



# **The Basics of Special Education Law**

## **What Parents Need to Know To Get Started**

*This publication is supported by a grant from the  
Pennsylvania Developmental Disabilities Council*

**Education Law Center-PA**

# The Basics of Special Education Law

## What Parents Need to Know To Get Started

Written by:  
Kelly Darr, Esq.  
Jennifer Lowman, Esq.

---

Education Law Center- PA  
1315 Walnut Street, 4<sup>th</sup> Floor  
Philadelphia, PA 19107  
[www.elc-pa.org](http://www.elc-pa.org)

**PLEASE NOTE:** The Education Law Center-PA **does not** generally answer calls about special education questions. Callers with questions about special education problems should call the Disability Rights Network (DRN) at 1-800-692-7443 or contact one of the organizations listed under “**Where Can I Go If I Need More Help?**” at the end of this booklet.

© 2009A Education Law Center-PA

## What is special education?

Special education is teaching, services, and supports for children with disabilities so that they can do well in school. Public schools (including charter schools) must help children with disabilities learn by giving them special education. If your child gets special education, you are part of a team at your school that decides what your child needs.

Special education is free. Special education should be “appropriate.” It should help your child make meaningful progress. Special education should treat each child as an individual. Special education is services and supports — it is **not** a place where your child must go, and it doesn’t have to be provided by a special educator!

## Can my child get special education services?

Yes, if your child has trouble learning or behaving at school **and** has one or more of these disabilities:

- mental retardation
- emotional problems
- an orthopedic disability
- deafness or other hearing problems
- speech or language disability
- autism
- blindness or other vision problems
- traumatic brain injury
- a learning disability in math or reading
- health impairment (can include ADD/ADHD and Tourette Syndrome)
- deafblindness
- multiple disabilities

## How can I get special education for my child?

You can ask your school to form an evaluation team to figure out if your child needs special education. This is called an evaluation. The school cannot do the first evaluation of your child until you agree.

Your child should be evaluated on everything that is difficult for her at school. The school will ask you questions about your child as part of the evaluation. No one test (such as an IQ test) can decide your child's needs.

### How do I ask for an evaluation?

- Write a letter to your principal and ask for the school to evaluate your child. Tell the principal what your concerns are about your child. Write the date on the letter. Keep a copy of the letter for yourself.

*Need help writing a letter to your school?  
Click [here](#) for a sample letter, or use this  
[Permission to Evaluate - Request Form](#).*

- Sign the school's **Permission to Evaluate – Consent Form** and return it to the school. You should get this form from your school, but if not, be sure to ask for it.

### How long does an evaluation take?

The school must write a report in **60 calendar days** (not counting the summer months) after you sign the Permission to Evaluate – Consent Form. The report is called an **Evaluation Report (ER)**. The ER will tell you if your child should get special education services and what kind of help she needs.

You can find an example of the form used to write the Evaluation Report by clicking [here](#) or calling PaTTAN at 1-800-360-7282.

The school must give you a copy of the ER. If your child is eligible for special education services, the school should then set up a meeting with you and the IEP Team. You should get the ER at least **10 school days** before the IEP Team meeting.

### **What is an IEP?**

If your child qualifies for services, you and the Team use the evaluation to write an **Individualized Education Program (IEP)** for your child. The IEP is like a contract to you from your school. The IEP should tell you what the school will do to help your child learn, like:

- Use a different way of teaching.
- Make school materials simpler.
- Change the amount or kind of information your child should learn.
- Provide help on class work, homework, or tests.
- Give the child services like speech therapy, physical therapy, or counseling.
- Provide a person to support your child or her teacher.

You and the Team will write goals for what your child should learn. The Team must meet to talk about your child's IEP and make any changes at least **one time a year**. You can ask for a meeting **any time** you have questions in the school year.

## How do you and the Team write an IEP?

When you come to the first IEP Team meeting, the school may have a draft of the IEP for your child. That does not mean that all the decisions have been made! You are an equal member of your child's IEP Team.

- You can talk about all parts of the IEP with the Team at the meeting.
- You can ask any questions you have about the IEP at the meeting.
- You can make suggestions about what services and supports should be in the IEP.
- If the Team needs more time to finish the IEP, the school should set up another meeting with you and the rest of the Team.
- You can also ask the school for another meeting if you have questions or concerns.

*You can find more information about how to write an IEP for your child by clicking [here](#) or calling PaTTAN at 1-800-360-7282.*

## Where does my child go to get special education services?

First, the Team should think about the general education class. Many students with disabilities can learn in their general education class with supports from their school.

**Under the law, children with disabilities should be in general education classes as much as they can with supports.**

Some special education students may go to a special class, like a learning support class or an emotional

support class for some or all of the school day. Some students may go to a separate school if the public school is not right for them (although this should not happen often). The Team (including you) will decide which placement is right for your child.

***Important Note!*** *Special education law says that children with disabilities should learn in the **least restrictive environment**. So even if your child needs to be in a separate class for part of the day, she should learn with children who do not have disabilities as much as possible.*

### **What happens when the IEP Team is done writing the IEP?**

The school will give you a paper called a Notice of Recommended Educational Placement/ Prior Written Notice (NOREP/PWN). **This is an important paper. Be sure to read it carefully.**

There will be boxes to check on the paper. You can check that you agree or disagree with the IEP. You can also check that you would like a meeting with the Team to talk about it. Sign the paper and give it back to your school in **10 calendar days**.

### **What if I do not agree with my school?**

If your school says your child is not eligible for special education, you may not agree. If your child already gets special education services, you may not agree with the re-evaluation the school did, or the program or the placement your school offers.

You can:

- set up an **IEP Team meeting** or a **facilitated IEP Team meeting** to talk about it.
- ask for **mediation** to get help from a neutral person from the Office for Dispute Resolution (ODR).
- ask ODR for a **hearing** to deal with the issue.

You also must contact ODR to request mediation or a hearing. ODR's number is 1-800-222-3353 and website is <http://odr.pattan.net>. If you don't request mediation or a hearing **within 10 calendar days**, the school can follow its proposed IEP even if you disagree!

*You can find more information on how to solve disagreements with your school with these links: [PEAL Fact Sheet](#) [ELC Fact Sheet](#)*

If your school does an evaluation of your child and tells you that your child can be in special education, you may not agree. The school cannot force your child to be in special education if you do not think it is right. If you agree at first that your child should be in special education, you can later remove your child from special education at any time.

### **What if my child does not get the services and supports in her IEP from her school?**

You can file a complaint with the Bureau of Special Education (BSE). For example, if your child is not getting one (1) hour of speech therapy like her IEP says, you can write a letter or fill out a complaint form and send it to BSE. BSE will call you and your school to investigate your complaint. BSE will send a report to you within **60 calendar days** to let you know how it decided your complaint.



You can find more information on how to file a complaint by clicking [here](#) or calling DRN at 1-800-692-7443.

## How old does my child need to be to get special education?

Special education is for children with disabilities from birth until the end of the school year when they turn 21.

- If your child is under three (3) years old, she will be in the **Infants & Toddlers** program. You can find more information by clicking [here](#) or calling DRN.
- If your child is three (3) years old to school age, she will be in the **Early Intervention pre-school program**. The rules for these children are basically the same as for school-age children.
- When your child turns 14, the IEP Team should write a **transition** plan to help your child get ready for life after high school. You can find more information by clicking [here](#) or calling DRN.

## Where can I go if I need more help?

If you have questions, you may contact these organizations. See our [list](#) of Advocacy and Support Groups for more help in your area.

### **Pennsylvania Department of Education (PDE)**

You can call the **Special Education ConsultLine** of the Office of Dispute Resolution (ODR)  
800-879-2301 (V/TTY)

Visit the **PDE** website at [www.pde.state.pa.us](http://www.pde.state.pa.us)

Click [here](#) for PDE's Parent Guide to Special Education.

Visit the **Pennsylvania Training and Technical Assistance Network (PATTAN)** website at [www.pattan.k12.pa.us](http://www.pattan.k12.pa.us).

There are two parent training and information centers funded by PDE. If you live in the eastern part of the state, you can contact the **Parent Education Network (PEN)**  
800-522-5827 (V/TTY)  
800-441-5028 (Spanish)

If you live in the western or central part of the state, you can contact the **Parent Education and Advocacy Leadership Center (PEAL)**  
866-950-1040 (V)  
412-281-4409 (TTY)

For information about help from your local **Right to Education Task Force**, click [here](#).

You can contact the **Disability Rights Network of Pennsylvania (DRN)** if you have questions about special education. **DRN** may be able to help you with your issue, provide more written information, or otherwise help you find the help you need. Here is their contact information:  
1-800-692-7443 (Voice)  
1-877-375-7139 (TDD)  
[intake@drnpa.org](mailto:intake@drnpa.org)     [www.drnpa.org](http://www.drnpa.org)

The **Education Law Center** has a lot of information about special education on its website, [www.elc-pa.org](http://www.elc-pa.org). You can find its “Black and White” manual for parents [here](#).

## Checklist for Parents

- You should request an evaluation of your child in writing.
- School must give you a Permission to Evaluate-Consent Form. Sign it and return it to school.
- School must ask you about your concerns and get information about your child.
- School must give you the Evaluation Report in 60 calendar days (not counting summer months) from when you sign the Permission to Evaluate – Consent Form.
- If your child is eligible, you should meet with the IEP Team to write an IEP. School must set up the meeting within 30 calendar days of the Evaluation Report.
  - The IEP Team (including you) decides what the program will be.
  - Then the Team decides what the placement will be.
- School must give you a NOREP/PWN that explains what is being offered to your child.
- You can check the box on the NOREP/PWN that you agree. Sign the form. Return it to school in 10 calendar days.
- OR**
- You can check the box that you disagree. Choose the box for mediation or a hearing. Sign the form. Return it to school in 10 calendar days. Also write or call ODR to ask for mediation or a hearing.
- School should give you information on how your child is doing during the school year.
- You can ask for another IEP Team meeting any time if you have concerns or questions.
- School must have IEP Team meeting at least one time a year. You and the school make needed changes to the IEP.
- School must evaluate your child at least once every three years (every two years for children with mental retardation).

## **Tips for Parents**

- Read all papers from your school before you sign. If you need more time to read and understand the papers, take the papers home with you. You do not have to sign anything at the meeting with the school.
- Bring a friend, family member, or advocate with you to the IEP Team meeting. Another person can support you and help you take notes at the meeting.
- Keep copies of letters you send to the school and any papers you get from the school.
- At the IEP Team meeting, find out who the contact person is for your child's IEP. Write down that person's name, phone number, and email address. Also get the name of the head of special education for the school district.
- If your school tells you that they will do something for your child, make sure that the support or service is written down in the IEP.
- Do not accept excuses from your school. If the IEP Team agrees that your child needs a support or service, the school must provide it.
- Read any information your school gives you about how your child is doing in special education. If you do not get any information, ask for it in writing. If you have questions or concerns about your child's progress, write a letter asking for an IEP Team meeting.
- Ask for an IEP Team meeting if your child is having behavior problems. You and the Team can add supports in the IEP to help your child.

## Special Education Terms

There are many terms that are unique to special education. If someone at your school uses a term you don't understand, this list may help.

<b>BSE</b>	Bureau of Special Education, part of the Pennsylvania Department of Education
<b>Chapter 14</b>	Pennsylvania law about special education
<b>ER</b>	Evaluation Report
<b>ESY</b>	Extended School Year. Some children with disabilities need to have school during the summer and other times that school is not in session.
<b>FAPE</b>	Free appropriate public education
<b>FBA</b>	Functional behavior assessment. This is a test that the IEP Team can use to help a child who is having problems with behaviors at school.
<b>IDEA</b>	Individuals with Disabilities Education Act, the federal law on special education
<b>IEP</b>	Individualized Education Program
<b>LEA</b>	Local educational agency, in most cases your district or charter school
<b>LRE</b>	Least restrictive environment
<b>NOREP/PWN</b>	Notice of Recommended Educational Placement/ Prior Written Notice
<b>ODR</b>	Office for Dispute Resolution. ODR runs mediation and hearings.
<b>PDE</b>	Pennsylvania Department of Education