



NOTICE OF PARENTAL RIGHTS

Section I: Prior Written Notice of Action/Refusal to Act

A. When Provided:

A school district must provide parents with written notice 10 school days prior to one or more of the following events:

1. The school district proposes to conduct an initial Gifted Multidisciplinary Evaluation (GMDE) or reevaluation of the student. Notices given under these circumstances are either the Permission to Evaluate or the Notice of Intent to Reevaluate.
2. The school district proposes or refuses to initiate or change the identification, evaluation or educational placement of the student. Notice given under these circumstances is the Notice of Recommended Assignment (NORA).
3. The school district proposes or refuses to make any significant changes in the student's Gifted Individualized Education Program (GIEP). Notice given under these circumstances is the Notice of Recommended Assignment (NORA).

B. Contents of Notice:

Prior written notices must be written in language understandable to the general public. If necessary, the content of notices must be communicated orally in the native language or directly so that parents understand the content of the notice.

Prior written notices must contain:

1. A description of the action proposed or refused by the school district, an explanation of why the school district proposes or refuses to take the action, and a description of any options the school district considered and the reasons why those options were rejected.
2. A description of each evaluation procedure, type of test, record or report the school district used as a basis for the district's action.
3. A description of other factors relevant to the school district's action.
4. A full explanation of the parental rights or procedural safeguards available to the parents or the student, including the right to an impartial hearing.
5. The address and telephone numbers of organizations that are available to assist the parents.
6. The timelines involved in conducting an evaluation, developing a gifted individualized education program (GIEP), and initiating a hearing.
7. A statement informing parents that an outside evaluation submitted by the parents must be

considered.

Section II: When Prior Written Parental Consent Must Be Obtained

Parental consent must be obtained by the school district prior to:

1. Conducting an initial Gifted Multidisciplinary Evaluation (GMDE) of a student;
2. Initially placing a gifted student in a gifted program;
3. Disclosing to unauthorized persons information identifiable to a gifted student.

Section III: Parental Refusal to Give Consent

A school district may request (in writing) a due process hearing to proceed with an initial evaluation or an initial educational placement when the district has not been able to obtain consent from the parents of a student who is thought to be gifted.

A school district may also request (in writing) a due process hearing when a parent disagrees with the identification, evaluation or proposed educational placement or educational services for a student who is gifted.

Section IV: Independent Educational Evaluation

Parents have the right to obtain an independent educational evaluation at their own expense. The results of the independent evaluation must be considered by the school district in any decision made with respect to the provision of a gifted education.

Section V: Dispute Resolution Systems

When parents disagree with the school district's proposal, they have the following formal systems available to them for dispute resolution: Mediation

Mediation is a process in which parents and agencies involved in a dispute regarding special education for gifted students agree to obtain the assistance of an impartial mediator in attempting to reach a mutually agreeable settlement. There is no cost to the parties.

Discussions occurring during the mediation session are confidential, and no part of the mediation conference is to be recorded.

1. During a mediation conference the mediator will meet with the parties together in a joint session and individually in private sessions.
2. The designated agency involved in the dispute must send representative who has the authority to commit resources to the resolution agree upon.
3. Any agreement reached by the parties during the mediation process must be converted into writing and placed in the student's educational record.
4. The written mediation agreement is not a confidential document, shall be incorporated into the student's GIEP, and is binding on the parties.
5. The mediation agreement shall be enforceable by the Department of Education.

6. A GIEP team shall be convened within 10 school days following the mediation agreement, to incorporate the mediation agreement into the GIEP where necessary.
7. When the mediation conference results in a resolution of the dispute, each party shall receive an executed copy of the agreement at the conclusion of the mediation conference.
8. Mediation may not be used to deny or delay a party's right to an impartial due-process hearing

9. Impartial Due Process Hearings

- a. Parents may request an impartial due process hearing in writing concerning the identification, evaluation or educational placement of, or the provision of a gifted education to, a student who is gifted or who is thought to be gifted if the parents disagree with the school district's identification, evaluation or placement or the provision of gifted education to the student.
- b. A school district may request a due process hearing in writing to proceed with an initial evaluation or an initial educational placement when the district has not been able to obtain consent from the parents or in regard to a matter in number one above.
- c. The due process hearing will be conducted by and held in the local school district at a place reasonably convenient to the parents. At the request of the parents, the hearing may be held in the evening.
- d. The due process hearing will be an oral, personal hearing and will be open to the public unless the parents request a closed hearing 5 days in advance of the hearing. If the hearing is open, the decision issued in the case will be available to the public. If the hearing is closed, the decision will be treated as a record of the student and will not be available to the public.
- e. The decision of the hearing officer will include findings of fact, a discussion and conclusions of law. Although technical rules of evidence will not be followed, the decision will be based solely upon the substantial evidence presented during the course of the hearing.
- f. The hearing officer will have the authority to order that additional evidence be presented.
- g. A written transcript of the hearing will, upon request, be made and provided to the parents at no cost.
- h. Parents may be presented by legal counsel and accompanied and advised by individuals with special knowledge or training with respect to students who are gifted.
- i. A parent or parent's representative will have access to educational records, including tests or reports upon which the proposed action is based.
- j. A party may prohibit the introduction of evidence at the hearing that has not been disclosed to that party at least 5 calendar days before the hearing.
- k. A party has the right to present evidence and testimony, including expert medical, psychological or educational testimony.
- l. The decision of the impartial hearing officer may be appealed to a court of competent jurisdiction.

- m. The Secretary may contract for coordination services in support of hearings conducted by local school districts. The coordination services will be provided on behalf of the school districts and may include arrangements for stenographic services, arrangements for hearing officer services, scheduling of hearings and other functions in support of procedural consistency and the rights of the parties to hearings.
- n. If a school district chooses not to utilize the coordination services, it may conduct hearings independent of the services if its procedures similarly provide for procedural consistency and ensure the rights of the parties. In the absence of its own procedures, a school district that receives a request for an impartial due process must forward, without delay, the request to the agency providing coordination services.
- o. A hearing officer may not be an employee or agent of a school district in which the parents or student resides, or of an agency which is responsible for the education or care of the student. A hearing officer must promptly inform the parties of a personal or professional relationship the officer has or has had with any of the parties.
- p. The following timelines apply to due process hearings:
 - i. The hearing must be held within 30 calendar days after a parent's or school district's initial request for a hearing.
 - ii. The hearing officer's decision must be issued within 45 calendar days after the parent's or school district's request for a hearing.
- q. Each school district must keep a list of the persons who serve as hearing officers. The list must include the qualifications of each hearing officer. School districts must provide parents with information as to the availability of the list and must make copies of it available upon request.

Section VI: Student's Status During Proceedings

Unless the parents and school district agree otherwise, the student must remain in his or her present educational placement during the pendency of any administrative or judicial proceeding.

Section VII: Applicable Laws and Regulations

Refer to 22 Pa Code, Chapter 16: Special Education for Gifted Students.

家长权利通知

第一节 事先书面通知/拒绝采取行动

A. 提供时：

学区必须在以下一项或多项活动发生前 10 个上学日向家长提供书面通知：

1. 学区建议对学生进行初始的资优多学科评估（GMDE）或重新评估。在这些情况下发出的通知是评估许可书或重新评估意向通知。
2. 学区提出或拒绝发起或变更学生的身份、评估或教育安置。在这些情况下发出的通知是推荐分配通知（NORA）。
3. 学区建议或拒绝对学生的资优个性化教育计划（GIEP）进行任何重大改变。在这些情况下发出的通知是推荐分配通知（NORA）。

B. 通知内容：

事先书面通知必须以公众可以理解的语言撰写。如有必要，通知的内容必须以其母语口头或直接传达，以便家长理解通知的内容。

事先书面通知必须包含：

1. 描述学区提议或拒绝采取的行动，解释学区提出或拒绝采取行动的原因，以及学区考虑的任何选项以及这些选项被拒绝的原因。
2. 每个评估程序的描述，测试类型，记录或报告用作学区行动的基础。
3. 描述与学区行动相关的其他因素。
4. 充分说明家长或学生可享有的家长权利或程序保障，包括获得公正听证的权利。
5. 能够为家长提供协助的机构的地址和电话号码。
6. 进行评估、制定资优个性化教育计划（GIEP）和启动听证会的时间表。
7. 一份声明，告知家长必须在其所提交的外部评估考虑在内。

第二节 事先征得家长书面同意时

在以下情况下，必须获得学区的家长同意：

1. 对学生进行初步的资优多学科评估（GMDE）；
2. 最初将天才学生安排在天才计划中；
3. 向未经授权的人披露可识别天才学生身份的信息。

第三节 家长拒绝同意

学区可以要求（以书面形式）正当程序听证会，以便在学区无法获得被认为资优学生的家长的同意时进行初步评估或初始教育安置。

学区也可以要求（以书面形式）正当程序听证会，当家长不同意为资优学生提供的身份识别、评估或拟议的教育安置或教育服务时。

第四节 独立教育评估

家长有权自费获得独立的教育评估。学区在就提供资优教育作出任何决定时，必须考虑独立评估的结果。

第五节 争议解决制度

当家长不同意学区的提议时，他们有以下正式系统可用于争议解决：调解

调解是一个过程，在这个过程中，家长和涉及资优学生特殊教育纠纷的机构同意获得公正调解员的协助，试图达成双方都同意的解决方案。各方无需支付任何费用。

调解会议期间进行的讨论是保密的，调解会议的任何部分均不得记录在案。

1. 在调解会议期间，调解员将在联席会议和单独非公开会议上与各方当事人会面。
2. 参与争议的指定机构必须派出有权为商定的解决方案投入资源的代表。
3. 双方在调解过程中达成的任何协议都必须转换为书面形式，并存入学生的教育记录。
4. 书面调解协议不是机密文件，应纳入学生的 GIEP，并对各方具有约束力。
5. 调解协议应由教育部执行。
6. GIEP 小组应在调解协议签订后 10 个学日内召开会议，必要时将调解协议纳入 GIEP。
7. 当调解会议导致争议解决时，各方应在调解会议结束时收到协议的执行副本。
8. 调解不得用于剥夺或延迟一方当事人获得公正正当程序听证会的权利。
9. 公正的正当程序听证会

- a. 如果家长不同意学区的身份识别、评估或安置或向学生提供资优教育，家长可以书面形式要求公正的正当程序听证会，以书面形式要求对有天赋或被认为资优的学生进行身份识别、评估或教育安置，或向该学生提供资优教育。
- b. 学区可以书面形式要求正当程序听证会，以便在学区无法获得家长的同意或上述第一项事项时进行初步评估或初始教育安置。
- c. 正当程序听证会将由当地学区在家长合理方便的地方进行并举行。应家长的要求，听证会可在晚上举行。
- d. 正当程序听证会将是口头私人的听证会且将向公众开放，除非家长在听证会前 5 天要求举行非公开听证会。如果听证会是公开的，则该案件的裁决将向公众开放。如果听证会结束，该裁决将被视作学生的记录的一部分，不会向公众开放。
- e. 听证官的决定将包括事实的结果，讨论和法律结论。尽管不会遵守技术证据规则，但该决定将仅基于听证会过程中提供的大量证据。
- f. 听证官将有权下令提供其他证据。
- g. 听证会的书面笔录将根据要求免费提供并提供给家长。
- h. 家长可以由法律顾问介绍，并由有天赋的学生陪同和建议。
- i. 家长或家长的代表将可以访问教育记录，包括拟议诉讼所基于的测试或报告。
- j. 一方可以禁止在听证会上至少在听证前 5 个自然日尚未向该方披露的证据引入。
- k. 一方有权提出证据和证词，包括专家医学、心理或教育证词。
- l. 公正的听证官的裁决可以让人向有管辖权的法院提出申诉。
- m. 秘书可以合同协调服务，以支持当地学区进行的听证会。协调服务将代表学区提供，并可能包括速记服务的安排、听证官服务的安排、安排听证会和其他职能来为程序一致性以及当事方在听证会上的权利提供支持。
- n. 如果学区选择不利用协调服务，则如果其程序类似地提供程序一致性并确保当事方的权利，则可以进行独立于服务的听证会。在没有自己的程序的情况下，收到公正的正当程序请求的学区必须不延迟向提供协调服务的机构的请求转发。
- o. 听证官可能不是家长或学生所在的学区的雇员或代理人，也不是负责学生教育或照顾的机构的雇员或代理人。听证官必须立即将官员与任何当事方建立的个人或专业关系通知各方。
- p. 以下时间表适用于适当的程序听证：
 - I. 听证会必须在家长或学区初步要求听证会后的 30 个日历日内举行。
 - II. 听证官的决定必须在家长或学区要求听证会后的 45 个日历日内发布。
- q. 每个学区必须保留担任听证官的人的名单。该清单必须包括每个听证官的资格。学区必须向家长提供有关列表可用性的信息，并且必须根据要求进行副本。

第六节：诉讼期间学生的身份

除非家长和学区另有同意，否则学生必须在任何行政或司法程序的终止期间留在目前的教育安置中。

第七节：适用的法律法规

请参阅 22 PA 法律第 16 章：针对资优学生的特殊教育。