



A REVIEW OF KEY TIMELINES

IMPORTANT: ELC's publications are intended to give you a general idea of the law. However, each situation is different. If, after reading our publications, you have questions about how the law applies to your particular situation, contact us for a referral or contact an attorney of your choice.

Some of the deadlines described in this booklet are in calendar days, others are in schools days (that is, days in which the schools are open), and a few are in business days (Monday through Friday except for holidays). If your public charter school, early intervention agency, or school district is not following these timelines, contact the Special Education Director or other official and discuss the problem. If your child has missed services because of the delay, you should ask your school or early intervention provider to give your child "compensatory education" to make up for services that she missed.

If that doesn't work, you can file a complaint with the Bureau of Special Education, the Division of Compliance, Monitoring, and Planning, 333 Market Street, Harrisburg, PA 17126-0333, or you can contact the Special Education ConsultLine at 1-800-879-2301. (You can get a copy of the Division of Compliance's (DOC) complaint form from our website at www.elc-pa.org). You can also request mediation or a Special Education Hearing. For a detailed explanation of these options, see ELC's Fact Sheet "How To Resolve Special Education Disputes". (All of ELC's Fact Sheets can be found on our website at www.elc-pa.org or by calling the phone numbers listed below.)

THE PRE-SCHOOL SYSTEM (for children ages 3 to 5)

Evaluations

A first or "initial evaluation" of a child must be completed, and a written

report given to the parent, within 60 calendar days of the date the parent signed the "Permission to Evaluate" form. Re-evaluations must be completed, and a written report given to the parent, within 60 calendar days of the early intervention agency receiving the parent's written request for a re-evaluation. Even if the parent does not request a re-evaluation, the early intervention agency must re-evaluate the child at least once every two years.

Individualized Education Programs (IEPs)

A meeting to develop the child's program (IEP) must be held within 30 calendar days of the first evaluation report. A child must begin receiving her IEP services within 14 calendar days of the parent's approval of the IEP. Children in the preschool system must have their IEPs reviewed by an IEP Team at least once a year. If the services listed in the IEP are changed at an IEP meeting, the child must begin receiving the new services no later than 14 calendar days after the new IEP is completed.

SPECIAL EDUCATION FOR SCHOOL-AGE CHILDREN

Evaluations

For initial evaluations, a student must be evaluated, and a written report given to the parent, within 60 school days of the parent's giving the school the "Permission to Evaluate" form signed by the parent (if the student attends a public charter school, the deadline is 60 calendar days). The school district must give the family the evaluation report at least 10 school days before the IEP Team meeting, although the parent can agree in writing to combine the evaluation report meeting with the IEP Team meeting. Children receiving special education services must be re-evaluated every three years unless the parent and the school agree that the re-evaluation should not be conducted. Students with mental retardation must be re-evaluated every two years (this cannot be waived). A parent can also request a re-evaluation of their child at any time, but the school does not have to agree to complete more than one re-evaluation each year.

Individualized Education Programs (IEPs)

The school must meet with the parent to develop the student's program (IEP) within 30 calendar days of the initial evaluation report. (There is no specific

timeline for holding an IEP meeting after a re-evaluation.) The child must start receiving the services in the IEP no later than 10 school days after the parent has approved the IEP by signing the Notice of Recommended Educational Placement (NOREP). A child's IEP must be reviewed at least yearly. If the IEP is revised, the new services must begin no later than 10 school days after the parent has approved the changed IEP.

TIMELINES FOR DISPUTE RESOLUTION

If a problem arises, the parent should always talk with the agency or school staff and, whenever possible, have a formal IEP meeting to discuss the problem. However, if the parent is still unhappy, here are some of the options and timelines for resolving disputes.

The Pre-Hearing Conference: A parent can ask her school district to hold a pre-hearing conference (PHC) whenever she believes that the school is not meeting her child's special needs - for example, if she thinks her child's evaluation was inadequate or the IEP will not allow her child to make reasonable progress. PHCs do not exist for charter schools.

The school does not have to agree to a parent's request for a PHC, but if it does agree it must hold the PHC within 10 calendar days of receiving the parent's request. If an agreement is reached at the PHC that includes changing a child's IEP services or placement, the school must make the change(s) within 10 school days. The parent has 5 calendar days to change her mind and cancel any agreement reached at the PHC (but the school cannot change its mind).

Mediation: A parent can also request that the school agree to mediation. If both parties agree, the state Office of Dispute Resolution (ODR) will contact the parent within 10 calendar days of receiving the mediation request. ODR will then set a date, time, and place, for the mediation session. If the parent requests mediation, but does not request a Special Education Hearing at the same time, the timelines for convening the hearing (30 calendar days) will **not** begin to run. If the parent requests a mediation session and a hearing at the same time, the time period for the hearing will begin to run while the mediation takes place (unless the parties agree to a time extension).

Special Education Hearing: A parent can request a Special Education Hearing to resolve her dispute with the school or early intervention agency. The

parent must request a hearing within two years of the date the parent either knew or should have known about the problems listed in her complaint. The two-year limit does not apply if the parent was prevented from requesting a hearing because the school specifically misrepresented that the problem was solved or if the school did not give the parent information about the problem that it was required to give under the law.

To request a hearing, the parent must send a "complaint" letter to the school and to the Office of Dispute Resolution. The law requires that certain information be included in the "complaint" letter. The school has 15 calendar days to argue to the Hearing Officer that the parent's Complaint is "insufficient" and does not have the required information. If a "sufficiency" challenge to the complaint is made, the Hearing Officer has 5 calendar days to decide whether the complaint is sufficient, and must immediately notify the parties in writing of his decision. If the Hearing Officer rules that a complaint is "insufficient," no hearing will be held (the parent will have to amend her complaint or start over).

If the school has not already given the parent written notice (called a Notice of Recommended Educational Placement or NOREP) about the issues in the parent's complaint, then it must send the parent a NOREP or written response addressing these issues within 10 calendar days of receiving the complaint.

Within 15 calendar days of its receiving the complaint, the school must schedule a "resolution session." A resolution session is a meeting between the parents and key school staff, including someone who has decision-making authority. Any agreement reached at this meeting must be put in writing and can be enforced in a court of law, but the agreement can be cancelled by either side within 3 business days. The only ways to avoid having the resolution session are if the parents and school agree to go to mediation or if the parents and the school agree in writing to skip the resolution session.

If the parent has participated in the resolution session, and the school and the parent have not resolved the problem 30 calendar days after the school got the parent's "complaint" letter, the hearing can be scheduled. If the school has not scheduled or participated in the resolution session, the parent can ask the Hearing Officer to schedule the hearing.

The hearing must be completed and a decision must be issued within 45 calendar days (unless the Hearing Officer grants an extension at the request of a

party). The parent and school must exchange information about the witnesses and documents they will use at the hearing at least 5 business days before the hearing begins.

Appeals of Hearing Officers' Decisions: The Hearing Officer's decision can be appealed by the parents or the school (or both!) to a Special Education Appeals Panel. Either side can "appeal" by writing a letter to ODR that lists their problems (called "exceptions") with the Hearing Officer's decision. That letter, and any brief that you choose to file with your letter, must be received by ODR within 15 calendar days of the date you or your lawyer gets the Hearing Officer's decision. *Remember: this means ODR must get your letter in 15 days, it does not mean you have 15 days to postmark the appeal letter.*

Complaints to the Division of Monitoring, Compliance and Planning: The State Department of Education, Division of Monitoring, Compliance and Planning (DOC) has 60 calendar days to investigate and resolve a written complaint from the parent who believes their child's rights under the special education laws have been violated. For example, a parent can file a DOC complaint against the school for not following the timelines set out in this Fact Sheet. The DOC complaint must be filed within one year of the violation. If DOC finds that your child's right to an appropriate education has been violated, it can order compensatory education (make-up services for what your child has missed).

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Prepared by: Education Law Center (Rev. 8/07)
(215) 238-6970 (Philadelphia)
(412) 258-2120 (Pittsburgh)
www.elc-pa.org