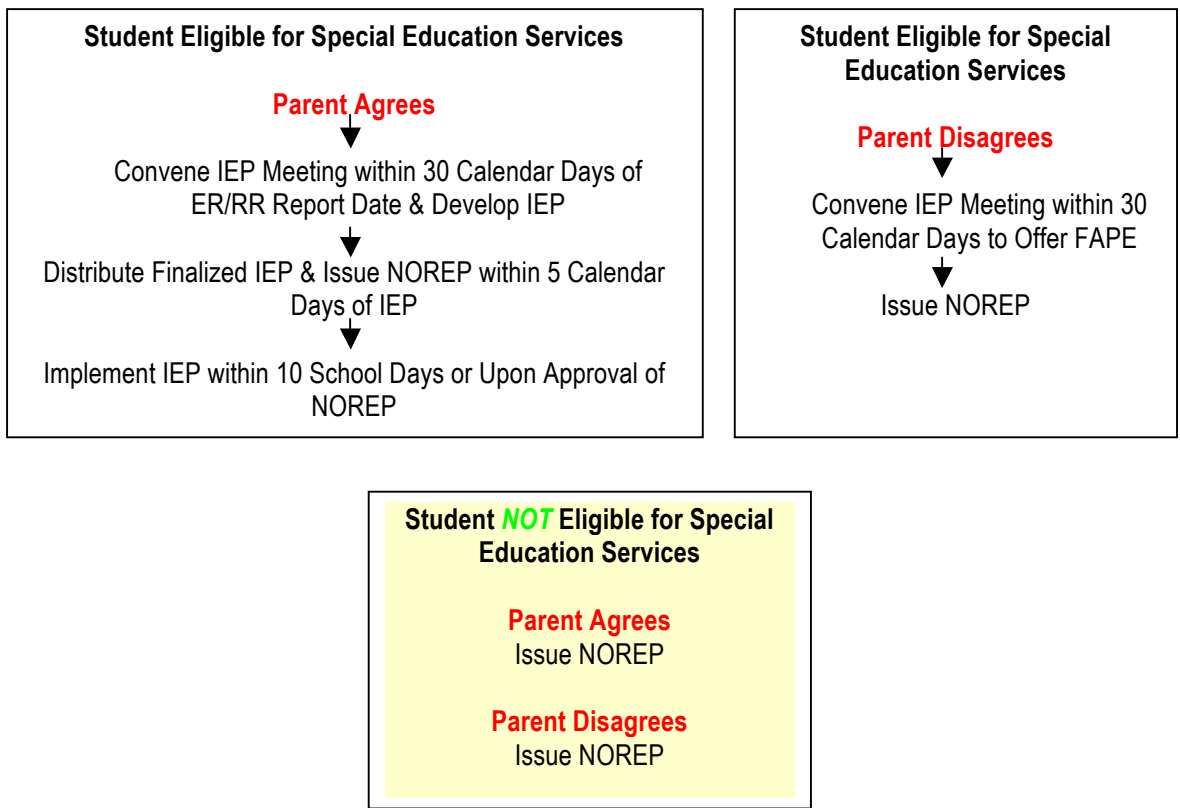
These provisions reflect a concern that students who have linguistic, cultural, or racial differences from the majority may be erroneously identified as eligible for special education due to features of their language or culture that are mistaken for indicators of the presence of a disability. Students 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 of Initial Evaluations



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.

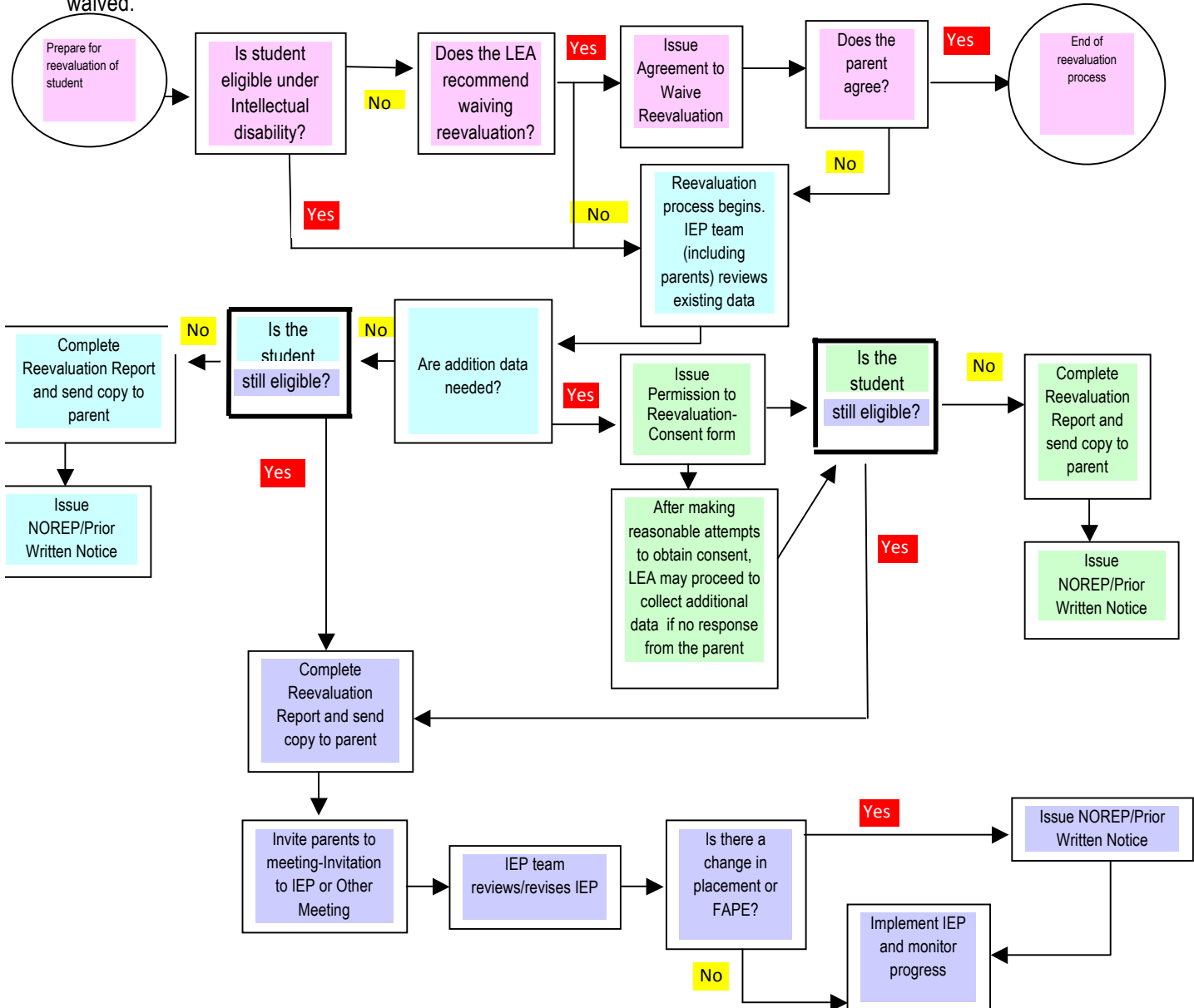
Tips of the Reevaluation Process

- **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. No permission to re-evaluate is needed if no additional data have been requested.
- **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 District: [The Special Education Reevaluation Process](#)

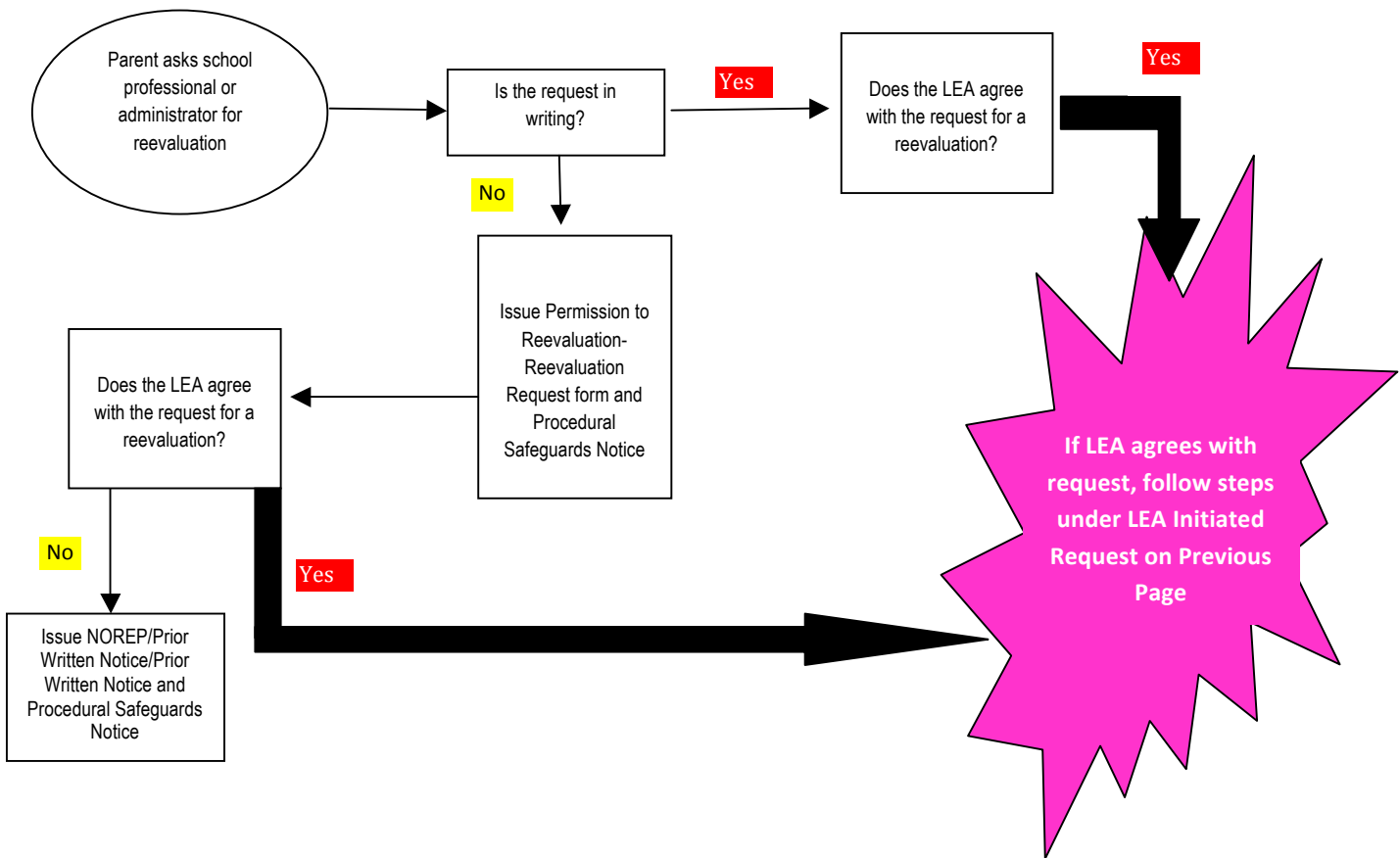
The Special Education Reevaluation: This flowchart shows the basic steps to be followed and the decisions to be made by Local Educational Agencies (LEAs) to meet the requirements for reevaluation. Reevaluation is required every 3 years unless it is waived by both LEA and parent(s). In Pennsylvania, a 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: 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 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 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.

Students Transfers from Out-of-State

If a student with an IEP transfers from out-of-state into Pennsylvania, the school district must issue a NOREP indicating that they will implement the current IEP (to the best ability). The district 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.

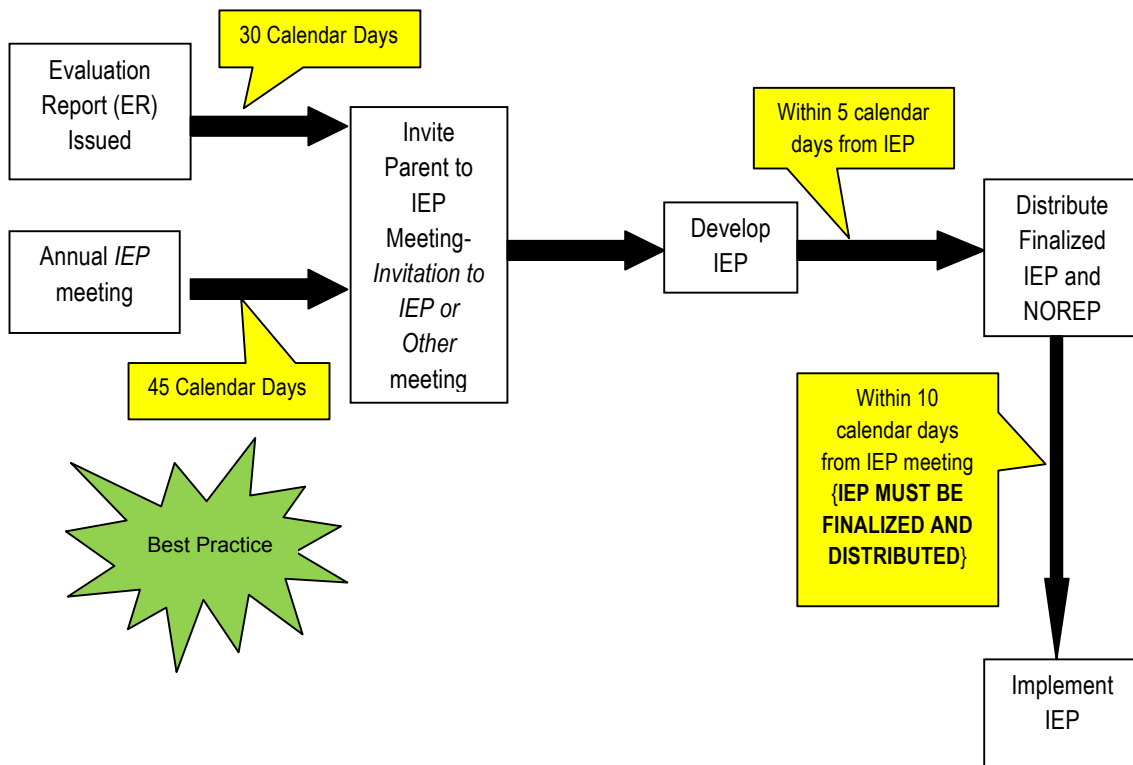
If by chance the parent refuses to provide consent for the initial evaluation, the LEA may go to due process to override the parent's refusal to consent to the initial evaluation. If the LEA does not decide to go to due process, the LEA would not be in violation of FAPE. The LEA has a Child Find responsibility 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.

IEP Timelines

- 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.

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.

IEP 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. School districts *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 District may choose to reconvene the meeting at a time where the District’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 administrator 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 attempts at contacting the parents.**

IEP Team Meeting:

School Districts 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 District'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. This document can be found by accessing <http://www.pattan.net/files/Forms/English/IEP-ANN110409.pdf>.

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 school district 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) and districtwide (local) achievement testing and whether the student needs testing accommodations.

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.

NOTE: The decisions to assign a student to PASA must be made in collaboration with a district 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 administrators. 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.

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.** This is discussed under Measurable Academic and Functional 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:** John

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.** Please refer to school district policy and procedures on goal and objective writing.

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:** Edna

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 the Pennsylvania Training and Technical Assistance Network’s website at www.pattan.net. Another site to check out is the “What Works Clearinghouse (WWC) at <http://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
- Nursing
- Others

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]

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. If an IEP is not scheduled in this timeframe, the team may discuss ESY with the parents and make a revision to the IEP. Parents must be given a copy of this revision. 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 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 Special Education Department **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 school districts 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.

- ➔ 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 school district 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 school districts 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 school district 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 District 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.

FBA and PBSP Overview

Overview of IDEA and PDE Chapter 14:

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. Our district supports all eligible students being 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.

FBA: The 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)

| | | |
|-------------------|---------------------------|---|
| FBA LEVELS | 1. Informal | <ul style="list-style-type: none"> ◆ Archival Review ◆ Problem-solving Meeting ◆ A-B-C Data |
| | 2. Indirect/Simple | <ul style="list-style-type: none"> ◆ Checklist ◆ Functional Assessment Interview ◆ Initial Line of Inquiry ◆ Brief Observation/Scatter Plot ◆ A-B-C Data |
| | 3. Complex | <ul style="list-style-type: none"> ◆ A-B-C Data ◆ 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.**

PaTTAN has developed an array of resources to assist MDT and IEP teams with this process. The following links are these resources:

Functional Behavior Assessment

<http://www.pattan.net/files/Behavior/FBA-Flyer.pdf>

Functional Behavior Assessment Process

<http://www.pattan.net/files/Behavior/FBA-Process.pdf>

Functional Assessment Observation Tools (Appendix A) <http://www.pattan.net/files/Behavior/FuncAssessObs0109.pdf>

(ABC Observation Form, Functional Assessment Scatterplot, Classroom Scatterplot, Functional Assessment Observation Form, PA Data Collection Tools)

Functional Assessment Interview Forms (Appendix B) <http://www.pattan.net/files/Behavior/FuncAssessIntv0109.pdf>

(Functional Interview with a Student, Student-Directed Functional Assessment Tools)

Functional Assessment Team Forms (Appendix C) <http://www.pattan.net/files/Behavior/FuncAssessSectm0109.pdf>

Functional Behavioral Assessment Checklist

An FBA is required for suspension of more than 10 consecutive days or more than 15 cumulative school days or when expulsion is being considered.

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: <http://www.pattan.net/files/Behavior/PBSP070808.pdf>

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 Phases [PBSP]:

Developing a PBSP is a process. For the process to be success, 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.)

Overview of Physical Restraint

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.

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.

Supplementary Aids and Services

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 <http://www.pattan.net/files/Gaskin/SuplmntryAids-Svcs072809.pdf>.

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:

| | |
|---|--|
| Collaborative Adults working together to support students | <ul style="list-style-type: none">• Scheduled time for co-planning and team meetings• Instructional arrangements that support collaboration (e.g., co-teaching, paraeducator support)• Professional development related to collaboration |
|---|--|

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

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"> • Providing modified curricular goals • Providing alternate ways for students to demonstrate learning • Providing test modification • Providing alternate materials and/or assistive technology (e.g., materials on tape, transcribe text into Braille, large print, alternate computer access) <ul style="list-style-type: none"> ✚ Using a keyboard/portable device ✚ Instruction in keyboarding skills • Providing instruction on functional skills in the context of the typical routines in the regular classroom • Changing method of presentation • Using reader services • Providing research-based supplementary materials • 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 Accommodations and modifications to the physical environment</p> | <ul style="list-style-type: none"> • Furniture arrangement in environments <ul style="list-style-type: none"> ▪ Arrange furniture differently or provide specialized furniture • 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 • Adaptive equipment • Adjustments to sensory input (e.g., light, sound) <ul style="list-style-type: none"> ▪ Allow for water bottle or sensory object during instruction • Environmental Aids (e.g., classroom acoustics, hearing, ventilation) • 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"> • Social skills instruction • Counseling supports • Peer supports (e.g., facilitating friendships) • Individualized behavior support plans • Modification of rules and expectations • Cooperative learning strategies |

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.

Timeline ESY Eligibility Determination

- September – February
 - a. Gather information regarding student progress on all IEP goals (especially after breaks in the school schedule).

- Prior to February 28
 - a. Make the determination regarding ESY eligibility at an IEP team meeting (can be done via phone conference with parents as an IEP Revision).
 - b. Document the ESY determination on the IEP.
- Prior to March 31
 - a. Issue the Notice of Recommended Educational Placement (NOREP), if appropriate.

Flow Chart for ESY Eligibility

September – February

Gather data on all IEP goals (especially before and after breaks in school programming)

Prior to February 28

Make a determination re-eligibility and revise IEP accordingly

Prior to March 31

Issue NOREP outlining recommended ESY program for eligible students

- NOREP should provide specific information regarding program including location, frequency, and beginning and duration dates

ESY 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, mental retardation, 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 mental retardation, 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:

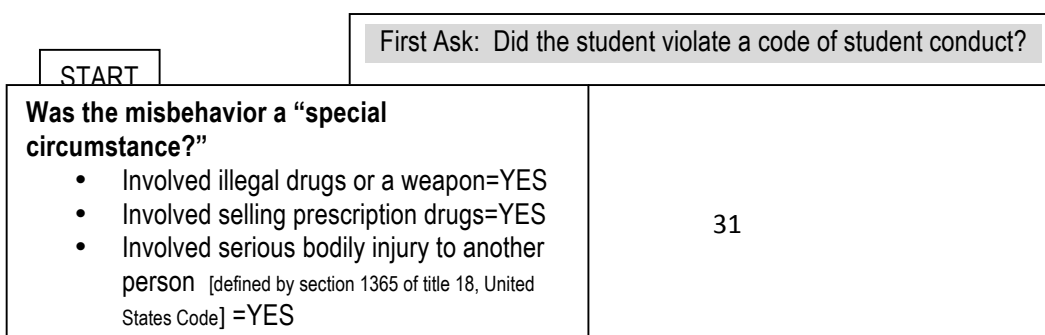
- Description of the type and amount of ESY service;
- Projected beginning dates and anticipated duration of service;
- Frequency;
- Location.

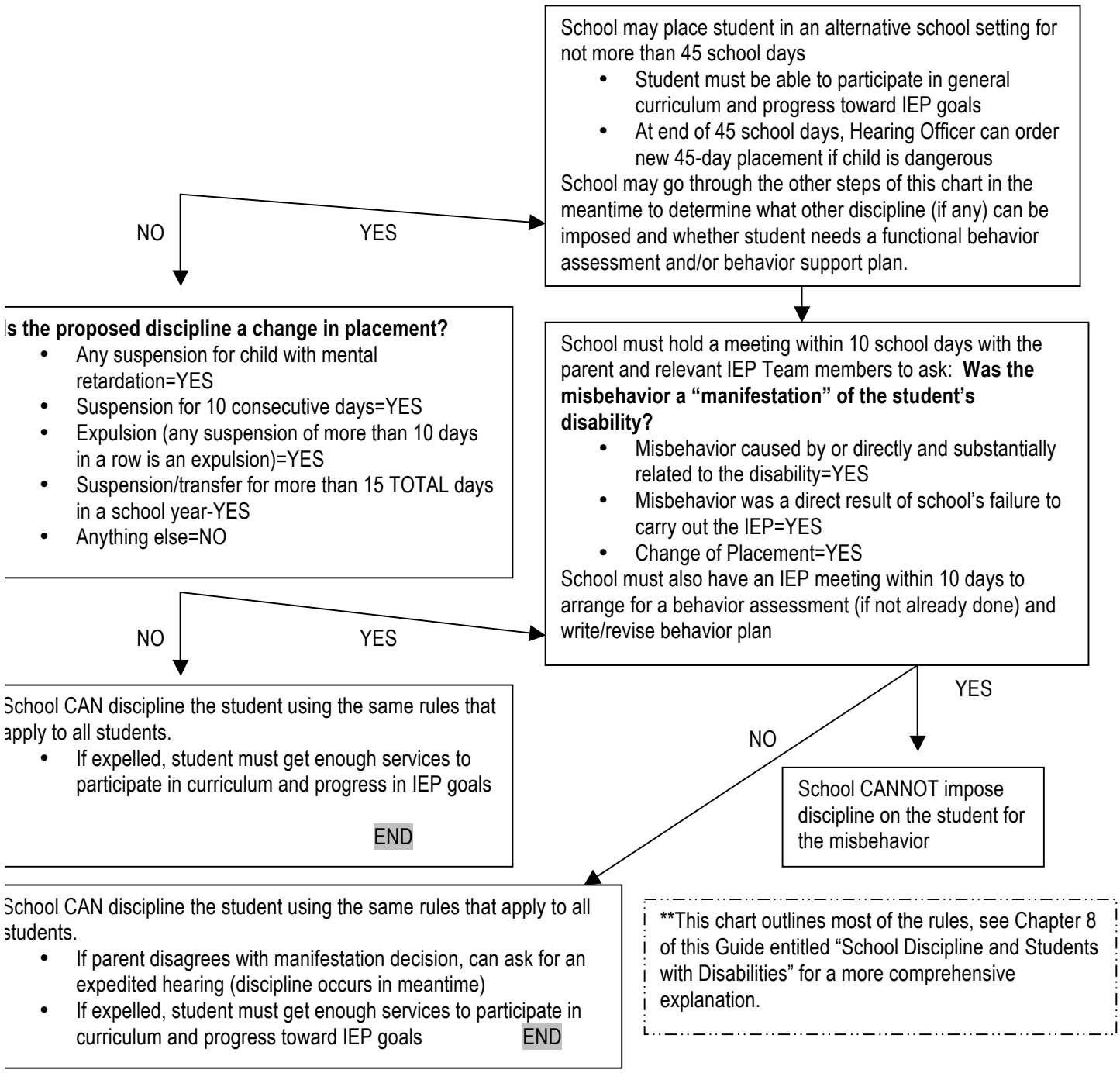
Of course, as with all IEP team decisions, the ESY components of the IEP must be individualized to meet specific student needs and must be developed with the participation of the parents at an IEP team meeting.

ESY Determination Document:

Each IEP team must determine ESY eligibility each year.

Discipline Flow Chart: Students with IEPs





Discipline for Students with IEPs

| Pennsylvania | Federal or National |
|---|---|
| <p>CORPORAL PUNISHMENT is Prohibited</p> | <ul style="list-style-type: none"> • Not a violation of the Constitution unless shockingly excessive • Possible consequences of state tort liability and teacher termination |
| <p>PHYSICAL RESTRAINT (Requires prior parental consent)</p> <ul style="list-style-type: none"> • 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 • Requires timely written notice & IEP meeting within 10 school days unless written waiver by the parents • Allowed in IEP only upon specified conditions, including staff training and positive behavior support • Requires PDE-prescribed data collection and reporting for cyclical compliance monitoring • Prone position restraint (i.e., student held down facing the floor) is prohibited. | <ul style="list-style-type: none"> • 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"> • Allowed only when in IEP agreed to by the parents <u>and</u> as determined by a qualified medical professional • May not be in prone position | <ul style="list-style-type: none"> • Not a violation of the IDEA where within limitation of the IEP |
| <p>TIME-OUT</p> <ul style="list-style-type: none"> • Prohibited if in locked structures or in “spaces from which the student cannot readily exit” | <ul style="list-style-type: none"> • Possible violation of the Constitution where shockingly excessive • 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"> • 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"> • Punishment for a manifestation of the student’s disability • Noxious substances • Withholding meals, water, air, or other basic human rights • “Treatment of a demeaning nature” • Methods implemented by untrained personnel or which have not been outlined in the district’s plan • Requires school entity policy and procedures on behavior support services, including training in the use of positive behavior supports | <ul style="list-style-type: none"> • 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 • IDEA allows reporting a crime to law enforcement authorities for prosecution of the eligible student |

Discipline and Suspension 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:

[Chapter 12 – Students and Student Services](#)

[\[http://pattan.net-website.s3.amazonaws.com/files/materials/handouts/docs/SideBySide021209.pdf\]](http://pattan.net-website.s3.amazonaws.com/files/materials/handouts/docs/SideBySide021209.pdf)

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 district 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 Disabilities:** 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 district 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 Disabilities:** 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 district 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 with Intellectual Disabilities:** 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 mental retardation, 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. It can be found at: <http://www.pattan.net/files/Behavior/Manif-DetermWksht100809>.

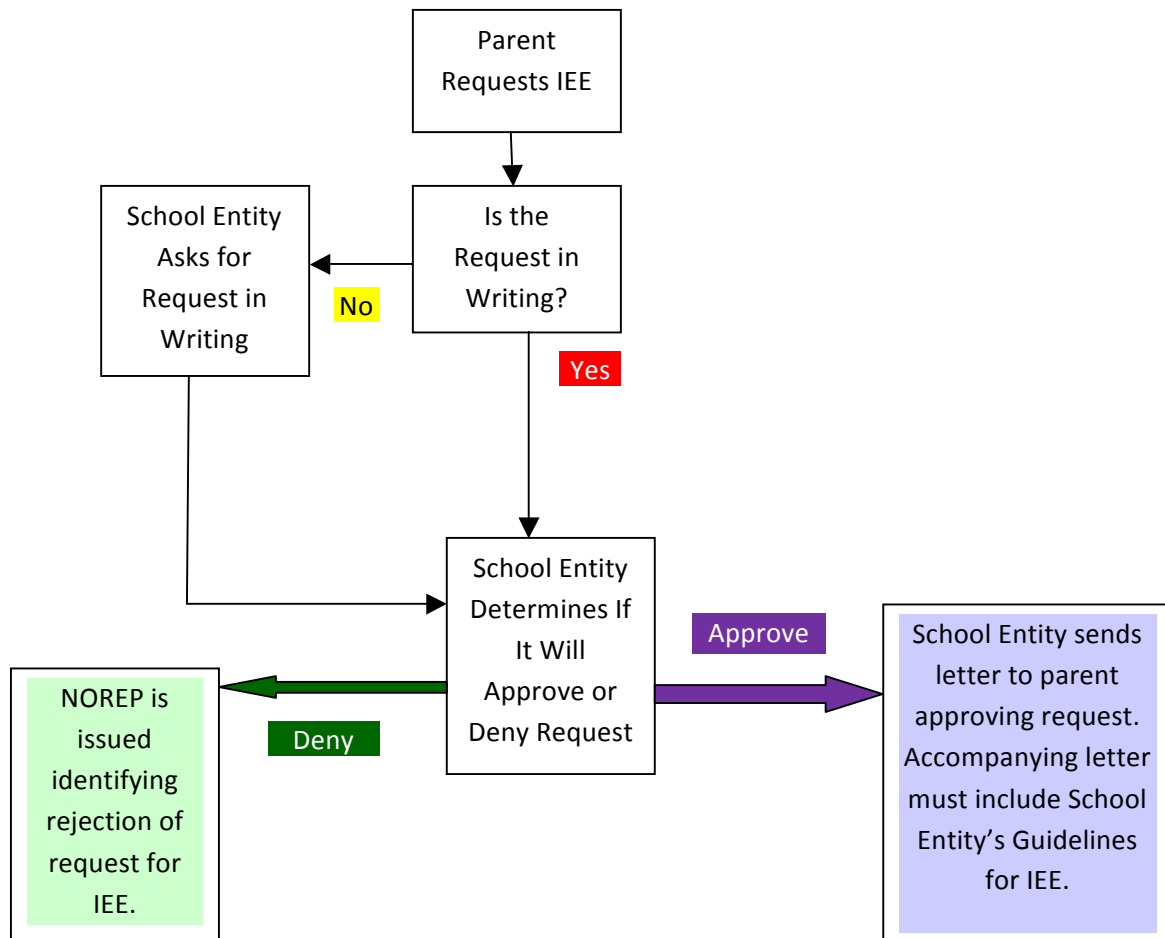
Special Education Services in Alternative Education Settings:

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.

Independent Education Evaluation

- Neither IDEA or 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 Education Evaluation Flow Chart





Upon Receipt of IEE, IEP/MDT Team will issue a PTE/PTRE to review records, class observations, and do any additional testing (if needed). The psychologist MUST summarize the findings/recommendations that they agree and/or disagree with.

Independent Education

An independent educational evaluation (“IEE”) is an evaluation conducted by an independent qualified examiner (a person who does not work for the school district). A qualified examiner is defined as an individual who meets the same requirements as a school district 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 district 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 district or intermediate unit.

Procedures When Parent Requests IEE

A parent needs to make the request in writing to the Special Education Office. A special education administrator must review the request. The school entity must notify the parent indicating approval or denial of the request. **If the school entity denies the request for an IEE at public expense, the district must request a due process hearing.**

If the district or intermediate unit (for early intervention only) **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 school district or intermediate unit.
- **Requirements of IEE:**
 - The District or intermediate unit 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 District 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, Mental Retardation, 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 school district/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 the school district/intermediate unit 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 district will make it understood to parents that any reimbursement not covered by such sources, will then be assumed by the district;
- ➔ 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 school district/intermediate unit 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 school district procedure as outlined in section “Procedures When Parent Requests IEE”.

Allowable Number of IEEs

Certainly the cost of going to hearing is a factor to consider whenever a district 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).

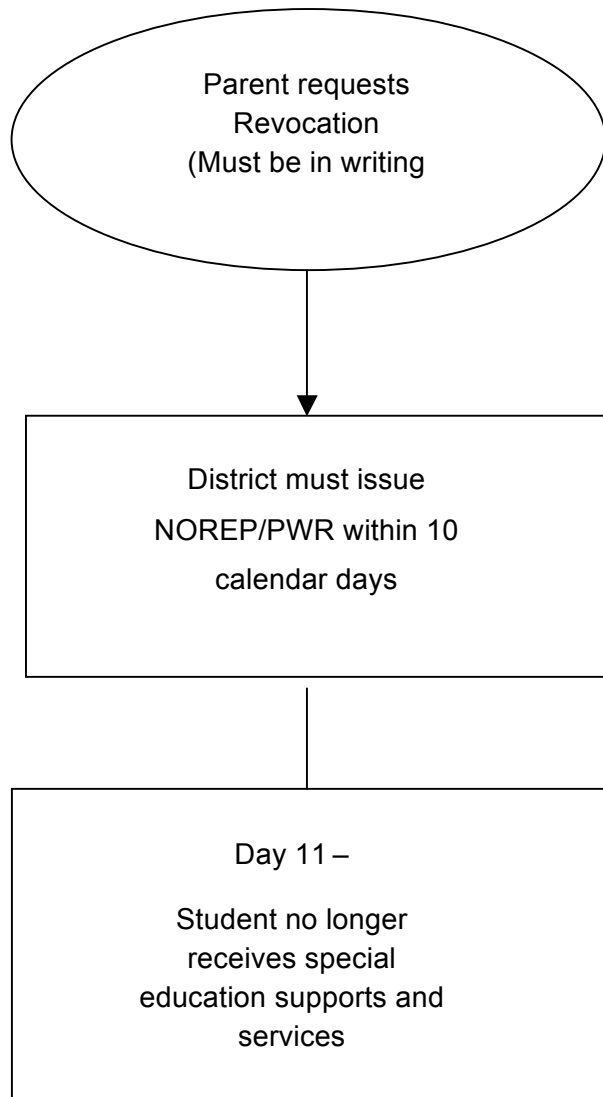
Guidelines Once an IEE Received

The school entity must consider the results of the IEE. Regardless of who funds the IEE, the district/intermediate unit or the parent, if the IEE is shared with the district, the district/intermediate unit 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 district’s obligation is only to “consider” the results of any IEE.

There is no requirement about how much weight the district must give the IEE or that the district must incorporate any of the IEE recommendations into the student's educational program. This is true even if the IEE was at public expense.

Revocation of Special Education

- After the school receives a written request from a parent, the school district must issue a NOREP/PWR within **10 calendar days**
- Revocation of services will commence on **day 11**



Revocation of Special Education 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 school district:

- (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 school district 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 district 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) **Districts 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, school districts may not challenge revocation through the Dispute Resolution process. This precludes districts from seeking a ruling that special education services must be provided to a student.

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

After revocation, Districts 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, school districts 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 district 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*:

Districts 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 school districts to remove special education documentation from that student's record. The district 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 districts to demonstrate that they properly identified and programmed for those students.

Procedure Required for Revocation

The following are the district'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 district 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. Click on this website link to review, www.pattan.net, go to Special Education Forms, page 4 and scroll down.
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.

Exiting from Special Education Timelines

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 district grade level standards? Is the student functioning at grade level?
- What is the student's performance on PSSA and benchmark assessment of the school district?
- What does the 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)

Procedural Safeguards

- 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 school district website

Link to Procedural Safeguards: <http://www.pattan.net/files/Forms/English/PSN-070809.pdf>

Link to PaTTAN's Parent Pages: <http://parent.pattan.net/>

Procedural Safeguards Overview

Overview of the Office for Dispute Resolution (ODR)

The Office for Dispute Resolution (ODR) [<http://odr.pattan.net>] 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 school district 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 want to go to due process, the Special Education office 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 an attorney representing the school entity and most likely the parent, many of the mandated processes will be lead by counsel. With this, there are requirements the school district or intermediate unit must adhere to during this process: The following is just a snap shot of the requirements:

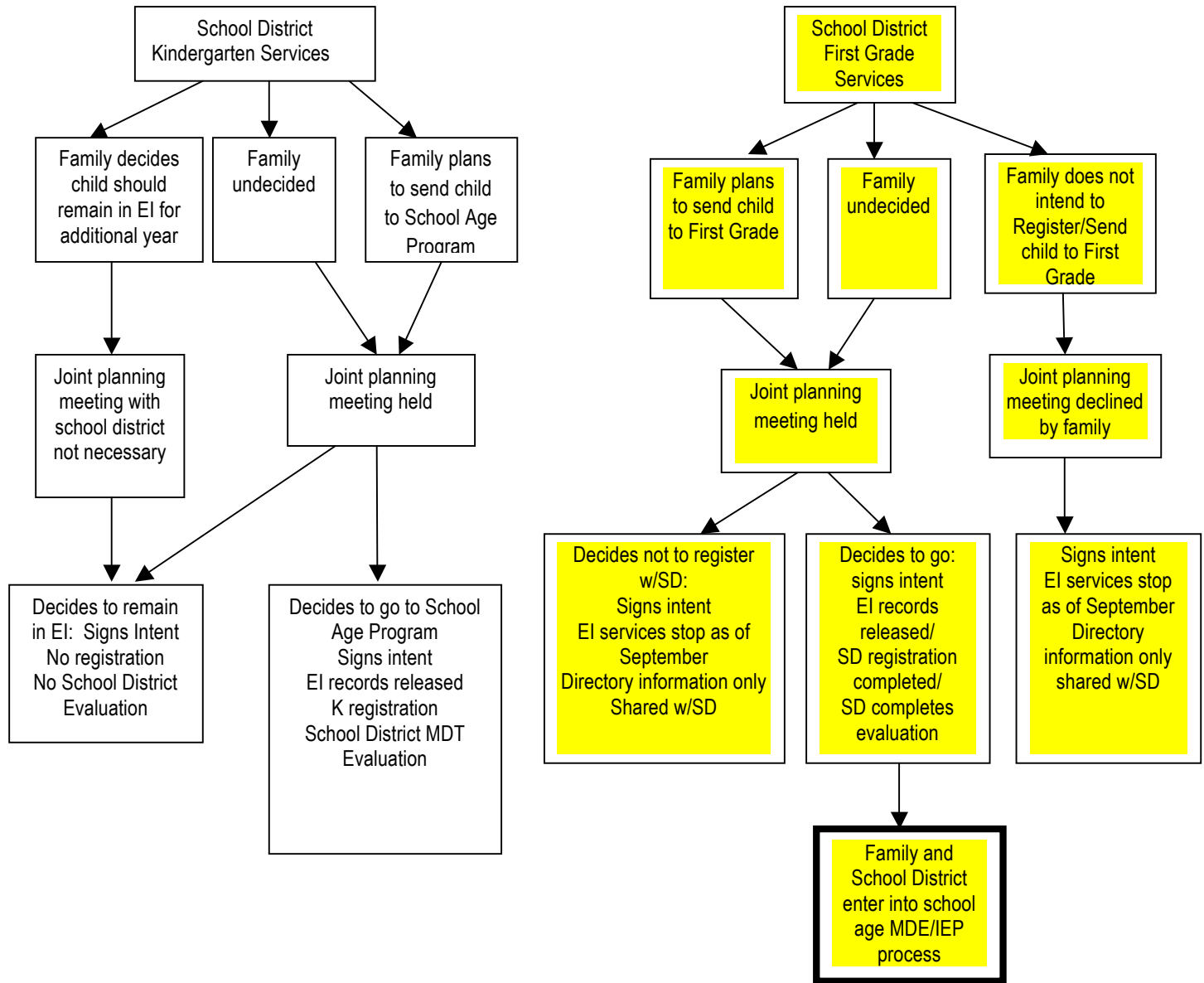
- Within 15 calendar days of receiving notice of parent's due process complaint, and prior to initiation of a due process hearing the LEA must convene a **resolution meeting** with the parent and the relevant member(s) of the IEP team who have specific knowledge of the facts identified in the due process 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. School districts 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.

Transition from Early Intervention to School-Aged Flow Chart

Early Intervention Child Eligible for Special Education Supports & Services



Overview

Each year, children receiving services from Preschool Special Education transition to school districts. 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. This BEC can be obtained by going to the following link:
http://www.portal.state.pa.us/portal/server.pt/community/purdon%27s_statutes/7503/early_intervention_transition_preschool_programs_to_school-aged_programs/507334

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. 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 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 cannot require the child to attend kindergarten.

The Transition Process for District Served by the Delaware County Intermediate Unit

- In January, an informal evening meeting is made available to families hosted by the DCIU, to explain the transition process and answer questions. District representatives attend this meeting.
- 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 representative) and ascertain whether the family intends to enroll the child in the school district the following year.
- *Notice of Your Child's Transition to School Age Meeting* (a required document) must be sent by the DCIU to parents no later than February 1. In addition, the *Notice of Options for Your Child's Transition* is included with the document. Both of these documents can be found online at <http://www.pattan.net/files/Forms/English/EI/TMN111209.pdf>
- 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 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 should be transferred from the Preschool Early Intervention program to the local school district 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.
 - This includes those children who are identified as eligible young children between February 1st and the end 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). These forms are available online: <http://www.pattan.net/regforms/preschoolformsandformats.aspx?pageNumber=1>
 - The parents must indicate on the *Intent to Register* form whether or not they intend to register their child in the school district 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, EVALUATIONS, and IEP'S

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 evaluate the child to determine eligibility for school-age services.*)
 - SD may conduct a reevaluation or evaluation consisting of a review of existing data and information prior to the development of an IEP.
 - ***If the student has been receiving early intervention services due to Developmental Delay, then the school-aged program will conduct an INITIAL evaluation. If the student was receiving services due to a disability that also is a school-age disability (e.g. Speech/Language Impairment), that will be a re-evaluation.***
 - 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 IEPs offered by their school districts 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 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, school district or Preschool Early Intervention programs must issue a NOREP.

Education Acronyms

| | |
|--------|--|
| AAC | Augmentative/Alternative Communication |
| ABA | Applied Behavior Analysis |
| ADA | Americans With Disabilities Act |
| ADD | Attention Deficit Disorder |
| ADHD | Attention Deficit Hyperactivity Disorder |
| AIM | Accessible Instructional Materials |
| ALD | Assistive Listening Device |
| APS | Approved Private School |
| ASD | Autism Spectrum Disorder |
| ASL | American Sign Language |
| AT | Assistive Technology |
| AVTS | Area Vocational Technical School |
| AYP | Adequate Yearly Progress |
| BEC | Basic Education Circular |
| BIP | Behavior Intervention Plan |
| BSE | Bureau of Special Education |
| CAO | Chief Administrative Officer |
| CART | Computer Aided Realtime Translation |
| CASSP | Child & Adolescent Service System Program |
| CAVP | Corrective Action Verification Plan |
| CBA | Curriculum-Based Assessment |
| CERC | Corrections Education Records Center |
| CFR | Code of Federal Regulations |
| CLD | Cultural and Linguistic Diversity |
| COP | Communities of Practice |
| CTE | Career and Technical Education |
| CTC | Career and Technical Education Center |
| DIBELS | Dynamic Indicators of Basic Early Literacy Skills |
| DPW | Department of Public Welfare |
| ED | Emotional Disturbance |
| EI | Early Intervention |
| EIPA | Educational Interpreter Performance Assessment |
| EITA | Early Intervention Technical Assistance |
| ELL | English Language Learners |
| EPSDT | Early Periodic Screening, Diagnosis, and Treatment |

| | |
|-------|--|
| ER | Evaluation Report |
| ESEA | Elementary and Secondary Education Act |
| ESL | English as a Second Language |
| ESY | Extended School Year |
| FAPE | Free Appropriate Public Education |
| FBA | Functional Behavioral Assessment |
| FERPA | Family Educational Rights and Privacy Act |
| IAES | Interim Alternative Educational Setting |
| ICC | Interagency Coordinating Council |
| IDEA | Individuals With Disabilities Education Act |
| IEE | Independent Education Evaluation |
| IEP | Individualized Education Program |
| IFSP | Individualized Family Service Plan |
| LEA | Local Educational Agency |
| LEP | Limited English Proficiency |
| LICC | Local Interagency Coordinating Council |
| LRE | Least Restrictive Environment |
| LTCC | Local Transition Coordinating Council |
| LTF | Local Task Force |
| MA | Medical Assistance |
| MAWA | Mutually Agreed Upon Written Arrangement |
| MOU | Memorandum of Understanding |
| MR/DD | Mental Retardation/Developmental Delay |
| NCLB | No Child Left Behind |
| NOREP | Notice of Recommended Educational Placement |
| O & M | Orientation & Mobility |
| OCD | Obsessive Compulsive Disorder |
| OCDEL | Office of Child Development and Early Learning |
| OCR | Obsessive Compulsive Disorder |
| ODD | Oppositional Defiant Disorder |
| ODHH | Office for the Deaf and Hard of Hearing |
| ODR | Office for Dispute Resolution |
| OHI | Other Health Impairment |
| OI | Orthopedic Impairment |
| OSEP | Office of Special Education Programs |
| OT | Occupational Therapy |

| | |
|---------|--|
| OVR | Office of Vocational Rehabilitation |
| PASA | Pennsylvania Alternate System of Assessment |
| PaTTAN | Pennsylvania Training and Technical Assistance Network |
| PDD | Pervasive Developmental Disorder |
| PDD-NOS | Pervasive Developmental Disorder-Not Otherwise Specified |
| PDE | Pennsylvania Department of Education |
| PSSA | Pennsylvania System of School Assessment |
| PSSA-M | Pennsylvania System of School Assessment-Modified |
| PT | Physical Therapy |
| PVAAS | Pennsylvania Value Added Assessment System |
| RAST | Regional Assessment and Support Team |
| RR | Reevaluation Report |
| RtII | Response to Instruction and Intervention |
| SAS | Standards Aligned System |
| SaS | Supplementary Aids and Services |
| SBBH | School Based Behavioral Health |
| SDI | Specially Designed Instruction |
| SEA | State Educational Agency |
| SEAP | Special Education Advisory Panel |
| SICC | State Interagency Coordinating Council |
| SLD | Specific Learning Disability |
| SLP | Speech/Language Pathologist |
| STL | Short-Term Loan |
| SWPBS | Schoolwide Positive Behavior Supports |
| TBI | Traumatic Brain Injury |
| TDD | Telecommunication Device for the Deaf |
| TSS | Therapeutic Staff Support |
| UDL | Universal Design for Learning |
| VI | Visual Impairment |

Additional Information for Parents

The Bureau of Special Education published the **Pennsylvania Parent Guide to Special Education for School Age Children**, which provides an overview of the special education process. Visit www.pattan.net for the Guide and other useful information, or call 800-441-3215.

To get more information about parent rights or how to resolve disputes between parents and the school district, including how to request a hearing, contact the Bureau of Special Education's Consult Line at 800-879-2301.

Parents can also contact the following organizations to learn more about their rights, receive training, or receive advocacy services

Statewide Organizations

Bureau of Special Education ConsultLine
800-879-2301

The ARC of Pennsylvania
(Advocacy & Resources for Citizens With Cognitive, Intellectual, and Developmental Disabilities)
800-692-7258

www.thearcpa.org

Disability Rights Network of PA (DRN)
800-692-7443 (Toll-Free Voice)

www.drnpa.org

Education Law Center
215-238-6970

www.elc-pa.org

Pennsylvania State Task Force on the Right to Education
800-446-5607 x6830

<http://parent.pattan.net/statetaskforce>

Pennsylvania Training and Technical Assistance Network (PaTTAN)
800-441-3215 (King of Prussia)
800-360-7282 (Harrisburg)
800-446-5607 (Pittsburgh)

www.pattan.net

Regional Advocacy Organizations

Eastern and South Central Pennsylvania:

Parent Education Network (PEN)

717-600-0100 (V/TTY) 800-522-5827 (V/TTY) 800-441-5028 (Spanish in PA)

www.parentednet.org

Central and Western Pennsylvania:

Parent Education and Advocacy Leadership (PEAL) Center

412-281-4404 (Voice) 866-950-1040 (Helpline)

www.pealcenter.org

Philadelphia, Pennsylvania

Hispanics United for Exceptional Children (HUNE, Inc.)

215-425-6203 (Voice) 215-425-5112 (Helpline)

www.huneinc.org

Northwestern Pennsylvania:

The Mentor Parent Program

814-563-3470 (Voice) 888-447-1431 (Voice in PA)

800-855-1155 (TTY)

www.mentorparent.org

Notification of Teacher Responsibility for Accommodations or Modifications

| | | | |
|-------------------------------------|--|-----------------|--|
| Student: | | Grade: | |
| IEP Case Manager Teacher | | Date of Notice: | |

The aids, benefits and services, specified below, are to afford this eligible student **equal opportunity to obtain** the same result, to gain the same benefit, or to reach the same level of achievement in the least restrictive environment appropriate to the student's needs. These aids, benefits, and services **are not required to produce the same result, or level of achievement** for both students with disabilities and students without disabilities. *(Reference: Section 504 of the Rehabilitation Act of 1973)*

I have received notification of my responsibility to provide accommodations and/or modifications in my class for Student: _____

I understand this student's IEP/504 case manager, _____, is available for further explanation or support. I understand that I am required to implement these adaptations. If I feel they are not meeting student needs or I wish to change them, I will contact the case manager to schedule an IEP meeting to do so.

I understand:

- ◆ **Accommodations** are changes in course content, 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**. Therefore, grading procedures are the same for all students.
- ◆ **Modifications** are changes in course content, 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**. Therefore, this student will be graded according to methods specified in his/her individual plan.

Signature: _____ Date: _____

DISABILITY CATEGORIES

IDEA lists 13 different disability categories under which school-age students *may be eligible* for services. The disability categories listed in IDEA are:

- autism
- deaf-blindness
- deafness
- emotional disturbance
- hearing impairment
- intellectual disability
- multiple disabilities
- orthopedic impairment
- other health impairment
- specific learning disability
- speech or language impairment
- traumatic brain injury
- visual impairment (including blindness)

CONTACT INFORMATION:

Special education coordinator/school psychologist:

Jane Jugan, Ed. S, NCSP
Nationally Certified School Psychologist
CTASD
1516 Tire Hill Rd.
Johnstown, PA 15905
Phone: 814-479-4080
Fax: 814-479-3759
Email: jane.jugan@ctasd.org

Building special education teachers:

Elementary (479-4080):

Becky Lough
Wonda Piskuric
Rebecca Parker
Lisa Style

Speech: Amber Desrochers
and Kristen Russo

Middle/High School (479-4014):

Candace Donaldson (Croner)
Heather Ladika
Kimberly Beblar
Jeanette Swiokla
Maureen Kalfas (Wesner)

IU08 contracted services:

Hearing impaired support
Blind/vision support
Orientation/mobility
Social work

Other contracted services:

CAMCO – OT
CAMCO – PT