Notice of Special Education Services

The public school districts and charter schools of Delaware County, Pennsylvania, and the Delaware County Intermediate Unit (The Delaware County school entities), provide special education and related services to resident children with disabilities who are age three through twenty-one. The purpose of this notice is to describe (1) the types of disabilities that might qualify the child for such programs and services, (2) the special education programs and related services that are available, (3) the procedures by which each of the Delaware County School entities reviews and evaluates each student to determine eligibility, and (4) the special rights that pertain to such children and their parents or legal guardians.

What types of disability might qualify a child for special education and related services?

Under the Individuals with Disabilities Education Act, commonly referred to as the IDEA, "children qualify for special education and related services if they have one or more of the following disabilities and, as a result, demonstrate a need for special education and related services: (1) mental retardation, (2) hearing impairments, including deafness, (3) speech or language impairments, (4) visual impairments, including blindness, (5) serious emotional disturbance, (6) orthopedic impairments, (7) aphasia, including specifically learning disabilities, (8) multiple disabilities, (9) traumatic brain injury, (10) other health impairments, (11) and (12) for preschool age children, developmental delays. If a child has more than one of the above-mentioned disabilities, the child could qualify for special education and related services as having multiple disabilities. Children ages three through nine years old may also be eligible if they have developmental delays and, as a result, need special education and related services.

The legal definition of these disabilities, while the public schools are required to apply under the IDEA, may differ from those used in medical or clinical practice. Moreover, the IDEA definitions could apply to children with disabilities that have very different medical or clinical diagnoses. A child with attention deficit hyperactivity disorder, for example, could qualify for special education and related services as a child with "other health impairments," "serious emotional disturbance," or "specific learning disabilities" if the child meets the eligibility criteria under one or more of these disability categories and if the child needs special education and related services as a result.

Under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, some school-aged children with disabilities who do not meet the eligibility criteria under the IDEA might nevertheless be eligible for special education services and accommodations under Section 504, ADA, or the New Mexico Administrative Code. Information regarding potential signs of development delays and other risk factors that could indicate disabilities can be found in our Handbook and on our website.

What programs and services are available for children with disabilities?

Each of the Delaware County school entities must ensure that children with disabilities are educated to the maximum extent appropriate in settings with non-disabled peers, commonly referred to as the least restrictive environment. Programs and services available to students with disabilities, in descending order of preference, are (1) regular class placement with supplementary services and related services provided as needed in that environment, (2) regular class placement for most of the school day with instruction by special education teacher in or out of the regular classroom, (3) regular class placement for most of the school day with instruction provided by a special education teacher in a resource classroom, (4) part time special education class placement in a regular public school or alternative setting, and (5) special education class placement or special education services provided outside the regular class for more than all of the school day, either in a regular public school or alternative setting.

Depending on the nature and severity of the disability, a Delaware County school entity can provide special education and related services in (1) the public school the child would attend if not disabled, (2) an alternative public school either in or outside the school district of residence, (3) a special education center operated by a public school entity, (4) an approved private school or other private facility licensed to serve children with disabilities, (5) a residential school, (6) approved out-of-state program, or (7) the home.

Special education services provided according to the primary educational needs of the child, not the category of disability. The types of services available are (1) learning support, for students who primarily need assistance with the acquisition of academic skills, (2) the skills support, for students who primarily need assistance with development of skills necessary for living independent living, (3) educational support, for students who primarily need assistance with social or emotional development, (4) oral or hearing impaired support, for students who primarily need assistance with deafness, (5) blind or visually impaired support, for students who primarily need assistance with blindness, (6) physical support for students who primarily need assistance with physical disabilities, (7) orthotic support for students who primarily need assistance in the areas affected by autonomic syndrome, and (8) multiple disabilities support, for students who primarily need assistance in multiple areas affected by their disabilities.

Related services are designed to enable the child to participate in or access his or her program of special education. Examples of related services are speech and language therapy, occupational therapy, physical therapy, nutrition services, audiologist services, counseling, and family therapy.

Children of preschool age are served by the Delaware County Intermediate Unit in a variety of home and school-based settings that take into account the chronological and developmental age and primary needs of the child. As with school-aged programs, preschool programs must ensure that to the maximum extent appropriate, children with disabilities are educated with non-disabled peers.

Each Delaware County School entity, in conjunction with the parents of each identified child, determines the type and intensity of special education and related services that a particular child needs based exclusively on the unique program of special education and related services that the child is a part of. The child's program is described in writing in the individualized education program, commonly referred to as an IEP which is developed by the IEP team consisting of educators, parents, and other persons with special expertise or familiarity with the child.

The IEP is reviewed at least annually, the law requires that the program and placement of the child, as described in the IEP, be reasonably calculated to ensure meaningful educational progress to the student at all times. IEPs contain, at a minimum, the present educational performance level of the child, the expected level of educational and functional performance, an enumeration of annual goals, a description of how the child's progress toward meeting the annual goals will be measured and reported, an explanation of the assessment and procedures used to determine the child's need for special education and related services, and a statement of the child's performance level at the time the IEP is developed.

The public school must notify the child's IEP team meeting if a purpose of the meeting will be the consideration of the post-secondary goals and transition services needed for the child.

All Delaware County School districts are required to offer parents of children with disabilities reasonable access to their children's classrooms, subject to the provisions of each entity's school visitation policy or guidelines.
How do the public schools screen and evaluate children to determine eligibility for special education and related services?

Multidisciplinary Team Evaluation

Delaware County School entities must conduct a multidisciplinary team evaluation of every child who is thought to have a disability. The multidisciplinary team is a group of professionals who are trained in and experienced with the testing, assessment, and observation of children to determine whether they have disabilities and, if so, to identify their primary educational strengths and needs. Parents are members of the multidisciplinary team. Delaware County School entities must remove school-age students receiving special education services every three years and must reevaluate all children with mental retardation and pre-school-age children receiving special education services every two years.

Parents may request a multidisciplinary team evaluation of their children at any time. They must do so in writing. Every public school has a procedure in place by which parents can request an evaluation. For information about each Delaware County School entity's procedures applicable to your child, contact the elementary, middle, or high school which your child attends. Telephone numbers and addresses for these schools can be found in the blue pages section of the telephone book under the heading "Schools." Parents of preschool age children should contact Delaware County School entities to obtain information on special education services.

Before a Delaware County School entity can proceed with an evaluation, it must notify the parents in writing of the specific types of testing and assessment it proposes to conduct, of the dates and times of the evaluation, and of the parent's rights. The evaluation cannot begin until the parent has signed the written notice indicating that he or she consents to the proposed testing and assessments and has returned the notice to the public school.

Screening

All Delaware County School entities undertake screening activities before referring students for a multidisciplinary team evaluation. Screening activities can involve an informal support team, commonly referred to as the "504," or an alternative screening process. Regardless of the particular screening method employed, the screening process must include (1) periodic vision and hearing assessments by the school nurse as translated by the School Code and (2) screening at reasonable intervals to determine whether all students are performing based on grade-appropriate standards in core subjects.

A student who falls below the norm or is improving at an insufficient rate may be referred for a multidisciplinary team evaluation. For information about the dates of various screening activities in your child's school or to request screening activities for a particular child, contact the local public school directly. Telephone numbers and addresses for these schools can be found in the blue pages section of the telephone book under the heading "Schools." Parents of preschool age children, age three through five, may obtain information about screening activities, or may request a screening of their children, by calling or writing the Delaware County Intermediate Unit, Early Intervention Services, 200 Yoke Avenue, Middletown, Pennsylvania 19069, (810) 958-9000. The telephone number for the Early Intervention Program is (810) 958-9200.

Private school administrators, teachers, and parent groups, or individual parents of students in private schools, who are interested in establishing systems in their schools for locating and identifying children with disabilities who might need a multidisciplinary team evaluation, may contact Delaware County School entities, 200 Yoke Avenue, Middletown, Pennsylvania 19069, (810) 958-9000. The telephone number for the Early Intervention Program is (810) 958-9200.

What special rights and protections do children with disabilities and their parents have?

State and federal law affords children with disabilities and their parents a number of rights and protections. A summary of these rights and protections follows. Interested persons may obtain a complete written summary of the rights and protections afforded by the law, together with information about local or state legal services and advice, by contacting their local district special education or student services department at the address and telephone number listed in the blue pages section of the telephone book under the heading "Schools." The written summary is also available through the Delaware County Intermediate Unit, 200 Yoke Avenue, Middletown, Pennsylvania 19069, (810) 958-9000.

Rights and Protections

In addition to the main content, the following sections provide additional information:

- A thorough discussion of the rights of parents and children with disabilities
- A list of resources available to families
- Information on the role of the multidisciplinary team in the evaluation process

In conclusion, the Delaware County School entities are committed to ensuring that all children receive a fair and comprehensive evaluation to determine their eligibility for special education and related services.
Independent Educational Evaluations. If parents disagree with the evaluation conducted by the responsible Delaware County School entity, they may request in writing an independent educational evaluation, commonly referred to as an "IEE," at public expense. If an IEE is provided at public expense, the criteria under which the IEE is privately obtained, the code name for the respective Delaware County School entity uses when it initiates an evaluation. Information concerning each school entity's evaluation criteria can be obtained through the Office of Special Education or Student Services of that entity. If the Delaware County School entity refuses to pay for the IEE, it shall immediately request a special education due process hearing to determine the appropriateness of its evaluation.

Due Process Hearing Procedures

The parent or local educational agency, commonly referred to as the "LEA," may request a due process hearing with respect to any matter relating to the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education, commonly referred to as the "FAPE." The party requesting the hearing must submit a "Due Process Hearing Request" form to the Office for Dispute Resolution, 6340 Flash Drive, Suite 600, Harleysville, Pennsylvania 19438; telephone (610) 256-3352; TTY (610) 664-5964. A due process hearing will not proceed until all required information is provided and procedures followed.

Timeline for Requesting Due Process. The parent or LEA must request a due process hearing by filing a Due Process Hearing Request within two (2) years of the date on which the parent or the LEA knew or should have known about the alleged action that forms the basis of the request. There is no deadline for filing a request. This timeline will not apply to the parent if the parent was prevented from filing a Due Process Hearing Request due to either (1) specific misrepresentations by the LEA that it had resolved the problem defining the basis of the hearing request, or (2) the LEA's withholding of information from the parent that the LEA was required to provide.

Filing and Service of Due Process Hearing Request. The party requesting the hearing must send a copy of the Due Process Hearing Request to the other party and, at the same time, to the Office for Dispute Resolution by mail addressed to the Office for Dispute Resolution, 6340 Flash Drive, Suite 600, Harleysville, Pennsylvania 19438, or by electronic mail addressed to ODR pathways, or by facsimile at (215) 657-5605.

Contents of Due Process Hearing Request. The Due Process Hearing Request must contain the following information:

1. The name of the child, the address where the child lives, and the name of the school the child is attending or, if the child is homeless, available contact information for the child and the name of the school the child is attending;

2. A description of the nature of the problem, including facts relating to each problem; and

3. A proposed resolution of the problem to the extent known and available to the party filing the Due Process Hearing Request.

Obligations of the LEA. If the Due Process Hearing Request is not received by the Office, the LEA must provide a copy of the Due Process Hearing Request, and the LEA must file the hearing request with the ODR within seven (7) days of receipt. The hearing officer may dismiss the request if the LEA fails to provide the Due Process Hearing Request in a timely manner.

Response to Request. If the LEA has not sent a signed written notice, such as a Notice of Reconsideration Educational Placement, commonly referred to as a "NONREP," to the parent regarding the subject matter contained in the parent's Due Process Hearing Request, the LEA must send the parent, within ten (10) days of receiving the Due Process Hearing Request, a nonreconsidered, statutorily required, written notice, including the following information: (1) an explanation of why the LEA proposed or refused to take the action raised in the Request, (2) a description of other options the Individualized Education Program ("IEP") Team considered, if any, and the reasons why those options were rejected, (3) a description of each evaluation procedure, assessment, record, or report the LEA used as the basis for the proposed or refused action and (4) a description of the procedures that are available to the child or the parent for changing the sufficiency of the Due Process Hearing Request. If the parent receives the Due Process Hearing Request, the response to the Due Process Hearing Request must be sent to the other side within ten (10) days of receipt of the request. The response should specifically address the issues raised in the Due Process Hearing Request.

Hearing Officer Determination of Sufficiency of the Due Process Hearing Request. Within five (5) days of receiving a party's challenge to the sufficiency of the Due Process Hearing Request, the Hearing Officer must make a determination based solely on the information contained within the Request whether the Request meets content requirements listed above. The Hearing Officer must immediately notify both parties by writing of his or her determination.

Subject Matter of the Hearing. The party requesting the due process hearing is not permitted to raise issues at the due process hearing that were not raised in the Due Process Hearing Request (or Amended Due Process Hearing Request) unless the other party agrees otherwise.

Resolution Session. Before a due process hearing can take place, the LEA must convene a preliminary meeting with the parent and the relevant examiner or members of the IEP Team who have specific knowledge of the facts identified in the Due Process Hearing Request in an attempt to resolve those issues without the need to proceed to a due process hearing. The preliminary meeting must be convened within fifteen (15) days of the receipt of the Due Process Hearing Request. A representative of the LEA who has decision-making authority must be present at this meeting. The LEA may not request the parent to attend this meeting. In requesting this additional meeting, the parent must provide the LEA with a written explanation of the issues the parent will discuss in the Due Process Hearing Request, and the LEA will be provided up to thirty days of the preliminary meeting. The meeting must be conducted by the party requesting the due process hearing. If the parent and LEA resolve the issues in the Due Process Hearing Request at this preliminary meeting, they may agree to one or more changes to the written agreement.

Amended Due Process Hearing Request. Either the parent or a LEA may amend its Due Process Hearing Request only if the other party consents in writing to the amendment and is given the opportunity to review the issue raised in the Due Process Hearing Request through a resolution meeting, or the Hearing Officer grants a settlement for the party to amend the Due Process Hearing Request. However, the Hearing Officer may grant this permission later than five (5) days before a due process hearing occurs.

Timeline for Completion of Due Process Hearing. If the LEA has not resolved the Due Process Hearing Request within thirty (30) days of receiving it, or within thirty (30) days of receiving the Amended Due Process Hearing Request, the due process hearing may proceed and applicable timelines commence. The timelines for completion of due process hearings are forty-five (45) days, unless the Hearing Officer grants specific extensions of time at the request of either party.

Disclosure of Evaluations and Recommendations. Not less than five (5) business days prior to a due process hearing, each party must disclose to all other parties all evaluations completed by that date, and recommendations based on the parties' evaluations that the party intends to use at the due process hearing. Failure to disclose this information may result in a Hearing Officer prohibiting the parties from introducing the information at the hearing unless the other party consents to its introduction.
Due Process Hearing Rights: The hearing for a child with a disability or thought to have a disability must be conducted and held in the LEA at a place and time reasonably convenient to the parent and child. The hearing must be on one, personal hearing and must be closed to the public unless the parent requests an open hearing. If the hearing is open, the decision must be based on the evidence presented at the hearing. The decision of the Hearing Officer must be given to the parent and child in written form at the time of the hearing. The decision may be appealed to the county superintendent of schools or the Pennsylvania Department of Education, as provided by law.

Civil Action: A party that disagrees with the decision of the Hearing Officer shall have the right to file an appeal in state or federal court. In notifying the parties of the decision, the Hearing Officer shall indicate the court to which an appeal may be taken. A party filing an appeal is encouraged to seek legal counsel to determine the appropriate court with which to file an appeal. A party filing an appeal to state or federal court has ninety (90) days from the date of the decision to do so.

Attorney’s Fees: A court, in its discretion, may award reasonable attorney’s fees to the parent of a child who is prevailing party or to a State Educational Agency or LEA against the attorney of the party who files a Due Process Hearing Request or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of the party who continues litigation after the Notice of Appeal has been filed. An attorney’s fee award may be made in the event the claims of the defendant are materially to the legal action or proceedings.

The federal law provides certain relief for certain situations and in some circumstances may limit attorney’s fee awards. Parents should consult with the legal counsel regarding these matters. The following rules apply: An attorney’s fee may be awarded and related costs not be ordered if the hearing officer finds no action or proceeding for services performed subsequent to the time of a written offer of settlement made by the parent; if the offer is made within the time prescribed by Rule 805; if the defendant fails to comply with the Rules of Civil Procedure; or, in the case of an administrative hearing, at any time more than ten (10) years after the proceeding; the offer is not accepted within ten (10) days; and the court finds that the offerately obtained by the parent is reasonable and fair to the parent. The offer to settle is not considered to be a written communication as required by the law. The attorney’s fee award is not limited to filing fees, but the claimant shall be entitled to recover reasonable attorney’s fees for past, present, or future representations and prosecutions.

Children’s Status During Administrative Proceedings: Except for specific cases, the Due Process Hearing Request is not pending and the child must remain in the same educational placement unless the party’s attorney or LEA otherwise agrees. If the due process hearing involves an application for special education or related services, the child, with parent consent, must be placed in the public school program until completion of all the proceedings, unless the parent and LEA agree otherwise.

School Suspension: In the case of a child who is suspended from school, the child must remain in the same educational placement unless the party’s attorney or LEA otherwise agrees. If the child is suspended from school, the child must be provided with educational services at the suspension.

Private School Tuition Reimbursement: In the case of a child who is enrolled in a private school, the child must remain in the same educational placement unless the party’s attorney or LEA otherwise agrees.

Right to Privacy: The Due Process Hearing Request is not pending and the child must remain in the same educational placement unless the party’s attorney or LEA otherwise agrees.

Notice: The Due Process Hearing Request is not pending and the child must remain in the same educational placement unless the party’s attorney or LEA otherwise agrees.

Confidentiality: All records and information concerning the educational services or educational placement of the child must be kept confidential and may not be released to any person or organization except as required by law or court order.
Students Who Are Mentally Gilted

All Delaware County School districts, except charter schools, also offer special education services, in the form of acceleration or enrichment, for students who are identified by a gifted multidisciplinary team (GMDT) as "mentally gifted." A child is considered mentally gifted when his or her cognitive ability or other factors, as determined by a multidisciplinary team evaluation, indicate that he or she has potential for significant gains in intellectual development. The GMDT engages in assessing outcomes of outside intellectual abilities of the development which requires special programs and services not ordinarily available in the general education program.

Records on students who are determined to have significant gains in intellectual development are maintained in the student's educational file. The records on the mental gifted student are maintained in a manner that is consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, and implementing regulations, 34 C.F.R. Part 99.

Parent Access: Upon submitting a request to do so in writing, parents have the right to access the educational records of their child within thirty days of receiving a request for access to such records. The school will charge a fee to cover the cost of copying records.

"Directory Information." Public school entities designate certain kinds of information as "directory information." The public schools of Delaware County typically designate the following as "directory information": the student's name, address, telephone number, and photographs of the student.

Access to records by school officials with a legitimate educational interest. School officials with a legitimate educational interest in the personally-identifiable information contained in educational records have access to personally identifiable information without parent or student consent. The school official must designate in his/her education records policy those persons who have a legitimate educational interest in the educational records that would allow such access to education records.

Amendment of education records. After reviewing records, a parent or a student who believes that he or she has been subjected to an illegal act may request that the record be amended. The school will make the requested changes or reject the request within thirty (30) days of the request for amendment. The parent or student may request an informal hearing. The hearing will be held before any public school official who does not have a direct interest in the outcome. If the parent or student is dissatisfied with the outcome of the informal hearing, he or she may submit to the public school a statement outlining their dissatisfaction with the record. The school will attach the statement to all copies of the record disclosed in future transactions.

A child can be identified as both a child with a disability and mentally gifted. In such cases, the rights of the child or his or her parents are governed by the rules applicable to children with disabilities and their parents, as described above.
Complaints to the United States Department of Education. Complaints concerning alleged failure of a public school entity to comply with the requirements of the Family Educational Rights and Privacy Act may be addressed to the United States Department of Education as follows:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202-4605

This notice is only a summary of the special education services, evaluation and screening activities, and rights and protections pertaining to children with disabilities, children thought to be disabled, and their parents. For more information or to request evaluation or screening of a public or private school child contact the responsible Delaware County School entity listed below. For preschool age children, information can also be obtained, and screenings requested, by contacting the Delaware County Intermediate Unit

Chester Charter School for the Arts
Mrs. Anuwa Watts
Principal
200 Commerce Drive
Aston, PA 19010
610-638-3937

Chester Community Charter School
Dr. David Clark
Chief Executive Officer
224 East 5th Street
Chester, PA 19013
610-647-6000

Chester Uphol School District
Ms. Andrea Bailey
Assistant Superintendent
Special Education/Student Services
1270 Mirocco Avenue
Chester, PA 19013
610-447-9800

Elwyn Charter School (Special Education for Early Developmental Success)
Elwyn Uphol MARA
Vernon Williams, Director
419 Avenue of the States, Third Floor
Chester, PA 19013
610-870-4990

Chelco School District
Dr. Stephon Laver
Director of Pupil Services
PO Box 2100
Boothwyn, PA 19014
610-435-0606 Ext. 6500

The Delaware County Intermediate Unit and the Delaware County Technical Schools are equal opportunity education institutions and shall not discriminate on the basis of sex, color, religion, national origin, age, sex, equal pay, disability or gender identity in their activities, programs or employment practices as required by Title VI, VII, IX, Section 504, the Americans with Disabilities Act, and the Genetic Information Non-Discrimination Act of 2008. For information regarding civil rights or grievances procedures, contact the Director of Human Resources at the Section 504 Coordinator at 300 Waway Avenue, Morris, PA 19073, 610-638-6000. For information regarding services, activities and facilities that are accessible to and usable by handicapped persons, contact the Supervisor of Facilities at 610-638-6000.