



Child Welfare Professional Education Screen Sections # 7,8 &9

7. NEED FOR SPECIAL EDUCATION EVALUATION *(Complete this section only for student without existing Individualized Education Plan (IEP))*

- A. Child has no disability that affects school functioning.
- A. Child's academic performance and/or progress does not indicate a need for evaluation for eligibility for special education (including gifted).
- A. Child exhibits no truancy/disciplinary concerns that suggest a need for special education services.
- A. Child's family or caregiver does not believe that the child needs to be evaluated for special education services, including gifted.

8. SPECIAL EDUCATION SERVICES *(Complete this section only for student with an IEP)*

- A. Current services are meeting the child's education needs and child is making academic progress as indicated in quarterly reports.
- A. Child is age 14 or older and has a transition plan in his or her IEP.
- A. Child's special education evaluation is current.
- A. Child's family or caregiver believes child's educational needs are being met - included gifted and talented or special education needs.
- A. Child is in the least restrictive education environment.

9. NEED FOR ACCOMMODATIONS IN SCHOOL

- A. Child does not need accommodations for a 504 disability/condition.
- A. Child does not need support for behavioral health or substance abuse (SAP).

Why This Matters

- **Children in care are more likely to have special education needs.**
 - 15% of all students in PA v. 30-40% of students in care
- **Children in care are more likely to have disabilities and chronic conditions requiring accommodations in school (504 Plans).**
- **Children are more likely to have mental health and/or behavioral health issues that interfere with learning (special education) or interfere with life activities (accommodations in school/504 Plan).**

Why This Matters: Special Education

- **Special education is parent driven system**
Children in care may lack an active involved parent.
- **Schools must identify students with disabilities (“Child-find”) but lack knowledge of child in care**
Children in care are highly mobile – thus, special education needs may remain unidentified and unknown.
- **Time is of the essence**
Frequent school moves result in delayed evaluations, lost IEPs and services are not provided in a timely way.

Why this Matters: Special Ed

- IEPs must be reviewed and progress monitored based on consistent standards.
- Specially designed instruction & services should be consistent.
- Children in residential settings require services not offered at on-site school.
- Transition plans should be detailed & youth-driven but for children in care, future plans are unclear.

Why This Matters: Outcomes

- A child's appropriate placement in the "least restrictive environment is critical to:
 - Academic progress
 - Engagement and attendance in school
 - Avoiding school discipline issues
 - Keeping a child on track to graduate.
- Receiving accommodations in school is also critical to these outcomes.

The Law

- Individuals with Disabilities Education Act (IDEA)
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- Americans with Disabilities Act (ADA)
- State-specific statutes/regulations (e.g., Chapter 14 & Chapter 15 in PA)

The Law: Special Education

- Children who may have disabilities that interfere with learning should be evaluated
- Parent and Student Participate in Team
- Children entitled to a “Free Appropriate Public Education (FAPE) accomplished through “Individualized Education Program (IEP)”
- Least Restrictive Environment (LRE)
- Procedural Safeguards & Due Process

IDEA: A Funding Statute

- The IDEA provides federal funding to states and local educational agencies (LEA) that agree to provide a free appropriate public education (FAPE) to all children residing in the State or LEA between the **ages of 3 and 21** (Part B of the IDEA). **Applies to public charter schools as well as traditional public schools.**
- Part C of the IDEA provides federal funding for states to provide **early intervention services to children ages birth to 3.**

The Law: Accommodations for a Disability in School

- Children who may have disabilities that interfere with living should be evaluated
- Child CANNOT be discriminated against
- Parent and Student Participate in Team
- Children **entitled** to accommodations in school accomplished through a “504 Plan” or “Service Agreement”
- Least Restrictive Environment (LRE)
- Procedural Safeguards & Due Process

IDEA v. Section 504 Eligibility

IDEA

Student has a *listed* disability AND because of that disability, requires *special education*.

Special education is defined as “specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including...instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education.”

SECTION 504

Student has a disability which *substantially limits* one or more major life activities, such as learning, caring for one’s self, walking, seeing, hearing, working, performing manual tasks or breathing.

Students with Disabilities: A History of Exclusion

- Wisconsin: In 1919, the Wisconsin Supreme Court upheld a school board's expulsion of a child who had the intellectual ability to keep pace with the other students, but who drooled uncontrollably, had a speech impediment, and exhibited facial contortions which, according to the Court, "produced a depressing and nauseating effect upon the teachers and school children."
- North Carolina: Up until 1969, North Carolina had a law that made it a crime for parents to "persist in forcing ... the attendance" of a child with disabilities whom school authorities had determined could not "profit from instruction."
- Pennsylvania: Up until 1972, Pennsylvania had a law which relieved schools of the responsibility to enroll "uneducable" or "untrainable" children and another law which allowed school boards to exclude children who had not attained a mental age of five years.

Need for Evaluation

7. NEED FOR SPECIAL EDUCATION EVALUATION (*Complete this section only for student without existing Individualized Education Plan (IEP)*)

A. Child has no disability that affects school functioning.	
B. Child's academic performance and/or progress does not indicate a need for evaluation for eligibility for special education (including gifted).	
C. Child exhibits no truancy/disciplinary concerns that suggest a need for special education services.	
D. Child's family or caregiver does not believe that the child needs to be evaluated for special education services, including gifted.	

Purposes of Evaluations

- Determine eligibility for special education services:
 - Birth to 3 – different eligibility standard
 - Preschool and School Age
 - Determine Type of disability
- Develop an appropriate educational program

Factors Indicating Child Should Be Evaluated?

- Appears that child may have a disability that is impacting learning
 - Academic performance weak despite ability
 - Academic performance “spotty”
- School discipline – Disruptive behavior and suspensions undermines learning
- Pattern of truancy indicates a problem
- Parent/caregiver believes child should be evaluated.

Two- Part Test

- Child has a disability that interferes with learning AND
- Child needs specially designed instruction to address this disability and make progress in school

Special Education Eligibility

Child must have a “disability”



- Mental retardation/
- developmental delays
- Hearing impairments
- Speech or language impairments
- Visual impairments
- Serious emotional disturbance
- Orthopedic impairments
- Autism
- Traumatic brain injury
- Specific learning disabilities
- Other health impairment

Specific Learning Disability

- “Specific Learning Disability”
 - Disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may show itself in the imperfect ability to:
 - Listen; Think;
 - Speak; Read (fluency or comprehension);
 - Write; Spell; and/or
 - Do mathematical calculations.

Includes dyslexia and minimal brain dysfunction

Specific Learning Disability

- Having limited strength, vitality or alertness
- Includes heightened alertness to environmental stimuli that reduces alertness to the educational environment
- So ADHD may qualify *BUT*
 - Remember this is a two-part test...
(See next slide)

Serious Emotional Disturbance

- Exhibits ≥ 1 of following for long time:
 - Inability to learn not explained by intellectual, sensory or health factors
 - Inappropriate relationships with peers/teachers
 - Inappropriate behavior in normal circumstances
 - Pervasive unhappiness or depression
 - Physical symptoms or fears associated with personal or school problems
- Includes schizophrenia
- But not: “socially maladjusted”

Special Education Eligibility

As a result of the disability, the child must require special education (specially designed instruction) & related services (meaning that the content, methodology or delivery of instruction needs to be adapted to address the child's unique needs).



- If the child does not qualify but has a physical or mental impairment which substantially limits one or more major life activities, then the child is protected by Section 504 /Chapter 15
 - Major life activities include breathing, walking, seeing, hearing, learning, thinking, speaking, eating, and reading.

Step 1: Request an Evaluation

- Can be requested at any time & request must be in writing
 - If parent/guardian orally asks for an evaluation, then school must give parents a Permission to Evaluate-Evaluation Request Form within **10 calendar days**.
- “Parent” must sign a **Permission to Evaluate (PTE) Form-Consent Form** to start process
- School districts and charter schools then have **60 calendar days (minus the summer)** from date parent signed PTE-Consent Form to complete the evaluation and issue an Evaluation Report (ER)

Requesting an Evaluation

- Exceptions to Required Evaluation Timeline:
 - If child enrolls in a new district after old school started an evaluation:
 - The timeline may be extended, but ONLY IF:
 - “Parent” and school agree to a new specific time &
 - New school ensures prompt completion of evaluation
 - If IDEA Parent repeatedly fails or refuses to produce child for the evaluation

Initial Evals: Children in Care

● Wards of the State

(children in the custody of a child welfare agency who do not have a foster parent with the power to make special education decisions)

- School districts may conduct initial evaluations without parental consent if:

- The school district can't locate the parents after making reasonable efforts
- The birth parents rights are terminated
- Or a judge removes the birth parents' educational rights (temporarily or permanently) & consent is given by an individual the judge appoints

- School/judge should appoint surrogate in the interim

Step 2: The Evaluation

● Evaluation

- Must be free, non-discriminatory, and assess the child in all areas of suspected disability
 - Not just an IQ test
 - In language most likely to give accurate info.
 - Special rules for identification of Specific Learning Disability
- “Group of qualified professionals” and the parent determine eligibility
 - Group usually includes certified school psychologist and child’s teachers
 - Foster parents can be members of the evaluation team & should be allowed input in eligibility decision
- Consider sharing private evaluations or evaluations by the child welfare agency (if get consent)

Step 2: Evaluation

- **Step 2: Evaluation**
- Types of assessment tools often include:
 - Interviews
 - Observation of child
 - IQ Test (such as the WISC-IV)
 - Achievement Test (such as the Woodcock Johnson)
 - Curriculum-Based Assessment (classroom tests and quizzes)
- Where can I get more information?
 - Tests and Measurements for the Parent, Teacher, Advocate & Attorney by Peter W. D. Wright, Esq. and Pamela Darr Wright, M.A., M.S.W. at http://www.wrightslaw.com/advoc/articles/tests_measurement_s.html
 - *Assessment of Children: Cognitive Applications* (4th ed.) by Jerome M. Sattler (2001) (available to buy on www.amazon.com).

Step 2: Evaluation

- Written Evaluation Report (ER) must be provided after evaluation is complete
- Must receive ER at least 10 school days before IEP team meets (unless parent waives in writing)
- Sample annotated ER available at:
 - <http://www.pattan.k12.pa.us/files/Forms/English/ER-ANN070108.pdf>
- Read ER carefully and ASK QUESTIONS!

Step 2: Evaluation

- Who is involved?
- What if the surrogate does not agree with evaluation?
 - Surrogate parents are members of the evaluation team & must be allowed input in eligibility decision
 - Consider sharing private evaluations or evaluations by the child welfare agency (if get consent)
 - **Independent Educational Evaluation**
 - Can be at public expense if parent disagrees with school's evaluation (or school must go to a hearing to avoid paying)
 - But only one IEE per school evaluation

What if the child moves during the Initial Evaluation?

- If child moves to a New district: 34 CFR § 300.301(d, e)
 - The timeline may be extended, but **ONLY IF:**
 - “Parent” and school agree to a new specific time
 - New school ensures prompt evaluation
- Exception: Schools do not have to meet the timeline if parent repeatedly fails or refuses to produce child for the evaluation

Special Education Services

8. SPECIAL EDUCATION SERVICES (<i>Complete this section only for student with an IEP</i>)
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- | |
|--|
| A. Current services are meeting the child's education needs and child is making academic progress as indicated in quarterly reports. |
| A. Child is age 14 or older and has a transition plan in his or her IEP. |
| A. Child's special education evaluation is current. |
| A. Child's family or caregiver believes child's educational needs are being met - included gifted and talented or special education needs. |
| A. Child is in the least restrictive education environment. |

Is the Child Receiving Appropriate Services

- Is the child “making progress”
 - How is this measured -- Grades, measurable goals?
- Does the child have a ***meaningful*** transition plan beginning at age 14?
- Are the evaluations up to date – changes?
- Is the IEP effective? Is it being followed?
- Is the child in the least restrictive environment (LRE)?

Developing the IEP

- **If a student is found to be eligible:**
 - IEP team (including the parent) meets within **30 calendar days** to develop the IEP
 - Then team must meet at least annually
 - Parents can request IEP meeting more often to address issues that arise

IEP is the “Contract”

- Details a child’s special education program and related services tailored to child’s *unique* needs – a “contract” of services between parent and school district
- Child with an IEP is entitled to a **Free Appropriate Public Education** (FAPE)
- An “**appropriate**” program is one that provides “significant learning,” and is reasonably calculated to confer “meaningful educational benefit,” and that benefit “must be gauged in relation to the child’s potential.”

What is in an IEP?

(An Incomplete Summary)

- Sample annotated IEP:
<http://www.pattan.k12.pa.us/files/Forms/English/IEP-ANN070108.pdf>
- Present Levels of Academic Achievement and Functional Performance
- Measurable Annual Goals [see slides 31-33]
- Description of How Progress Toward Goal will be Measured and When Periodic Progress Reports will be Provided to Parents
- Specially designed instruction (special education) in academics, phys. ed., travel & vocational training (should be specific as to time, place, purpose, and manner)

What is in an IEP? (cont.)

- **Related Services:** transportation, speech therapy, physical therapy, occupational therapy, counseling
- **Supplementary Aids & Services (SAS):** supports provided in regular education classes and other settings to enable students with disabilities to be educated with their nondisabled peers to max. extent appropriate (ex: 1:1 aide, co-teaching, communication device)
<http://www.pattan.net/files/Gaskin/suplmntryAids-Svcs0108.pdf>
- **Extended School Year (ESY) Services**

What is in an IEP? (cont.)

- **Transition Services**: required for students at age 14 (or younger if appropriate)
- Special considerations (an incomplete list):
 - **Assistive Technology**: (devices/services): to increase functional capabilities of the child (e.g., communication device, portable word processor, text-to-speech software)
 - **Positive Behavior Support Plan**: if the child's behavior impedes his learning or that of others [see slides 34-37]
 - **Limited English Proficiency**: If student has LEP, team must address the student's language needs

Criteria for Measurable Goal

- **Condition:** The condition (situation, setting, or given material) under which the behavior is to be performed.
- **Student's Name**
- **Clearly Defined Behavior:** The specific action the student will be expected to perform.
- **Performance Criteria:** The level the student must demonstrate for mastery, the number of times the student must demonstrate the skill, and how frequently the teacher assess the student's mastery of the skill.

Measurable Annual Goals

- “Bobby will improve his reading skills.”
VERSUS
- “Given controlled passages at the third grade level, Bobby will apply learned decoding and word analysis strategies to read 120 words correct per minute with 94% accuracy as measured by weekly timed reading problems.”

Measurable Annual Goals

- “Jane will improve behavior in group discussions.”

VERSUS

- “During group discussions in targeted 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.”

When behavior impedes a child's learning or that of others

- Consider a Functional Behavioral Assessment and Positive Behavior Support Plan.



What is a Functional Behavior Assessment (FBA)?



- An FBA is a comprehensive and individualized approach to examining conditions that result in specific behavior or patterns of behavior.
- The process is intended to help educators understand why a problem behavior occurs in order to maximize the effectiveness and efficiencies of interventions.
- Functional Behavioral Assessment Worksheet:
<http://www.pattan.k12.pa.us/files/Handouts08/FBA-Wrkst060908.pdf>

What is a Positive Behavior Support Plan ?

- A plan, based on a FBA, for students who require specific intervention to address behavior that interferes with learning. *If needed, PBS Plan becomes part of child's IEP.*
- Includes methods that utilize positive reinforcement and techniques to shape a student's behavior, ranging from the use of positive verbal statements to specific tangible rewards.

Positive Behavior Support

22 Pa. Code 14.133

- All students and eligible young children shall be free from demeaning treatment, the use of aversive techniques, and unreasonable use of restraints.
- Programs to include research-based practices.
- Behavior Support Programs and Plans shall be based on a Functional Assessment of Behaviors (FBA) and use of positive techniques.
- Restraints are a measure of **last resort**.

More Information about IEPs

- Sample annotated IEP:
<http://www.pattan.k12.pa.us/files/Forms/English/IEP-ANN070108.pdf>
- PaTTAN trainings: www.pattan.k12.pa.us
- Writing Measurable Annual Goals:
<http://www.pattan.k12.pa.us/files/ProgMon/ShrtTrmObj-MeasAnnGls.pdf>
- *From Gobbledygook to Clearly Written Annual IEP Goals and Better IEPs: How to Develop Legally Correct and Educationally Useful Programs* by Barbara D. Bateman (available to buy on www.amazon.com)

Placement Decision

- When is it made?
 - After IEP is written
 - Placement must be determined at least annually & must be based on child's IEP
- Who decides? **The team, IDEA Parent**
- Key: **Least Restrictive Environment**
 - Children with disabilities should be educated with their non-disabled peers to the maximum extent appropriate

Placement Decision

- When is it made?
 - Placement should be decided after IEP written
- Who decides? The team, including parent
- What is LRE?
 - Children with disabilities should be educated with their non-disabled peers to the maximum extent appropriate
 - Key: **least restrictive environment** in which IEP can be implemented successfully using **supplementary aids/services**
- Parents must be given prior written notice of IEP & Placement before it starts
 - **NOREP: Notice of Recommended Educational Placement - Parents can disagree with the IEP and/or placement**
 - **Pendency: If parent disagrees, child remains in last-agreed-to placement pending resolution of the dispute process**

The Process

(from 34 C.F.R. Part 300 & 22 Pa. Code Chapter 14)

- Implementing/Revising IEPs
 - When and how often?
 - Must be implemented w/in 10 school days
 - IEP team must meet at least annually
 - Parents may request IEP meeting at any time
- Reevaluations
 - When?
 - Every 3 years (2 years if child with MR); or
 - If parent requests a reevaluation; or
 - If school believes “conditions warrant”

BUT school need not agree to > one a year

What if the child moves after an IEP is written & signed?

- If a child with an IEP moves:
 - *In-State Transfers*: new district must provide “services comparable to those described in the previously held IEP” & ensure FAPE
 - Until district formally adopts the old IEP or negotiates a new IEP with the parent
 - *Transfers from Another State*: same rule as above: comparable services to previous IEP & FAPE
 - Until district conducts a new evaluation (if needed) & negotiates a new IEP with the parent

DISAGREEMENTS

- IEP Facilitation

- Voluntary process
- Independent third party helps parents and schools use the IEP process to resolve issues
- Free service offered by the Office for Dispute Resolution; call 1-800-222-3353 or 717-541-4960 or go to <http://odr.pattan.net/> to get an IEP Facilitation Request Form

Disagreements

- Mediation:
 - Free & voluntary
 - No lawyers allowed
 - Discussions are confidential
 - New: Legally binding agreement (in court)
 - How? call Office of Dispute Resolution at 800-992-4334
 - MUST BE A “PARENT”

Disagreements

- Division of Compliance Complaint:
 - **When:** school isn't following the IEP or a clear legal rule (ex: timelines, procedures, etc.)
 - **Who:** Anyone may file a complaint on behalf of a student
 - **How:** Call 800-879-2301 to get the form or visit www.elc-pa.org for the form
 - Must send a copy of complaint to the school
 - Certain required information must be in the complaint (name, address, facts about the problem, proposed resolution)
 - Limit: only violations in past calendar year
 - **Timeline:** 60 days to investigate issue report.

Disagreements

- Special Education – Due Process Hearing
 - What is it?
 - Administrative hearing before a Hearing Officer
 - Must be a “PARENT” to request a hearing
 - How to request a hearing?
 - Request by sending “complaint” letter to school and state
 - See ELC fact sheet for rules on writing the “complaint” letter
 - Resolution Session or Mediation is required to try to work it out unless the parties waive
 - Hearing scheduled if no agreement reached
 - After hearing, appeal to state panel and then to court

What can you do to help?

- Consider whether a surrogate parent is needed:
 - Ask the district or juvenile judge to appoint one
 - Try to find a good person to be the surrogate, especially for kids in congregate care
- Inform parent of rules and rights
- Suggest an evaluation if needed
- Ensure “parent” is invited to & attends IEP mtg.
 - If can't attend, suggest phone or video conference
 - If parent doesn't attend, explain what occurred & facilitate paper signing (agreeing or disagreeing)
- Participate in IEP meetings
- Inform parent of dispute resolution options
 - Possibly file DOC complaint

Special Education Compliance Tips

- Discuss educational placement options
 - Has the child made progress in her current setting
 - If child is residentially placed: public school
- Participate in IEP Meetings – including Manifestation Determinations
 - Advocate for child
 - Do not share confidential information
 - Make a record

Key Points to Remember

- Special education system is a system with timelines that must be followed.
- There should be no gaps in services.
- Parents have a legal right to challenge what is offered if they think the program is inappropriate.
- There are steps parents can take if they think their child's rights are being violated.
- Even if a child is ineligible for special education services, the child might be entitled to protection under Section 504/ADA.
- Teachers and parents are a TEAM in addressing the educational needs of children with disabilities.

Accommodations in School

9. NEED FOR ACCOMMODATIONS IN SCHOOL
A. Child does not need accommodations for a 504 disability/condition.
A. Child does not need support for behavioral health or substance abuse (SAP).



Need for Accommodations

- Chronic condition?
- Behavior Problem?
- Interferes with life activities rather than learning?
- Support for behavioral health or substance abuse – need for Student Assistance Program (SAP) Services

Student Assistance Program

- **What is SAP?** Student Assistance Program (SAP) is administered by the PA Department of Education's Division of School Options and Safety in partnership with the PA Department of Health's Bureau of Drug and Alcohol Programs, and the PA Department of Public Welfare's Office of Mental Health and Substance Abuse Services. Designed to assist school personnel in identifying issues including alcohol, tobacco, other drugs, and mental health issues which pose a barrier to a student's success.

Section 504 / Chapter 15

(Federal name / State name)

- Federal Law prevents **discrimination**
- Entitlement - **reasonable accommodations**:
 - Evaluation & child find obligation
 - Written Plan (called a 504 Accommodations Plan, Chapter 15 Plan, or a Service Agreement – they are really the same thing) – lists aids, services, or accommodations
 - Must be followed to provide a FAPE
 - May be revised as needed

Need For Accommodations

Examples:

Common – Diabetes, asthma, etc.

Can cover children with ADD/ADHD, allergies, asthma, diabetes, ODD, PTSD, etc.

Examples of accommodations:

- Child with ADHD is promised extra time on tests, preferential seating, help organizing
- Child with chronic fatigue is allowed attend school for ½ days without penalty

Procedural Safeguards

- Must receive notice of right to evaluation
- Notice of School District's obligations
- Right to challenge denial of evaluation and/or accommodations

Right to notice of Options

- Mediation
- Hearing/Appeal to Court
- Complaint Process

Resources

- **Protection and Advocacy Organizations**

- National Disability Rights Network - www.ndrn.org
- Disability Rights Network of PA - 1-800-692-7443 - www.drnpa.org

- **Websites**

- www.elc-pa.org
- www.wrightslaw.com
- www.cap4kids.org

- **Other Organizations in PA**

- PA's Bureau of Special Education ConsultLine – 1-800-879-2301
- Parent Education Network (PEN) - 1-800-522-5827



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