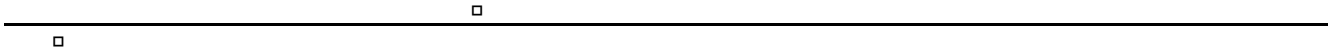


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8. 8YgWJfVY Ubmch\Yf WxcJWg h\Uh nci f WJ'XfNg -9D HYUa WcbgJXYfYX UbX h\Y fYUgcbg k \mh\cgY choices were rejected; _____
9. Provide a

- f. The LEA will not be considered in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services;
 - g. The LEA [g bch fYei]fYX hc Ua YbX h\Y W\] XNg YXi WWh]cbU` fYWcfXg hc fYa cj Y UbmFYZYfYbVWg hc t\Y W\] XNg fYVW]dh cZ gdYVWU` YXi WWh]cb UbX fY`UhYX gYfj]Wg VYVWi gY cZ h\Y fYj cWWh]cb cZ consent.
 - h. The LEA is not required to convene an IEP team meeting or develop and IEP for the child for further provision of special education and related services.
-

- a. General Rule: Consent for initial evaluation
Your LEA cannot conduct an initial evaluation of your child to determine whether your child is eligible under Part B of the IDEA to receive special education and related services without first providing you with prior written notice of the proposed action and without obtaining

2. Is not required to have an IEP meeting or develop an IEP for your child for the special education and related services for which your consent was request.

Your LEA must obtain your informed consent before it reevaluates your child, unless your LEA can demonstrate that:

1. ~~hcc_ fYUgcbUV`Y ghYdg hc cVhU]b mci f WbgYbh Zcf mci f WJ`XNg fYYj U`i Uh]cb/~~ ____
2. You did not respond.

Your LEA must maintain documentation of reasonable efforts to obtain parental consent for initial evaluations, to provide special education and related services for the first time, to reevaluation and to locate parents of wards of the State for initial evaluations. The documentation must include a fYW`fX cZ h\Y @95Ng UhhYa dhg]b h\YgY UfYUg gi W Ug

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to the parents and any responses received; ____
3. DetUJ`YX fYW`fXg cZ j]g]hg a UXY hc h\Y dUfYbhNg \ca Y cf d`UW` cZ Ya d`cma Ybh UbX h\Y fYgi `hg of those visits.

-
1. FYj]Yk `YI]gh]b[XUhU Ug dUfh cZ mci f WJ`XNg Yj U`i Uh]cb cf U fYYj U`i Uh]cb/ ____
 2. Give your child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from all parents of all children.

- a) If you request an IEE of your child at public expense, your LEA must, without unnecessary delay, either: (a) File a due process complaint to request a hearing to show that its evaluation of your child is appropriate; or (b) Provide an IEE at public expense, unless the LEA demonstrates in a hearing that the evaluation of your child that you obtained did not meet t\Y @95Ng W]hYf]U"
- b) If you request an IEE of your child at public expense, you still have the right to an IEE, but not at public expense.

A participating agency may not charge a fee to search for or to retrieve information under Part B of the IDEA.

If you believe that information in the education records regarding your child collected, maintained, or used under Part B of the IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the participating agency that maintains the information to change the information.

The participating agency must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.

If the participating agency refuses to change the information in accordance with your request, it must inform you of the refusal and advise you of the right to a hearing for this purpose.

The LEA must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.

A hearing to challenge information in education records must be conducted according to the following procedures for such hearings under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1233g (FERPA):

- 1) The educational agency or institution shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent or eligible student.
- 2) The educational agency or institution shall give the parent or eligible student notice of the date, time, and place, reasonable in advance of the hearing.
- 3) The hearing may be conducted by any individual, including an official of the educational agency or institution who does not have a direct interest in the outcome of the hearing.
- 4) The educational agency or institution shall give the parent or eligible student a full and fair opportunity to present evidence in support of their request to amend education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student. The parent or eligible student may, at their own expense, be assisted or represented

One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction rY[UfX]b[mci f GhUHYng dc`jWYg UbX dfcWXi fYg fY[UfX]b[WtbZ]XYbh]U`]hmi bXYf DUfh B of the IDEA and FERPA.

Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who have access to personally identifiable information.

proposal to resolve the complaint; and (b) an opportunity for a parent who has filed a complain



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You or the LEA may make changes to the complaint only if:

- a. The other party approves of the changes in writing and is given the chance to resolve the due process complaint through a resolution meeting, described below;
- b. At any time, but no later than five days before the due process hearing begins, the hearing officer grants permission for the changes.

If the complaining party (you or the LEA) makes changes to the due process complaint, the timelines for the resolution meeting (within 15 calendar days of receiving the complaint) and the time period for resolution (within 30 calendar days of receiving the complaint) start again on the date the amended complaint is filed.

If the LEA has not sent a prior written notice to you, as described under the heading *Prior Written Notice*, regarding the subject matter contained in your due process complaint, the LEA must, within 10 calendar days of receiving the due process complaint, send to you a response that includes:

- a. An explanation of why the LEA proposed or refused to take the action raised in the due process complaint;
- b. 5 XYgW[dh]cb cZ ch\Yf cdh]cbg h\Uh mci f W\]`XNg -9D HYUa Wcbg]XYfYX UbX h\Y fYUgcbg k \m those options were rejected;
- c. A description of each evaluation procedure, assessment, record, or report the LEA used as the basis for the proposed or refused action;
- d. 5 XYgW[dh]cb cZ ch\Yf ZUW]cfcg h\Uh UFY fY`Yj Ubh hc h\Y @95Ng dfcdcgYX cf fYZi gYX UWh]cb"

Providing the information in items 1-4 above does not prevent the LEA from asserting that your due process complaint was insufficient.

Except as stated under the sub-heading immediately above, *LEA response to a due process complaint*, the party receiving a due process complaint must, within 10 calendar days of receiving the complaint, send the other party a response that specifically addresses the issues in the complaint.

-
- a. Must include a representative of the LEA who has decision-making authority on behalf of the LEA;
 - b. May not include an attorney of the LEA unless you are accompanied by an attorney. You and the LEA determine the relevant members of the IEP Team to attend the meeting. The purpose of the meeting is for you to discuss your due process complaint, and the facts that form the basis of the complaint, so that the LEA has the opportunity to resolve the dispute.
 - c. The resolution meeting is not necessary if:
 - 1) You and the LEA agree in writing to waive the meeting;
 - 2) You and the LEA agree to use the mediation process, as described under the heading *Mediation*.

efforts and documenting such efforts, the LEA is not able to obtain your participation in the resolution meeting, the LEA may, at the end of the 30-calendar day resolution period, request that a hearing officer dismiss your due process complaint. Documentation of such efforts must include a

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to you and any responses received; and
3. Detailed records of visits made to your home or place of employment and the results of those visits.

If the LEA fails to hold the resolution meeting within 15 calendar days of receiving notice of your due process complaint __ fails to participate in the resolution meeting, you may ask a hearing officer to order that the 45-calendar day due process hearing timeline begin.

If you and the LEA agree in writing to waive the resolution meeting, then the 45-calendar day timeline for the due process hearing starts the next day.

After the start of mediation or the resolution meeting and before the end of the 30-calendar day resolution period, if you and the LEA agree in writing that no agreement is possible, then the 45-calendar day timeline for the due process hearing starts the next day.

If you and the LEA agree to use the mediation process, at the end of the 30-calendar day resolution period, both parties can agree in writing to continue the mediation until an agreement is reached. However, if either you or the LEA withdraws from the mediation process, then the 45-calendar day timeline for the due process hearing starts the next day.

If a resolution to the dispute is reached at the resolution meeting, you and the LEA must enter into a legally binding agreement that is:

- a. Signed by you and a representative of the LEA who has the authority to bind the LEA; and
- b. Agreement review period | If you and the LEA enter into an agreement as a result of a resolution meeting, either party (you or the LEA) may void the agreement within 3 business days of the time that both you and the LEA signed the agreement.

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A court awards reasonable attorney's fees and costs.

- a. Fees must be based on rates prevailing in the community in which the action or hearing arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded.
- b. Fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Part B of the IDEA for services performed after a written offer of settlement to you if:
 - 1) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing or State-level review, at any time more than 10 calendar days before the proceeding begins;
 - 2) The offer is not accepted within 10 calendar days; _____
 - 3) The court or administrative hearing officer finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.
 - 4) Backlog of cases is not a factor in determining whether an offer of settlement should be made to you if you prevail and you were substantially justified in rejecting the settlement offer.
- c. Fees may NOT

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The SEA must make mediation available to allow you and the LEA to resolve disagreements involving any matter under Part B of the IDEA, including matters arising prior to the filing of a due process complaint. Thus, mediation is available to resolve disputes under Part B of the IDEA, whether or not you or the LEA have filed a due process complaint to request a due process hearing as described under the heading *Filing a Due Process Complaint*.

-
1. _____
 2. Is not used to deny or delay your right to a due process hearing, or to deny any other rights you have under Part B of the IDEA; _____
 3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
 4. The SEA must maintain a list of people you are qualified mediators and are knowledgeable in the laws and regulations relating to the provision of special education and related services. The SEA must select mediators on a random, rotational, or other impartial basis.
 5. The State is responsible for the cost of the mediation process, including the costs of meetings.
 6. Each session in the mediation process must be scheduled in a timely manner and held at a place that is convenient for you and the LEA.
-

- a. States that all discussions that happened during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil

is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

- c. *Serious bodily* injury to a child or another person, as defined in subsection (3) of section 1365 of title 18, United States Code.
- d. *Weapon* possession or use, as defined in subsection (g) of section 930 of title 18, United States Code.

On the date it makes the decision to make a removal that is a change of placement of the child because of a violation of a code of student conduct, the LEA must notify the parents of that decision,

-
- a. H\Y WJ`Xf dUfYbh \Ug bch U`ck YX Ub Yj U`i Uh]cb cZ h\Y WJ`X cf fYZi gYX gdYWU` YXi W]h]cb services;

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Part B of the IDEA does not require a LEA to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the LEA made FAPE available to your child and you choose to place the child in a private school or facility. However, the LEA where the private school is located must include your child in the population whose needs are addressed under the Part B provisions regarding children who have been placed by their parents in a private school under 34 CFR §§300.131 through 300.144.

If your child previously received special education and related services under the authority of a LEA, and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the LEA, a court or a hearing officer may require the agency to reimburse you for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to your child in a timely manner prior to that enrollment and that the private placement is appropriate. A hearing officer or court may find your placement to be appropriate, even if the placement does not meet the State standards that apply to education provided by the State Educational Agency and LEAs.

The cost of reimbursement described in the paragraph above may be reduced or denied:

- a. If: (a) At the most recent IEP meeting that you attended prior to your removal of your child from the public school, you did not inform the IEP Team that you were rejecting the placement proposed by the LEA to provide FAPE to your child, including stating your concerns and your intent to enroll your child in a private school at public expense; or (b) At least 10 business days (including any holidays that occur on a business day) prior to your removal of your child from the public school, you did not give written notice to the LEA of that information;
- b. If, prior to your removal of your child from the public school, the LEA provided prior written notice to you, of its intent to evaluate your child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but you did not make the child available for the evaluation;
- c. If the LEA failed to provide you with a copy of the IEP or other documents that you requested in writing.

The cost of reimbursement:

- a. Must not be reduced or denied for failure to provide the notice if: (a) The school prevented you from providing the notice; (b) You had not received notice of your responsibility to provide the notice described above; or (c) Compliance with the requirements above would likely result in physical harm to your child;
- b. May, in the discretion of the court or a hearing officer, not be reduced or denied for the failure to provide the notice if: (a) The LEA failed to provide you with a copy of the IEP or other documents that you requested in writing; or (b) Compliance with the above requirement would likely result in serious emotional harm to the child.

301 Chestnut Street, Suite 403
Harrisburg, PA 17101
800-692-7258
www.thearcpa.org

800-879-2301
ConsultLine personnel are available to parents and advocates of children with disabilities or children thought to be disabled to explain federal and state laws relating to special education; describe the options that are available to parents; inform the parents of procedural safeguards; identify other agencies and support services; and describe available remedies and how the parents can proceed.

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1414 North Cameron Street
Suite C
Harrisburg, PA 17103
800-692-7443 (Toll-Free Voice)
877-375-7139 (TDD)
717-346-0293 (TDD)
717-236-8110 (Voice)
717-346-0293 (TDD)
717-236-0192
www.drnpa.org

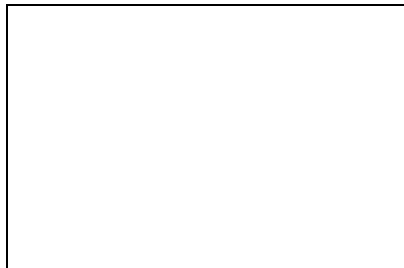
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Prior to a due process hearing taking place, the law requires the parties to participate in a Resolution Session, unless both sides agree in writing to waive this requirement. Please complete the following information:

1. A Resolution Meeting to discuss these issues is scheduled for: _____ (Date)
2. A Resolution Meeting was held on: _____ (Date)
3. Participation in the Resolution Meeting was waived by both parties and the LEA in writing on:
_____ (Date)
4. In lieu of a Resolution Meeting, I am requesting mediation*:

* If #4 is checked, the ODR Mediation Case Manager will be in contact with the parties.

Please _____ or _____ a copy of this form to the opposing side and to the Office for Dispute Resolution:



You will be contacted by a Case Manager from ODR upon receipt of this Due Process Complaint Notice.

Additional information about due process is available by accessing the website at _____ and the

Parents may also contact the