

PROCEDURAL SAFEGUARDS NOTICE

BUREAU OF SPECIAL EDUCATION'S CONSULTLINE, A PARENT HELPLINE 800-879-2301

ConsultLine personnel are available to parents and advocates of children with disabilities or child 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.

Additional Resources appear at the end of this notice.

The Individuals with Disabilities Education Act (IDEA), the Federal law concerning the education of students with disabilities, requires the Local Education Agency (LEA) to provide parents of a child with a disability with this notice containing a full explanation of the procedural safeguards available under the IDEA and the U.S. Department of Education regulations. A copy of this notice must be given to parents only once a school year, or:

(1) upon initial referral or parent request for evaluation; (2) upon filing by parents of their first State complaint under 34 CFR §§300.151 through 300.153 and upon filing by parents of their first due process complaint under §300.507 in a school year; (3) when a decision is made to take a disciplinary action that constitutes a change of placement; and (4) upon parent request. [34 CFR §300.504(a)]

This procedural safeguards notice must include a full explanation of all of the procedural safeguards available under §300.148 (unilateral placement at private school at public expense), §§300.151 through 300.153 (State complaint procedures), §300.300 (consent), §§300.502 through 300.503, §§300.505 through 300.518, and §§300.530 through 300.536 (procedural safeguards in Subpart E of the Part B regulations), and §§300.610 through 300.625 (confidentiality of information provisions in Subpart F). This model form provides a format that LEAs may choose to use to provide information about procedural safeguards to parents.

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I. GENERAL INFORMATION

A. Who Is A Parent? (34 CFR §300.30)

THIS SECTION DESCRIBES WHO IS ABLE TO ACT AS A PARENT FOR PURPOSES OF SPECIAL EDUCATION DECISION MAKING.

A parent is a biological or adoptive parents of a child; a foster parent; a guardian generally authorized to act as the child's parent, or authorized to make educational decision for the child; an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or a surrogate parent.

A surrogate parent must be appointed when no parent can be identified; the public agency, after reasonable efforts, cannot locate a parents; the child is a ward of the State under the laws of Pennsylvania, or the child in an unaccompanied homeless youth as defined by the McKinney-Vento Homeless Assistance Act, 42 U.S.C. Sec. 11434a(6). Public agencies must ensure that a person selected as a surrogate parent is not an employee of the SEA, the LEA or any other agency that is involved in the education or care of the child; has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and has knowledge and skills that ensure adequate representation of the child. The surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. The public agency must make reasonable efforts to ensure the assignment of surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

B. What is Prior Written Notice? (34 CFR §300.503)

THIS SECTION EXPLAINS WHAT, HOW, AND WHEN AN LEA MUST TELL YOU ABOUT ACTIONS IT PROPOSES OR REFUSES TO TAKE.

1. When Notice Is Required

Your local education agency (LEA) – the entity responsible for providing a free appropriate public education to your child – must notify you in writing whenever it:

- a. Proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; **or**
- b. Refuses to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of FAPE to your child.
- c. Change of placement for disciplinary reasons.
- d. Due process hearing, or an expedited due process hearing, initiated by LEA.
- e. Refusal of LEA to agree to an independent educational evaluation (IEE) at public expense.
- f. Parents' revocation of consent for special education and related services.

In Pennsylvania, prior written notice is provided by means of a LEA Prior Written Notice Form/Notice of Recommended Educational Placement. You should be given reasonable notice of this proposal or refusal so that if you do not agree with the LEA you may take appropriate action. Reasonable Notice means ten days.

2. Content of notice

The prior written notice must:

1. Describe the action that your LEA proposes or refuses to take;
2. Describe the parents' action for the revocation of special education and related services;
3. Explain why your LEA is proposing or refusing to take the action;
4. Describe each evaluation procedure, assessment, record, or report your LEA used in deciding to propose or refuse the action;
5. Include a statement that you have protections under the procedural safeguards provisions in Part B of IDEA;
6. Tell how you can obtain a description of the procedural safeguards if the action that your LEA is proposing or refusing is not an initial referral for evaluation;
7. Include resources for you to contact for help in understanding Part B of the IDEA;
8. Describe any other choices that your child's IEP Team considered and the reasons why those choices were rejected; **and**
9. Provide a description of other reasons why your LEA proposed or refused the action.

3. Notice in understandable language

a. The notice must be:

- 1) Written in language understandable to the general public; **and**
- 2) Provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so.
- 3) If your native language or other mode of communication is not a written language, your LEA must ensure that:
 - a) The notice is translated for you orally or by other means in your native language or other mode of communication;
 - b) You understand the content of the notice; **and**
 - c) There is written evidence that 1 and 2 have been met.

C. What is Native Language? (34 CFR §300.29)

1. Native language, when used with an individual who has limited English proficiency, means the following:
 - a. The language normally used by that person, or, in the case of a child, the language normally used by the child's parents;
 - b. In all direct contact with a child (including evaluation of a child), the language normally used by the child in the home or learning environment.
For a person with deafness or blindness, or for a person with no written language, the mode of communication is what the person normally uses (such as sign language, Braille, or oral communication).

D. Notice by Electronic Mail (34 CFR §300.505)

If your LEA offers parents the choice of receiving documents by e-mail, you may choose to receive the following by e-mail:

1. Prior written notice;
2. Procedural safeguards notice; **and**
3. Notices related to a due process complaint.

E. What is Parental Consent? (34 CFR §300.9)

THIS SECTION EXPLAINS WHAT INFORMED PARENTAL CONSENT IS AND WHEN YOU NEED TO PROVIDE IT, SO AN LEA MAY PROCEED AS PROPOSED IN THE NOTICE.

1. What is Parental Consent?

Consent means:

- a. You have been fully informed in your native language or other mode of communication (such as sign language, Braille, or oral communication) of all information about the action for which consent is sought;
- b. You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; **and**
- c. You understand that the consent does not negate (undo) an action that has occurred after you gave your consent and before you withdrew it.

2. Can the Parent Revoke Consent?

- a. Yes. You must submit written documentation to the LEA staff revoking consent for special education and related services;
- b. When you revoke consent for special education and related services, the LEA must provide you with Prior Written Notice;
- c. Special education and related services cannot cease until the LEA provides you with Prior Written Notice;
- d. Prior notice is defined as ten calendar days;
- e. LEA staff cannot use mediation or due process to override your revocation of consent;
- 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 is not required to amend the child's educational records to remove any references to the child's receipt of special education and related services because of the revocation of consent.
- h. The LEA is not required to convene an IEP team meeting or develop an IEP for the child for further provision of special education and related services.

F. When is Parental Consent Needed?

1. Initial Evaluations (34 CFR §300.300)

- 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 your consent as described under the heading **Parental Consent**.

Your LEA must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability. Your consent for initial evaluation does not mean that you have also given your consent for the LEA to start providing special education and related services to your child. If your child is enrolled in public school or you are seeking to enroll your child in a public school and you have refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, your LEA may, but is not required to, seek to conduct an initial evaluation of your child by utilizing the Act's mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. Your LEA will not violate its obligations to locate, identify and evaluate your child if it does not pursue an evaluation of your child in these circumstances.

b. Special rules for initial evaluation of Wards of the State

Under Pennsylvania law, if a child is designated a ward of the state, the whereabouts of the parent are not known or the rights of the parent have been terminated in accordance with State law. Therefore, someone other than the parent has been designated to make educational decisions for the child. Consent for an initial evaluation should, therefore, be obtained from the individual so designated.

Ward of the State, as used in the IDEA, encompasses two other categories, so as to include a child who is:

1. A foster child who does not have a foster parent;
2. Considered a ward of the State under State law; **or**
3. In the custody of a public child welfare agency.

2. Consent for Initial Placement in Special Education (34 CFR §300.300)

Parental consent for services

Your LEA must obtain your informed consent before providing special education and related services to your child for the first time. The LEA must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time.

If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such consent, your LEA may not use the procedural safeguards (i.e. mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services as recommended by your child's IEP Team may be provided to your child without your consent.

If you refuse to give your consent for your child to start receiving special education and related services, or if you do not respond to a request to provide such consent and the LEA does not provide your child with the special education and related services for which it sought your consent, your LEA:

1. Is not in violation of the requirement to make FAPE available to your child for its failure to provide those services to your child; **and**
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.

3. Consent for Reevaluations (34 CFR §300.300)

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

1. It took reasonable steps to obtain your consent for your child's reevaluation; **and**
2. You did not respond.

4. What is Documentation of Reasonable Efforts to Obtain Parental Consent? (34 CFR §300.300)

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 record of the LEA's attempts in these areas, such as:

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; **and**
3. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

5. When is Consent Not Required Related to Evaluation?

Your consent is not required before your LEA may:

1. Review existing data as part of your child's evaluation or a reevaluation; **or**
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.

6. What If I Refuse to Consent to a Reevaluation?

If you refuse to consent to your child's reevaluation, the LEA may, but is not required to, pursue your child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your LEA does not violate its obligations under Part B of the IDEA if it declines to pursue the reevaluation in this manner.

Your LEA may not use your refusal to consent to one service or activity to deny you or your child any other service, benefit, or activity.

If you have enrolled your child in a private school at your own expense or if you are home schooling your child, and you do not provide your consent for your child's initial evaluation or your child's reevaluation, or you fail to respond to a request to provide your consent, the LEA may not use its consent override procedures (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) and is not required to consider your child as eligible to receive equitable services (services made available to parentally-placed private school children with disabilities).

7. What If I Disagree With An Evaluation?

a. Independent Educational Evaluations (34 CFR §300.502)

1) General

As described below, you have the right to obtain an independent educational evaluation (IEE) of your child if you disagree with the evaluation of your child that was obtained by your LEA. If you request an IEE, the LEA must provide you with information about where you may obtain an IEE and about the LEA's criteria that apply to IEEs.

2) Definitions

- a) **Independent educational evaluation** means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of your child.
- b) **Public expense** means that the LEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you, consistent with the provisions of Part B of the IDEA, which allow each State to use whatever State, local, Federal and private sources of support are available in the State to meet the requirements of Part B of the Act.

3) Parent right to evaluation at public expense

You have the right to an IEE of your child at public expense if you disagree with an evaluation of your child obtained by your LEA, subject to the following conditions:

- 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 the LEA's criteria.

- b) If your LEA requests a hearing and the final decision is that your LEA's evaluation of your child is appropriate, you still have the right to an IEE, but not at public expense.
- c) If you request an IEE of your child, the LEA may ask why you object to the evaluation of your child obtained by your LEA. However, your LEA may not require an explanation and may not unreasonably delay either providing the IEE of your child at public expense or filing a due process complaint to request a due process hearing to defend the LEA's evaluation of your child.
- d) You are entitled to only one IEE of your child at public expense each time your LEA conducts an evaluation of your child with which you disagree.
- e) LEA criteria
 - If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the LEA uses when it initiates an evaluation (to the extent those criteria are consistent with your right to an IEE).
 - Except for the criteria described above, a LEA may not impose conditions or timelines related to obtaining an IEE at public expense.

b. Parent-initiated evaluations

If you obtain an IEE of your child at public expense or you share with the LEA an evaluation of your child that you obtained at private expense:

- 1) Your LEA must consider the results of the evaluation of your child, if it meets the LEA's criteria for IEEs, in any decision made with respect to the provision of FAPE to your child; **and**
- 2) You or your LEA may present the evaluation as evidence at a due process hearing regarding your child.

c. Requests for evaluations by hearing officers

If a hearing officer requests an IEE of your child as part of a due process hearing, the cost of the evaluation must be at public expense.

G. Consent For Disclosure of Personally Identifiable Information (34 CFR §300.622)

Unless the information is contained in education records, and the disclosure is authorized without parental consent under FERPA, your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Except under the circumstances specified below, your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of Part B of the IDEA.

Your consent, or consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

If your child is in, or is going to go to, a private school that is not located in the same LEA you reside in, your consent must be obtained before any personally identifiable information about your child is released between officials in the LEA where the private school is located and officials in the LEA where you reside.

II. CONFIDENTIALITY INFORMATION

Who Has Access To Confidential Information Related To My Child? (34 CFR §300.611)

A. Definitions

1. Related to the confidentiality of information, the following definitions apply:
 - a. **Destruction** means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
 - b. **Education records** means the type of records covered under the definition of “education records” in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).
 - c. **Participating agency** means any LEA, agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the IDEA.

B. Personally identifiable (34 CFR §300.32) means information that has:

- 1) Your child’s name, your name as the parent, or the name of another family member;
- 2) Your child’s address;
- 3) A personal identifier, such as your child’s social security number or student number; **or**
- 4) A list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.

C. Access Rights (34 CFR §300.613)

a. Parent Access

The LEA must permit you to inspect and review any education records relating to your child that are collected, maintained, or used by your LEA under Part B of the IDEA. The participating agency must comply with your request to inspect and review any education records on your child without unnecessary delay or before any meeting regarding an IEP, or any impartial due process hearing (including a resolution meeting or a hearing regarding discipline), and in no case more than 45 calendar days after you have made a request.

- 1) Your right to inspect and review education records includes:
- 2) Your right to a response from the participating agency to your reasonable requests for explanations and interpretations of the records;
- 3) Your right to request that the participating agency provide copies of the records if you cannot effectively inspect and review the records unless you receive those copies; **and**
- 4) Your right to have your representative inspect and review the records.
 - a) The participating agency may presume that you have authority to inspect and review records relating to your child unless advised that you do not have the authority under applicable State law governing such matters as guardianship, or separation and divorce.
 - b) If any education **record includes information on more than one child**, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.
 - c) On request, each participating agency must provide you with a **list of the types and locations of education records** collected, maintained, or used by the agency.

b. Other Authorized Access (34 CFR §300.614)

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the IDEA (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

D. Fees

Each participating agency may charge a fee or copies of records (34 CFR §300.617) that are made for you under Part B of the IDEA, if the fee does not effectively prevent you from exercising your right to inspect and review those records.

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

E. Amendment of Records at Parent's Request (34 CFR §300.618)

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.

F. Opportunity for a Records Hearing (34 CFR §300.619)

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 Procedures (34 CFR §300.621)

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 to challenge the content of the student's 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 by one or more individuals of his or her own choice, including an attorney.

- 5) The educational agency or institution shall make its decision in writing within a reasonable period of time after the hearing.
- 6) The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

b. Result of Hearing (34 CFR §300.620)

If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must change the information accordingly and inform you in writing. If, as a result of the hearing, the participating agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, you may place in the records that it maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the participating agency.

Such an explanation placed in the records of your child must:

1. Be maintained by the participating agency as part of the records of your child as long as the record or contested portion is maintained by the participating agency; **and**
2. If the participating agency discloses the records of your child or the challenged portion to any party, the explanation must also be disclosed to that party.

c. Safeguards (34 CFR §300.623)

Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

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 regarding your State's policies and procedures regarding confidentiality under Part 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.

d. Destruction of Information (34 CFR §300.624)

Your LEA must inform you when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to your child, and the information must be destroyed at your request.

However, a permanent record of your child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

III. STATE COMPLAINT PROCEDURES (34 CFR §§300.151-153)

A. Difference Between Due Process Hearing Complaint And State Complaint Procedures

The regulations for Part B of IDEA set forth separate procedures for State complaints and for due process complaints and hearings. As explained below, any individual or organization may file a State complaint alleging a violation of any Part B requirement by a LEA, the State Educational Agency, or any other public agency. Only you or a LEA may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child. While staff of the State Educational Agency generally must resolve a State complaint within a 60-calendar day timeline, unless the timeline is properly extended, an impartial due process hearing officer must hear a due process complaint (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45-calendar days after the end of the resolution period, as described in this document under the heading Resolution Process, unless the hearing officer grants a specific extension of the timeline at your request or the LEA's request. The state complaint or due process complaint, resolution and hearing procedures are described more fully below.

B. How Can I File A State Complaint? (34 CFR §300.153)

An organization or individual may file a signed written State complaint.

The State complaint must include:

1. A statement that a LEA or other public agency has violated a requirement of Part B of the IDEA or its regulations;
2. The facts on which the statement is based;
3. The signature and contact information for the complainant; and
4. If alleging violations regarding a specific child, the name of the child and address of the residence of the child;
5. The name of the school the child is attending;
6. In the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending;
7. A description of the nature of the problem of the child, including facts relating to the problem;
and
8. A proposed resolution of the problem to the extent known and available to the party filing the complaint at the time the complaint is filed.

The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received as described under the heading **Adoption of State Complaint Procedures**.

The party filing the State complaint must forward a copy of the complaint to the LEA or other public agency serving the child at the same time the party files the complaint with the State Educational Agency.

Complaints should be sent to:

Chief, Division of Compliance, Monitoring and Planning
Bureau of Special Education
Pennsylvania Department of Education
333 Market Street, 7th Floor
Harrisburg, PA 17126-0333

a. Procedures

1) Time limit of 60 calendar days after a complaint is filed to:

1. Carry out an independent on-site investigation, if the State Educational Agency determines that the investigation is necessary;

2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. Provide the LEA or other public agency with the opportunity to respond to the complaint, including, at a **minimum**: (a) at the option of the agency, a proposal to resolve the complaint; and (b) an opportunity for a parent who has filed a complaint and the agency to agree voluntarily to engage in mediation
4. Review all relevant information and make an independent determination as to whether the LEA or other public agency is violating a requirement of Part B of the IDEA; and
5. Issue a written decision to the complainant that address each allegation in the complaint and contains: (a) findings of fact and conclusions; and (b) the reasons for the State Educational Agency's final decision.

2) Time extension; final decision; implementation

- a) An extension of the 60 calendar day timeline may be granted only if: (a) exceptional circumstances exist with respect to a particular State complaint; or (b) the parent and the LEA or other public agency involved voluntarily agree to extend the time to resolve the matter through mediation or alternative means of dispute resolution, if available in the State.
- b) The State Educational Agency's final decision shall contain effective implementation procedures, if needed, including: (a) technical assistance activities; (b) negotiations; and (c) corrective actions to achieve compliance.

3) Remedies for denial of appropriate services

In resolving a State complaint in which the State Educational Agency has found a failure to provide appropriate services, the State Educational Agency must address:

- a) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child; and
- b) Appropriate future provision of services for all children with disabilities.

4) State complaints and due process hearings

If a written State complaint is received that is also the subject of a due process hearing as described below under the hearing **Filing a Due Process Complaint**, or the State complaint contains multiple issues of which one or more are part of such a hearing, the State must set aside the State complaint, or any part of the State complaint that is being address in the due process hearing until the hearing is over. Any issue in the State complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described above. If an issue raised in a State complaint has previously been decided in a due process hearing involving the same parties (you and the LEA), then the due process hearing decision is binding on that issue and the State Educational Agency must inform the complainant that the decision is binding.

A complaint alleging a LEA's or other public agency's failure to implement a due process hearing decision must be resolved by the State Educational Agency according to the above described procedures.

IV. DUE PROCESS COMPLAINT PROCEDURE

A. How Can I Request A Due Process Hearing?

1. Filing a Due Process Complaint (34 CFR §300.507)

General

You or the LEA may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of your child, or the provision of FAPE to your child.

The due process complaint must allege a violation that occurred not more than two years before the date you or the LEA knew or should have known about the alleged action that forms the basis of the due process complaint.

The above timeline does not apply to you if you could not file a due process complaint within the timeline because:

1. The LEA specifically misrepresented that it had resolved the issues identified in the complaint; or
2. The LEA withheld information from you that was required to be provided to you under Part B of the IDEA.

Information for parents

The LEA must inform you of any free or low-cost legal and other relevant services available in the area if you request the information, **or** if you or the LEA file a due process complaint.

B. Contents Of Due Process Complaint (34 CFR §300.508)

1. **General**

In order to request a hearing, you or the LEA (or your attorney or the LEA's attorney) must submit a due process complaint to the other party. That complaint must contain all of the content listed below and must be kept confidential. At the same time you or the LEA – whichever filed the complaint – provides the due process complaint to the other party, a copy must be filed with the Office for Dispute Resolution (ODR).

2. **Content of the complaint**

The due process complaint must include:

- a. The name of the child;
- b. The address of the child's residence;
- c. The name of the child's school;
- d. If the child is a homeless child or youth, the child's contact information and the name of the child's school;
- e. A description of the nature of the problem of the child relating to the proposed or refused action, including facts relating to the problem; **and**
- f. A proposed resolution of the problem to the extent known and available to you or the LEA at the time.

3. **Notice required before a hearing on a due process complaint**

You or the LEA may not have a due process hearing until you or the LEA (or your attorney or the LEA's attorney), files a due process complaint that includes the information listed above.

4. **Sufficiency of complaint**

In order to proceed to a due process hearing, the complaint must be considered sufficient. The due process complaint will be considered sufficient (to have met the content requirements above) unless the party receiving the due process complaint (you or the LEA) notifies the hearing officer and the other party in writing, within 15

calendar days of receiving the complaint, that the receiving party believes that the due process complaint does not meet the requirements listed above.

Within five calendar days of receiving the notification the receiving party (you or the LEA) considers a due process complaint insufficient, the hearing officer must decide if the due process complaint meets the requirements listed above, and notify you and the LEA in writing immediately.

5. Complaint amendment

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; **or**
- 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.

6. LEA response to a due process complaint

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. A description of other options that your child's IEP Team considered and the reasons why 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; **and**
- d. A description of other factors that are relevant to the LEA's proposed or refused action.

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

7. Other party response to a due process complaint

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.

C. Resolution Process (34 CFR §300.510)

1. Resolution meeting

Within 15 calendar days of receiving notice of your due process complaint, and before the due process hearing begins, the LEA must convene a meeting with you and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in your due process complaint. The meeting:

- a. Must include a representative of the LEA who has decision-making authority on behalf of the LEA; **and**
- 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; **or**
- 2) You and the LEA agree to use the mediation process, as described under the heading **Mediation**.

2. Resolution period

If the LEA has not resolved the due process complaint to your satisfaction within 30 calendar days of the receipt of the due process complaint (during the time period for the resolution process), the due process hearing may occur.

The 45-calendar day timeline for issuing a final decision begins at the expiration of the 30-calendar day resolution period, with certain exceptions for adjustments made to the 30-calendar day resolution period, as described below.

Except where you and the LEA have both agreed to waive the resolution process or to use mediation, your failure to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until you agree to participate in a meeting. If after making reasonable 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 record of the LEA's attempts to arrange a mutually agreed upon time and place, such as:

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 **or** 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.

3. Adjustments to the 30-calendar day resolution period

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.

4. Written settlement agreement

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.

V. HEARINGS ON DUE PROCESS COMPLAINTS

A. Impartial Due Process Hearing (34 CFR §300.511)

1. General

Whenever a due process complaint is filed, you or the LEA involved in the dispute must have an opportunity for an impartial due process hearing, as described in the **Due Process Complaint** and **Resolution Process** sections. In Pennsylvania, the due process system is administered by the Office for Dispute Resolution (ODR). (listed under **Resources**)

2. Impartial hearing officer

At a minimum, a hearing officer:

- a. Must not be an employee of the State Educational Agency or the LEA that is involved in the education or care of the child. However, a person is not an employee of the agency solely because he/she is paid by the agency to serve as a hearing officer;
- b. Must not have a personal or professional interest that conflicts with the hearing officer's objectivity in the hearing;
- c. Must be knowledgeable and understand the provisions of the IDEA, and Federal and State regulations pertaining to the IDEA, and legal interpretations of the IDEA by Federal and State courts; **and**
- d. Must have the knowledge and ability to conduct hearings, and to make and write decisions, consistent with appropriate, standard legal practice.

Each SEA must keep a list of those persons who serve as hearing officers that includes a statement of the qualifications of each hearing officer.

3. Subject matter of due process hearing

The party (you or the LEA) that requests the due process hearing may not raise issues at the due process hearing that were not addressed in the due process complaint, unless the other party agrees.

4. Timeline for requesting a hearing

a. Time Limitations

You or the LEA must request an impartial hearing on a due process complaint within two years of the date you or the LEA knew or should have known about the issue addressed in the complaint. The due process complaint must allege a violation that occurred not more than two years before the date you or the LEA knew and should have known about the alleged action that forms the basis of the due process complaint.

Exceptions to the timeline

The above timeline does not apply to you if you could not file a due process complaint because:

1. The LEA specifically misrepresented that it had resolved the problem or issue that you are raising in your complaint; **or**
2. The LEA withheld information from you that it was required to provide to you under Part B of the IDEA.

B. Hearing Rights (34 CFR §300.512)

1. General

Any party to a due process hearing (including a hearing relating to disciplinary procedures) or an appeal, as described under the sub-heading Appeal of decisions; impartial review has the right to:

- a. Be accompanied and advised by a lawyer and/or persons with special knowledge or training regarding the problems of children with disabilities;
- b. Present evidence and confront, cross-examine, and require the attendance of witnesses;
- c. Prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five business days before the hearing;
- d. Obtain a written, or, at your option, electronic, word-for-word record of the hearing; **and**
- e. Obtain written, or, at your option, electronic findings of fact and decisions.

2. Additional disclosure of information

At least 5 business days prior to a due process hearing, you and the LEA must disclose to all other parties all evaluations completed by that date and recommendations based on those evaluations that you or the LEA intend to use at the hearing.

A hearing officer may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

3. Parental rights at hearings

You must be given the right to:

- a. Have the child who is the subject of the hearing present;
- b. Open the hearing to the public; **and**
- c. Have the record of the hearing, the findings of fact and decisions provided to you at no cost.

C. Hearing Decisions (34 CFR §300.513)

1. Decision of hearing officer

- a. A hearing officer's decision on whether your child received FAPE must be based on substantive grounds.
- b. In matters alleging a procedural violation, a hearing officer may find that your child did not receive FAPE only if the procedural inadequacies:
 - 1) Interfered with your child's right to FAPE;
 - 2) Significantly interfered with your opportunity to participate in the decision-making process regarding the provision of FAPE to your child; **or**
 - 3) Caused a deprivation of an educational benefit.
- c. Construction clause
None of the provisions described above can be interpreted to prevent a hearing officer from ordering a LEA to comply with the requirements in the procedural safeguards section of the Federal regulations under Part B of the IDEA (34 CFR §§300.500 through 300.536). None of the provisions under the headings: **Filing a Due Process Complaint; Due Process Complaint; Model Forms; Resolution Process; Impartial Due Process Hearing; Hearing Rights; and Hearing Decisions** (34 CFR §§300.507 through 300.513), can affect your right to file an appeal of the due process hearing decisions with a court of competent jurisdiction.

2. Separate request for a due process hearing

Nothing in the procedural safeguards section of the Federal regulations under Part B of the IDEA (34 CFR §§300.500 through 300.536) can be interpreted to prevent you from filing a separate due process complaint on an issue separate from a due process complaint already filed.

3. Findings and decision to advisory panel and general public

The SEA after deleting any personally identifiable information, must:

- a. Provide the findings and decisions in the due process hearing or appeal to the State Special Education Advisor Panel (SEAP); **and**

- b. Make those findings and decisions available to the public.

D. Finality Of Decision; Appeal; Impartial Review (34 CFR §300.514)

Finality of hearing decision

A decision made in a due process hearing (including a hearing relating to disciplinary procedures) is final, except that any party involved in the hearing (you or the LEA) may appeal the decision to a court of competent jurisdiction.

E. Timelines And Convenience Of Hearings (34 CFR §300.515)

1. Timelines

The SEA must ensure that not later than 45 calendar days after the expiration of the 30-calendar day period for resolution meetings **or**, as described under the sub-heading **Adjustments to the 30-calendar day resolution period**,

- a. A final decision is reached in the hearing; **and**
- b. A copy of the decision is mailed to you and the LEA.

2. Extensions of Time

A hearing or reviewing officer may grant specific extensions of time beyond the periods described above (45 calendar days for a hearing decision and 30 calendar days for a review decision) if you or the LEA make a request for a specific extension of the timeline. Each hearing involving oral arguments must be conducted at a time and place that is reasonably convenient to you or your child.

F. Civil Actions, Including The Time Period In Which To File Those Actions (34 CFR §300.516)

1. General

Any party (you or the LEA) who does not agree with the findings and decision in the SEA's decision has the right to bring a civil action with respect to the matter that was the subject of the due process hearing (including a hearing relating to disciplinary procedures). The action may be brought in a district court of the United States without regard to the amount in dispute or in a State court of competent jurisdiction (a State court that has authority to hear this type of case). In Pennsylvania, the court of competent jurisdiction is the Commonwealth Court.

2. Time limitation

The party (you or the LEA) bringing the action in a district court of the United States shall have 90 calendar days from the date of the decision of the SEA to file a civil action. The party bringing the action in the Commonwealth Court shall have 30 calendar days from the date of the decision of the SEA to file a civil action.

3. Additional procedures

In any civil action, the court:

1. Receives the records of the administrative proceedings;
2. Hears additional evidence at your request or at the LEA's request; **and**
3. Bases its decision on the preponderance of the evidence and grants the relief that the court determines to be appropriate.

4. Rule of construction

Nothing in Part B of the IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under Part B of the IDEA, the due process procedures described above

must be exhausted to the same extent as would be required if the party filed the action under Part B of the IDEA. This means that you may have remedies available under other laws that overlap with those available under the IDEA, but in general, to obtain relief under those other laws, you must first exhaust the available administrative remedies under the IDEA (i.e., the due process complaint, resolution meeting, and impartial due process hearing procedures) before going into court unless some specific judicial exception is available which renders exhaustion of administrative remedies futile.

G. Attorney's Fees (34 CFR §300.517)

1. General

In any action or proceeding brought under Part B of the IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs:

- a. To you if you are considered the prevailing party.
- b. To a prevailing State Educational Agency or LEA, to be paid by your attorney, if the attorney: (a) filed a complaint or court case that the court finds is frivolous, unreasonable, or without foundation; **or** (b) continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; **or**
- c. To a prevailing State Educational Agency or LEA, to be paid by you or your attorney, if your request for a due process hearing or later court case was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to unnecessarily increase the cost of the action or proceeding.

2. Reasonable Fees

A court awards reasonable attorneys' fees consistent with the following:

- 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; **and**
 - 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) Notwithstanding these restrictions, an award of attorneys' fees and related costs may be made to you if you prevail and you were substantially justified in rejecting the settlement offer.
- c. Fees may NOT be awarded relating to any meeting of the IEP Team unless the meeting is held as a result of an administrative proceeding or court action. A resolution meeting, as described under the heading **Resolution meeting**, is not considered a meeting convened as a result of an administrative hearing or court action, and also is not considered an administrative hearing or court action for purposes of these attorneys' fees provisions.
- d. Fees also may not be awarded for a mediation as described under the heading Mediation.

3. Reduction in Fees

The court reduces, as appropriate, the amount of the attorneys' fees awarded under Part B of the IDEA if the court finds that:

- a. You, or your attorney, during the course of the action or proceeding, unreasonably delayed the final resolution of the dispute;

- b. The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably similar skill, reputation, and experience;
- c. The time spent and legal services furnished were excessive considered the nature of the action or proceeding; **or**
- d. The attorney representing you did not provide to the LEA the appropriate information in the due process request notice as described under the heading **Due Process Complaint**.

However, the court may not reduce fees if the court finds that the State or LEA unreasonably delayed the final resolution of the action or proceeding or there was a violation under the procedural safeguards provisions of Part B of the IDEA.

H. Model Forms (34 CFR §300.509)

While the State Educational Agency (SEA) has developed model forms to help you file a due process complaint and a State complaint. The SEA or the LEA may not require you to use these model forms. In fact, you can use this form or another appropriate model form, so long as it contains the required information for filing a due process complaint or a State complaint.

VI. MEDIATION (34 CFR §300.506)

A. General

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**.

B. Procedural Requirements

The procedures must ensure that the mediation process:

1. Is voluntary on your part and the LEA's part;
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; **and**
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.
7. **If you and the LEA resolve a dispute through the mediation process, both parties must enter into a legally binding agreement that sets forth the resolution and that:**
 - 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 proceeding; **and**

- b. Is signed by both you and a representative of the LEA who has the authority to bind the LEA.
8. A written, signed mediation agreement is enforceable in any State court of competent jurisdiction (a court that has the authority under State law to hear this type of case) or in a district court of the United States.
9. Discussions that happened during the mediation process must be confidential. They cannot be used as evidence in any future due process hearing or civil proceeding of any Federal court or State Court of a State receiving assistance under Part B of IDEA.

C. Impartiality Of Mediator

The mediator:

1. May not be an employee of the SEA or the LEA that is involved in the education or care of your child; **and**
2. Must not have a personal or professional interest which conflicts with the mediator's objectivity.

A person who otherwise qualifies as a mediator is not an employee of a LEA or SEA solely because he or she is paid by the agency to serve as a mediator.

VII. THE CHILD'S PLACEMENT PENDING MEDIATION AND DUE PROCESS (34 CFR §300.518)

A. General

The Child's Placement Pending Mediation And Due Process (34 CFR §300.518)

Except as provided below under the heading **Procedures When Disciplining Children With Disabilities**, once a due process complaint is sent to the other party, during the resolution process time period, during mediation, and while waiting for the decision of any impartial due process hearing or court proceeding, unless you and the State or LEA agree otherwise, your child must remain in his or her current educational placement.

If the due process complaint involves an application for initial admission to public school, your child, with your consent, must be placed in the regular public school program until the completion of all such proceedings.

If the due process complaint involves an application for initial services under Part B of the IDEA for a child who is transitioning from being served under Part C of the IDEA to Part B of the IDEA and who is no longer eligible for Part C services because the child has turned three, the LEA may be required to provide the Part C services that the child has been receiving. Children are entitled to pendency – that is, the continuation of the services set forth in their IFSP – when a dispute arises when they are transitioning into the preschool Early Intervention program at age three (3) and the family requests a formal hearing to resolve the dispute. If the child is found eligible under Part B of the IDEA and you consent for the child to receive special education and related services for the first time, then, pending the outcome of the proceedings, the LEA must provide those special education and related services that are not in dispute (those which you and the LEA both agree upon).

VIII. WHAT IF MY CHILD IS EXCLUDED FROM SCHOOL BECAUSE OF DISCIPLINE ISSUES?

THIS SECTION OUTLINES PROCEDURES FOR DISCIPLINARY EXCLUSION OF CHILDREN WITH DISABILITIES.

There are special rules in Pennsylvania for excluding children with disabilities served by LEAs for disciplinary reasons. Unless indicated otherwise, children in charter schools follow the same procedures:

A. Authority Of School Personnel (34 CFR §300.530)

1. Case-by-case determination

School personnel may consider any unique circumstances on a case-by-case basis, when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

2. General

To the extent that they also take such action for children without disabilities, school personnel may, for not more than **10 consecutive school days**, remove a child with a disability (other than a child with an intellectual disability) who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension. School personnel may also impose additional removals of the child of not more than **10 consecutive school days** in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement (see **Change of Placement Because of Disciplinary Removals** for the definition, below) or exceed 15 cumulative school days in a school year. Once a child with a disability has been removed from his or her current placement for a total of **10 school days** in the same school year, the LEA must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub-heading **Services**.

3. Additional authority

If the behavior that violated the student code of conduct was not a manifestation of the child's disability (see **Manifestation determination**, below) and the disciplinary change of placement would exceed **10 consecutive school days**, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under **Services**. The child's IEP Team determines the interim alternative educational setting for such services. Under PA special education regulations (22 Pa. Code Sec. 14.143), a disciplinary exclusion of a student with a disability for more than 15 cumulative school days in a school year will be considered a pattern so as to be deemed a change in educational placement (explained under Change of Placement Because of Disciplinary Removals). The LEA is required to issue a NOREP/Prior Written Notice to parents prior to a removal that constitutes a change in placement (removal for more than 10 consecutive days or 15 cumulative days).

4. Services

The services that must be provided to a child with a disability who has been removed from the child's current placement may be provided to an interim alternative educational setting. A LEA is only required to provide services to a child with a disability who has been removed from his or her current placement for **10 school days or less** in that school year, if it provides services to a child without disabilities who has been similarly removed. Students may have the responsibility to make up exams and work missed while being disciplined by suspension and may be permitted to complete these assignments within guidelines established by their LEA.

A child with a disability who is removed from the child's current placement for **more than 10 consecutive school days** must:

- a. Continue to receive educational services, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; **and**
- b. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not happen again.

After a child with a disability has been removed from his or her current placement for **10 school days** during one school year, or **if** current removal is for **10 consecutive school days** or less, **and** if the removal is not a change of placement (see definition below), **then** school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

If the removal is a change of placement (see definition below), the child's IEP Team determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

5. Manifestation determination

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that does not constitute a change in educational placement i.e., is for 10 consecutive school days or less and not a change of placement), the LEA, the parent, and relevant members of the IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- a. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; **or**
- b. If the conduct in question was the direct result of the LEA's failure to implement the child's IEP.

If the LEA, the parent, and relevant members of the child's IEP Team determine that either of those conditions was met, the conduct must be determined to be a manifestation of the child's disability.

If the LEA, the parent, and relevant members of the child's IEP Team determine that the conduct in question was the direct result of the LEA's failure to implement the IEP, the LEA must take immediate action to remedy those deficiencies.

6. Determination that behavior was a manifestation of the child's disability

If the LEA, the parent, and relevant members of the IEP Team determine that the conduct was a manifestation of the child's disability, the IEP Team must either:

- a. Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; **or**
- b. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Except as described below under the sub-heading **Special circumstances**, the LEA must return the child to the placement from which the child was removed, unless the parent and the district agree to a change of placement as part of the modification of the behavioral intervention plan.

7. Special circumstances

Whether or not the behavior was a manifestation of the child's disability, school personnel may remove a student to an interim alternative educational setting (determined by the child's IEP Team) for up to 45 school days, if the child:

- a. Carries a weapon (see the **Definitions** below) to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of the LEA;
- b. Knowingly has or uses illegal drugs (see the **Definitions** below), or sells or solicits the sale of a controlled substance, (see the **Definitions** below), while at school, on school premises, or at a school function under the jurisdiction of the LEA; **or**
- c. Has inflicted serious bodily injury (see the **Definitions** below) upon another person while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a LEA.

8. Definitions

- a. Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202 (c) of the Controlled Substances Act (21 U.S.C. 812(c)).
- b. Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
- c. Serious bodily injury has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.
- d. Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

9. Notification

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, and provide the parents with a procedural safeguards notice.

B. Change Of Placement Because Of Disciplinary Removals (34 CFR §300.536)

A removal of a child with a disability from the child's current educational placement is a **change of placement** requiring a NOREP/prior written notice if:

1. The removal is for more than 10 consecutive school days; **or**
2. The removal is for 15 cumulative school days total in any one school year;
3. The child has been subjected to a series of removals that constitute a pattern because:
 - a. The series of removals total more than 10 school days in a school year;
 - b. The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in a series of removals;
 - c. Of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another; **and**

Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by the LEA and, if challenged, is subject to review through due process and judicial proceedings.

C. Determination Of Setting (34 CFR §300.531)

The IEP must determine the interim alternative educational setting for removals that are **changes of placement**, and removals under the headings **Additional authority** and **Special circumstances**, above.

D. Appeal (34 CFR §300.532)

1. General

The parent of a child with a disability may file a due process complaint (see above) to request a due process hearing if he or she disagrees with:

- a. Any decision regarding placement made under these discipline provisions; **or**
- b. The manifestation determination described above.

The LEA may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

2. Authority of hearing officer

A hearing officer that meets the requirements described under the sub-heading **Impartial Hearing Officer** must conduct the due process hearing and make a decision.

The hearing officer may:

- a. Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading Authority of School Personnel, or that the child's behavior was a manifestation of the child's disability; or
- b. Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

These hearing procedures may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

Whenever a parent or a LEA files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the headings **Due Process Complaint Procedures, Hearings on Due Process Complaints**, except as follows:

1. The SEA must arrange for an expedited due process hearing, which must occur within **20** school days of the date the hearing is filed and must result in a determination within **10** school days after the hearing.
2. Unless the parents and the LEA agree in writing to waive the meeting, or agree to use mediation, a resolution meeting must occur within **7** calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within **15** calendar days of receipt of the due process complaint.

A party may appeal the decision in an expedited due process hearing in the same way as they may for decisions in other due process hearings (see **Appeals**, above).

E. Placement During Appeals (34 CFR §300.533)

When, as described above, the parent or LEA has filed a due process complaint related to disciplinary matters, the child must (unless the parent and the State Educational Agency or LEA agree otherwise) remain in the interim alternative educational setting pending the decision of the hearing officer, or until the expiration of the time period of removal as provided for and described under the heading **Authority of School Personnel**, whichever occurs first.

Special Rules for Students with an Intellectual Disability

The disciplinary removal of a child with an intellectual disability attending either a LEA or a charter and cyber charter school for any amount of time is considered a change in placement under 22

Pa. Code Sec. 14.143 and requires NOREP/prior written notice (if the disciplinary event does not involve drugs, weapons and/or serious bodily injury). A removal from school is not a change in placement for a child who is identified with an intellectual disability when the disciplinary event involves weapons, drugs, and/or serious bodily injury.

According to certain assurances the Commonwealth entered into related to the PARC consent decree, an LEA may suspend on a limited basis a student with an intellectual disability who presents a danger to himself or others upon application and approval by the Bureau of Special Education and only to the extent that a student with a disability other than an intellectual disability could be suspended.

F. Protections For Children Not Yet Eligible For Special Education And Related Services (34 CFR §300.534)

1. General

If a child has not been determined eligible for special education and related services and violates a code of student conduct, but the LEA had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred, that the child was a child with a disability, then the child may assert any of the protections described in this notice.

2. Basis of knowledge for disciplinary matters

A LEA must be deemed to have knowledge that a child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

- a. The parent of the child expressed concern in writing that the child is in need of special education and related services to supervisory or administrative personnel of appropriate educational agency, or a teacher of the child;
- b. The parent requested an evaluation related to eligibility for special education and related services under Part B of the IDEA; **or**
- c. The child's teacher, or other LEA personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to the LEA's director of special education or to other supervisory personnel of the LEA.

3. Exception

A LEA would not be deemed to have such knowledge if:

- a. The child's parent has not allowed an evaluation of the child or refused special education services; **or**
- b. The child has been evaluated and determined to not be a child with a disability under Part B of the IDEA.

4. Conditions that apply if there is no basis of knowledge

If prior to taking disciplinary measures against the child, a LEA does not have knowledge that a child is a child with a disability, as described above under the sub-headings **Basis of knowledge for disciplinary matters** and **Exception**, the child may be subjected to the disciplinary measures that are applied to children without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.

Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the LEA, and information provided by the parents, the LEA must provide special education and related services in accordance with Part B of the IDEA, including the disciplinary requirements described above.

G. Referral To And Action By Law Enforcement And Judicial Authorities (34 CFR §300.535)

1. The state and federal regulations do not:

- a. Prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; **or**
- b. Prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

Subsequent to a referral to law enforcement, an updated functional behavior assessment and positive behavior support plan are required.

2. Transmittal of records

If a LEA reports a crime committed by a child with a disability, the LEA:

- a. Must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the agency reports the crime; **and**
- b. May transmit copies of the child's special education and disciplinary records only to the extent permitted by FERPA.

IX. WHAT SPECIAL EDUCATION SERVICES ARE AVAILABLE FOR MY CHILD, IF PARENTALLY PLACED IN A PRIVATE SCHOOL?

This Section Addresses The Special Education Services Available To Children Placed By Their Parents In Private School.

A. General Rule (34 CFR §300.148)

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 IU 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.

B. Exceptions

1. Reimbursement for private school placement

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.

2. Limitation on reimbursement

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; **or**
- c. Upon a court's finding that your actions were unreasonable.

3. Exceptions to Limitation on Reimbursement

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; **and**
- b. May, in the discretion of the court or a hearing officer, not be reduced or denied for the parents' failure to provide the required notice if: (a) The parent is not literate or cannot write in English; or (b) Compliance with the above requirement would likely result in serious emotional harm to the child.

C. Equitable Participation (34 CFR §300.138)

It is Pennsylvania Department of Education policy that the Intermediate Unit (IU) must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located within IU service area.

In circumstances when parents place their children in private schools, when FAPE is not an issue, the IUs must make provision, to the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private schools, located in IU service area, for the participation of those children in the program assisted or carried out under the IU plan, by providing them with special education and related services, including direct services determined in accordance with regard to equitable participation (EP) agreement between private schools and IUs. A service plan must be developed and implemented for each private school child with a disability who has been designated by the IU in which the private school is located to receive special education and related services as determined by EP agreement.

No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. Due Process and State Complaints are not applicable, except for a suspected failure by the IU to meet child find requirements.

APPENDIX A - RESOURCES

THE ARC OF PENNSYLVANIA

301 Chestnut Street, Suite 403
Harrisburg, PA 17101
1-877-337-1970
www.thearca.org

CONSULTLINE, A PARENT HELPLINE

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.

DISABILITY RIGHTS PENNSYLVANIA

301 Chestnut Street
Suite 300
Harrisburg, PA 17101
800-692-7443 (Toll-Free Voice)
877-375-7139 (TDD)
717-236-8110 (Voice)
717-346-0293 (TDD)
717-236-0192 (Fax)
www.disabilityrightspa.org

HISPANOS UNIDOS PARA NIÑOS EXCEPCIONALES (PHILADELPHIA HUNE, INC.)

2215 North American Street
Philadelphia, PA 19133
215-425-6203
215-425-6204 (Fax)
huneinc@aol.com
www.huneinc.org

MISSION EMPOWER

1611 Peach Street, Suite 120
Erie, PA 16501
814-825-0788
advocate@missionempower.org
www.missionempower.org

OFFICE FOR DISPUTE RESOLUTION

6340 Flank Drive
Harrisburg, PA 17112-2764
717-901-2145 (Phone)
800-222-3353 (Toll free in PA only)
TTY Users: PA Relay 711
717-657-5983 (Fax)

www.odr-pa.org

The Office for Dispute Resolution administers the mediation and due process systems statewide, and provides training and services regarding alternative dispute resolution methods.

PARENT EDUCATION AND ADVOCACY LEADERSHIP CENTER (PEAL)

2325 E Carson St. #100a
Pittsburgh, PA 15203
412-281-4404
412-281-4408 (Fax)
520 N Christopher Columbus Blvd., Suite 602
Philadelphia, PA 19123
215-567-6143
866-950-1040 (Toll Free)
www.pealcenter.org

PUBLIC INTEREST LAW CENTER OF PHILADELPHIA

United Way Building
1709 Benjamin Franklin Parkway, Second
Floor
Philadelphia, PA 19103
215-627-7100
215-627-3183 (Fax)
www.pilcop.org

PENNSYLVANIA BAR ASSOCIATION

100 South Street
Harrisburg, PA 17101
800-932-0311
www.pabar.org

THE PENNSYLVANIA TRAINING AND TECHNICAL ASSISTANCE NETWORK (PaTTAN)

Harrisburg 800-360-7282
King of Prussia 800-441-3215
Pittsburgh 800-446-5607
www.pattan.net

STATE TASK FORCE ON THE RIGHT TO EDUCATION

3190 William Pitt Way
Pittsburgh, PA 15238
1-800-446-5607 ext. 6828

APPENDIX B



OFFICE FOR DISPUTE
RESOLUTION

Request Form

Mediation

IEP/IFSP/GIEP Facilitation

Service Information

Today's Date:	Requested by: <input type="checkbox"/> Parent/Guardian <input type="checkbox"/> LEA (school district; charter; or IU) <input type="checkbox"/> Infant/Toddler/Early Intervention	
Name/Email of Person Completing this Form:	Relationship to Student:	Phone:
Please Check the type of service requested: <input type="checkbox"/> Mediation <input type="checkbox"/> IEP Facilitation <input type="checkbox"/> GIEP Facilitation <input type="checkbox"/> IFSP Facilitation (Early Intervention)		

Student Information

Last Name:	First Name:
Date of Birth:	Exceptionality:
Name of School/Program:	

Parent/Guardian Information

Parent/Guardian Names:	Second Parent or Parent not residing with the Student:
Address:	Address
Home Phone:	Home Phone:
Work Phone:	Work Phone:
Cell Phone:	Cell Phone:
Email:	Email:

LOCAL EDUCATION AGENCY (LEA) INFORMATION

School District/Charter School/Agency Name:

Address:

Contact Name:

Position Title:

Phone:

Fax:

Email:

Please provide a brief description of the issue(s) in dispute, and any proposed solutions to the problem.

Please complete this section if you are requesting any type of facilitation service.

An IEP/IFSP/GIEP meeting is currently scheduled for:

(date, time and location)

An IEP/IFSP/GIEP meeting has not yet been scheduled.

For all requests, if there is additional information you would like to provide, please enter it here.

- Parents with questions about these services or other dispute resolution options may contact the Special Education ConsultLine at 800-879-2301 or 717-901-2146.
- Any birth-3 questions should be referred to OCDEL at 717-346-9320.
- On occasion, an ODR staff person may ask to attend any of these meeting for purposes of evaluation the service. Parties will be notified ahead of time, and any questions will be addressed at that time.
- Please save a copy of this form and MAIL, FAX or EMAIL a completed form to the Office for Dispute Resolution at:

6340 Flank Drive, Harrisburg, PA 17112-2764
717-901-2145 • Toll Free 800-222-3353 (PA only)
Fax 717-657-5983 • TTY Users: PA Relay 711
Email: odr@odr-pa.org



Due Process Complaint

*indicates a required field

Basic Information			
<input type="checkbox"/> IDEA	<input type="checkbox"/> IDEA & Gifted Education	<input type="checkbox"/> Gifted Education	<input type="checkbox"/> Section 504
*Today's Date:		*Requested by: <input type="checkbox"/> Parent <input type="checkbox"/> LEA	
*Name/Email of Person Completing this Request:	*Relationship to Student:	*Phone:	
Please send a copy of the completed Due Process Complaint to the opposing party at the same time it is filed with the Office for Dispute Resolution.			
If you require special accommodations to participate in the due process hearing, you must notify the LEA.			

Student Information			
*Last Name:	*First Name:	Date of Birth:	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female
Exceptionality:		Exceptionality:	
*LEA (Local Education Agency) – if known		*School Building Student Attends:	

Parent(s) Residing with Student			
*Last Name:	*First Name:	*Relationship: <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Guardian	
*Home Phone:	Cell Phone:	Work Phone:	Email:
Preferred method of written correspondence:		<input type="checkbox"/> Email	<input type="checkbox"/> U.S. Mail
Last Name:	First Name:	Relationship: <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Guardian	
Home Phone:	Cell Phone:	Work Phone:	Email:
Preferred Method of written correspondence:		<input type="checkbox"/> Email	<input type="checkbox"/> U.S. Mail
*Parent(s)/Student Address:			
Parent Attorney (if represented):		Attorney Phone:	
Attorney Address:		Attorney Email:	

Parent(s) Not Residing with Student

Last Name:		First Name:		Relationship: <input type="checkbox"/> Mother <input type="checkbox"/> Father	
Home Phone:	Cell Phone:	Work Phone:	Email:		
Preferred method of written correspondence:				<input type="checkbox"/> Email	<input type="checkbox"/> U.S. Mail
Parent Address:					
Parent Attorney (if represented):				Attorney Phone:	
Attorney Address:				Attorney Email:	

Local Education Agency (LEA) Information

I. LEA Contact Person Information					
Last Name:		First Name:		Position Title:	
Cell Phone:		Work Phone:		Email:	
Address:					
II. Superintendent/CEO					
Last Name:		First Name:		Position Title:	
Address:				Phone:	
III. LEA Attorney					
Attorney Phone:			Attorney Email:		
Attorney Address:					
IV. The due process hearing will be held at the following address: <i>(Building Name, Address and Room Number/Name – to be completed by the LEA)</i>					
Note: The hearing will be held at a time and place reasonably convenient to parents and child involved. For gifted education cases, the hearing will be held in the school district at a place reasonably convenient to the parents and, at the request of the parents, may be held in the evening.					

Information About the Due Process Complaint (IDEA Cases only)

A. Does your issue pertain to a hearing officer decision which has not been implemented? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If yes, the Bureau of Special Education will be notified, and will investigate the matter. Due process is not available when the issue pertains to non-implementation of a hearing officer's decision.)</i>	
B. Is this a request for a hearing based on a disagreement about: <input type="checkbox"/> Discipline <input type="checkbox"/> ESY (Extended School Year)	
<input type="checkbox"/> Check here if student is in the ESY target group	

Information About Due Process Complaint (All Cases)

You may use this form to explain the nature of your dispute, or you may attach a separate piece of paper containing this information.

*What is the dispute about? Please include facts in your description.

*How would you like to see this resolved? What are you seeking?

If you know the other side's position about this problem, please describe it here.

Resolution Meeting (IDEA Cases only)

Prior to a due process hearing taking place, if the parent filed the process complaint, the law (34 CFR §300.510) requires the parties to participate in a resolution meeting, unless both sides agree in writing to waive this requirement. Please completed 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:

4. In lieu of a resolution meeting, I am requesting mediation. (Date)

If #4 is checked, an ODR mediation case manager will be in contact with the parties.

An ODR staff member will confirm receipt of complaint and provide case manager and hearing officer information.

Additional information about due process is available on the ODR website, www.odr-pa.org, or by calling the Special Education ConsultLine (800-879-2301).

TAARIFA YA ULINZI WA UTARATIBU

LAINI YA MOJA KWA MOJA YA OFISI YA ELIMU MAALUM, SIMU YA USAIDIZI WA WAZAZI 800-879-2301

Wafanyakazi wa Laini ya Moja kwa Moja wanapatikana kwa wazazi na watetezi wa watoto wenye ulemavu au watoto wanaofikiriwa kuwa walemavu ili kueleza sheria za shirikisho na serikali zinazohusiana na elimu maalum; kuelezea chaguo ambazo zinapatikana kwa wazazi; kuwajulisha wazazi kuhusu ulinzi wa utaratibu; kutambua mashirika mengine na huduma za usaidizi; na kuelezea utatuzi unaopatikana na jinsi wazazi wanaweza kuendelea.

Rasilimali za Ziada zitaonekana mwisho wa taarifa hii.

Sheria ya Elimu ya Watu Wenye Ulemavu (IDEA), sheria ya Shirikisho kuhusu elimu ya wanafunzi wenye ulemavu, inahitaji Shirika la Mtaa la Elimu (LEA) kuwapa wazazi wa mtoto mwenye ulemavu taarifa yenye maelezo kamili ya ulinzi wa utaratibu unaopatikana chini ya kanuni ya IDEA na Idara ya Elimu ya Marekani. Lazima nakala ya taarifa hii itolewe kwa wazazi mara moja tu kwa mwaka wa shule, au:

(1) baada ya rufaa ya kwanza au ombi la mzazi kwa ajili ya tathmini; (2) baada ya wazazi kuwasilisha malalamiko yao ya kwanza ya Serikali chini ya 34 CFR §§300.151 hadi 300.153 na baada ya wazazi kuwasilisha malalamiko yao ya kwanza ya kesi chini ya §300.507 katika mwaka wa shule; (3) wakati uamuzi unafanywa wa kuchukua hatua ya kinidhamu ambayo inajumuisha mabadiliko ya mpango; na (4) mzazi akiomba. [34 CFR §300.504(a)]

Taarifa hii ya ulinzi wa utaratibu lazima ijumuishe maelezo kamili ya ulinzi wote wa utaratibu unaopatikana chini ya §300.148 (kuwekwa katika shule ya kibinafsi kwa gharama ya umma), §§300.151 hadi 300.153 (Taratibu za malalamiko za serikali), §300.300 (kibali), §§300.502 hadi 300.503, §§300.505 hadi 300.518, na §§300.530 hadi 300.536 (ulinzi wa utaratibu katika Sehemu Ndogo ya E ya kanuni za Sehemu ya B), na §§300.610 hadi 300.625 (usiri wa masharti ya maelezo katika Sehemu Ndogo ya F). Fomu hii ya kielelezo hutoa umbizo ambalo LEA inaweza kuchagua kutumia ili kutoa maelezo kuhusu ulinzi wa utaratibu kwa wazazi.

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I. MAELEZO YA JUMLA

A. Mzazi Ni Nani? (34 CFR §300.30)

SEHEMU HII INAELEZA NI NANI ANAYEWEZA KUWA KAMA MZAZI KWA MADHUMUNI YA KUFANYA MAAMUZI YA ELIMU MAALUM.

Mzazi ni wazazi wa kibaolojia au walezi wa mtoto; mzazi wa kambo; mlezi kwa ujumla aliyeidhinishwa kutenda kama mzazi wa mtoto, au aliyeidhinishwa kufanya uamuzi wa elimu kwa ajili ya mtoto; mtu anayechukua nafasi ya mzazi wa kibaiolojia au mlezi (ikiwemo babu, mzazi wa kambo, au jamaa mwingine) ambaye mtoto anaishi naye, au mtu ambaye anawajibika kisheria kwa ajili ya ustawi wa mtoto; au mzazi mbadala.

Lazima mzazi mbadala ateuliwe wakati hakuna mzazi anayeweza kutambuliwa; shirika la umma, baada ya juhudi zinazofaa, haliwezi kupata wazazi; mtoto anamilikiwa na Jimbo chini ya sheria za Pennsylvania, au mtoto ni kijana asiye na makazi kama inavyofafanuliwa na Sheria ya Usaidizi wa Wasio na Makazi ya McKinney-Vento, 42 U.S.C. Sec. 11434a(6). Lazima mashirika ya umma yahakikishe kwamba mtu aliyechaguliwa kama mzazi mbadala si mwajiriwa wa SEA, LEA au shirika lingine lolote linalohusika katika elimu au malezi ya mtoto; hana mapendeleo ya kibinafsi au ya kitaaluma ambayo yanakinzana na mapendeleo ya mtoto ambaye mzazi mbadala anawakilisha; na ana ujuzi na ustadi unaowakilisha uwakilishi wa kutosha wa mtoto. Huenda mzazi mbadala akamwakilisha mtoto katika masuala yote yanayohusiana na utambulisho, tathmini, na mipango ya elimu ya mtoto, na masharti ya FAPE kwa mtoto. Lazima shirika la umma lifanye juhudi mwafaka la kuhakikisha uteuzi wa mzazi mbadala kumefanyika kabla ya siku 30 baada ya shirika la umma kuamua kwamba mtoto anahitaji mzazi mbadala.

B. Taarifa Iliyoandikwa Mapema Ni Nini? (34 CFR §300.503)

SEHEMU HII INAELEZA NI NINI, JINSI GANI, WAKATI AMBAPO LAZIMA LEA UKUAMBIE KUHUSU HATUA INAZOPENDEKEZA AU KUKATAA KUCHUKUA.

1. Wakati Taarifa Inahitajika

Shirika la elimu la eneo lako (LEA) - taasisi inayohusika na kutoa elimu ya umma ifaayo bila malipo kwa mtoto wako – lazima ikuarifu kwa maandishi wakati wowote:

- a. Inapendekeza kuanzisha au kubadilisha kitambulisho, tathmini, au mpango wa elimu ya mtoto wako, au utoaji wa elimu ya bila malipo inayofaa umma (FAPE) kwa mtoto wako; **au**
- b. Inakataa kuanzisha au kubadilisha kitambulisho, tathmini, au mpango wa elimu ya mtoto wako, au utoaji wa FAPE kwa mtoto wako.
- c. Mabadiliko ya mpango kwa sababu za kinidhamu.
- d. Usikilizaji wa kesi, au usikilizaji wa kesi ulioharakishwa, ulioanzishwa na LEA.
- e. LEA kukataa kukubaliana na tathmini huru ya elimu (IEE) kwa gharama ya umma.
- f. Wazazi kubatilisha kibali cha elimu maalum na huduma husika.

Huko Pennsylvania, taarifa iliyoandikwa mapema hutolewa kwa njia ya Fomu ya Taarifa Iliyoandikwa Mapema ya LEA/Taarifa ya Mpango Uliopendekezwa wa Kielimu.

Unapaswa kupewa taarifa inayofaa ya pendekezo hili au kukataliwa ili ikiwa hukubaliani na LEA, unaweza kuchukua hatua inayofaa. Taarifa inayofaa inamaanisha siku kumi.

2. Yaliyomo kwenye taarifa

Lazima taarifa iliyoandikwa mapema:

1. Ifafanue hatua ambayo LEA yako inapendekeza au inayokataa kuchukua;
2. leleze kwa wazazi hatua ya elimu maalum na huduma husika kubatilishwa;
3. leleze kwa nini LEA yako inapendekeza au inakataa kuchukua hatua hiyo;
4. Ifafanue kila utaratibu wa tathmini, uchunguzi, rekodi, au ripoti ambayo LEA yako ilitumia katika kuamua kupendekeza au kukataa hatua hiyo;
5. Ijumuishe taarifa ya kwamba una ulinzi chini ya masharti ya ulinzi wa utaratibu katika Sehemu B ya IDEA;
6. Ikuambie jinsi unavyoweza kupata ufafanuzi wa ulinzi wa utaratibu kama hatua ambayo LEA yako inapendekeza au inakataa sio rejeleo halisi la tathmini;
7. Ijumuishe rasilimali unazoweza kurejelea ili kukusaidia kuelewa Sehemu B ya IDEA;
8. Ifafanue chaguo zingine ambazo Timu ya IEP ilizingatia na sababu ambazo chaguo hizo zilikataliwa; **na**
9. Itoe ufafanuzi wa sababu zingine za kwa nini LEA yako ilipendekeza au ilikataa hatua hiyo.

3. Taarifa katika lugha inayoeleweka

a. Lazima taarifa iwe:

- 1) Imeandikwa katika lugha inayoeleweka na umma kwa ujumla; **na**
- 2) Imetolewa katika lugha yako ya asili au hali nyingine ya kuwasiliana unayotumia, isipokuwa kama haiwezi kufanyika hivyo waziwazi.
- 3) Ikiwa lugha yako asili au hali nyingine ya kuwasiliana sio lugha iliyoandikwa, ni lazima LEA yako ihakikishe kwamba:
 - a) Taarifa hiyo imetafsiriwa kwa kusema au hali zingine katika lugha yako asili au hali nyingine ya kuwasiliana;
 - b) Unaelewa yaliyomo kwenye taarifa; **na**
 - c) Kuna ushahidi ulioandikwa wa kuwa 1 na 2 imefikwa.

C. Lugha Asili ni Nini? (34 CFR §300.29)

1. Lugha asili, inapotumiwa na mtu ambaye ana ufahamu mdogo wa Kiingereza, inamaanisha yanayofuata:

- a. Ni lugha ambayo kwa kawaida inatumia na mtu huyo, au, kwa hali ya mtoto, lugha ambayo kwa kawaida hutumiwa na wazazi wa mtoto;
- b. Katika mawasiliano ya moja kwa moja na mtoto (ikijumuisha tathmini ya mtoto), lugha ambayo kwa kawaida hutumiwa na mtoto nyumbani au katika mazingira ya kujifunza.

Kwa mtu ambaye ni kiziwi au kipofu, au mtu ambaye hana lugha iliyoandikwa, hali ya mawasiliano ni ile mtu huyo kwa kawaida hutumia (kama vile lugha ya ishara, au mawasiliano ya kusema).

D. Taarifa Kupitia Barua ya Kielektroniki (34 CFR §300.505)

Ikiwa wilaya ya shule yako inawapa wazazi chaguo la kupokea hati kupitia barua pepe, unaweza kuchagua kupokea yafuatayo kupitia barua pepe:

1. Taarifa iliyoandikwa mapema;
2. Taarifa ya ulizi wa utaratibu; **na**
3. Taarifa zinazohusiana na malalamiko kesi.

E. Kibali cha Mzazi Ni Nini? (34 CFR §300.9)

SEHEMU HII INAELEZA KIBALI CHA MZAZI NI NINI NA WAKATI UNAHITAJI KUKITOA, ILI LEA IENDELEE KAMA ILIVYOPENDEKEZWA KATIKA TAARIFA.

1. Kibali cha Mzazi Ni Nini?

Kibali humaanisha:

- a. Umejulishwa vikamilifu katika lugha yako asili au hali zingine za kuwasiliana (kama vile lugha ya ishara, braili, au mawasiliano ya kuongea) maelezo yote kuhusu hatua ambayo unatoa kibali;
- b. Unaelewa na kukubali kwa kuandika hatua hiyo, na ruhusa hiyo inafafanua hatua hiyo na inaorodhesha rekodi (kama kuna yoyote) ambayo itatolewa na kwa nani; **na**
- c. Unakubali kwamba kibali chako hakikanushi (kuondoa) hatua ambayo ilitekelezwa baada ya kutoa kibali na kabla ya kukiondoa.

2. Je, Mzazi Anaweza Kubatilisha Kibali?

- a. Ndiyo. Ni lazima uwasilishe hati iliyoandikwa kwa mfanyakazi wa LEA ya kubatilisha kibali cha elimu maalum na huduma husika;
- b. Unapobatilisha kibali cha elimu maalum na huduma husika, LEA lazima ikupe Taarifa Iliyoandikwa Mapema;
- c. Elimu maalum na huduma husika haziwezi kukoma hadi LEA ikupe Taarifa Iliyoandikwa Mapema;
- d. Taarifa ya mapema inafafanuliwa kama siku kumi za kalenda;
- e. Wafanyakazi wa LEA hawawezi kutumia upatanishi au usikilizaji wa kesi kuondoa ubatilishaji wako wa kibali;
- f. LEA haitazingatiwa kuwa inakiuka matakwa ya kufanya FAPE ipatikane kwa mtoto kwa sababu ya kushindwa kumpa mtoto elimu maalum na huduma husika;
- g. LEA haitakiwi kurekebisha rekodi za elimu za mtoto ili kuondoa marejeleo yoyote ya mtoto kupokea elimu maalum na huduma husika kwa sababu ya kibali kubatilishwa.
- h. LEA haitakiwi kupanga mkutano wa timu ya IEP au kuanzisha IEP ya mwanafunzi kwa ajili ya masharti zaidi ya elimu maalum na huduma husika.

F. Kibali cha Mzazi Kinahitajika Lini?

1. Tathmini za Kwanza (34 CFR §300.300)

a. Kanuni ya Jumla: Kibali cha tathmini ya kwanza

LEA yako haiwezi kutekeleza tathmini ya kwanza ya mtoto wako ili kuamua kama mtoto wako anastahiki chini ya Sehemu B ya IDEA kupokea elimu maalum na huduma husika bila kwanza kukupa taarifa iliyoandikwa mapema ya hatua iliyopendekezwa na bila ya kupata kibali chako kama ilivyofafanuliwa chini ya kichwa cha **Idhini ya Mzazi**.

Lazima LEA yako ijitahidi kupata kibali chako unachofahamu kwa ajili ya tathmini ya kwanza ili kuamua kama mtoto wako ni mtoto ambaye ana ulemavu. Kibali chako cha tathmini ya kwanza hakimaanishi kwamba umetoa pia kibali chako kwa LEA kuanza kutoa elimu maalum na huduma husika kwa mtoto wako. Ikiwa mtoto wako ameandikishwa katika shule ya umma au unataka kumwandikisha mtoto wako katika shule ya umma na umekataa kutoa kibali au umeshindwa kujibu ombi la kutoa kibali ya tathmini ya kwanza, LEA yako inaweza, lakini haipaswi, kutafuta kutekeleza tathmini ya kwanza ya mtoto wako kwa kutumia Sheria ya upatanisho au malalamiko ya kesi, mkutano wa utatuzi, na taratibu za usikilizaji wa kesi bila upendeleo. LEA yako haitakiuka uwajibikaji wake wa kumpata, kumtambua na kumtathmini mtoto wako kama haitafuata tathmini za mtoto wako katika hali hizi.

- b. Sheria maalum za tathmini ya kwanza ya wanaolindwa na Serikali Chini ya sheria ya Pennsylvania, ikiwa mtoto ameteuliwa kuwa analindwa na serikali, mzazi hajulikani mahali alipo au haki za mzazi zimekatishwa kwa mujibu wa sheria za Serikali. Kwa hiyo, mtu mwingine isipokuwa mzazi ameteuliwa kufanya maamuzi ya elimu kwa ajili ya mtoto. Kwa hivyo, idhini ya tathmini ya kwanza inapaswa kupatikana kutoka kwa mtu aliyeteuliwa.

Ulinzi wa Serikali, kama inavyotumika katika IDEA, inajumuisha kategoria zingine mbili, ili kujumuisha mtoto ambaye:

1. Ni mtoto wa kulea ambaye hana mzazi mlezi;
2. Anayeonekana analindwa na Serikali chini ya sheria za Serikali; **au**
3. Aliye katika ulinzi wa shirika la umma la ustawi wa watoto.

2. Kibali cha Mpango wa Kwanza katika Elimu Maalum (34 CFR §300.300) Kibali cha mzazi kwa huduma

LEA yako ni lazima ipate kibali chako unachokifahamu kabla ya kutoa elimu maalum na huduma husika kwa mtoto wako kwa mara ya kwanza. Lazima LEA yako ijitahidi ili ipate kibali chako unachokifahamu kabla ya kutoa elimu maalum na huduma husika kwa mtoto wako kwa mara ya kwanza.

Usipojibu ombi la kutoa kibali chako kwa mtoto wako ili apokee elimu maalum na huduma husika kwa mara ya kwanza, au ukikataa kutoa kibali kama hicho, huenda LEA yako isitumie ulinzi wa utaratibu (k.m upatanisho, malalamiko ya kesi, mkutano wa utatuzi, au usikilizaji wa kesi bila upendeleo) ili kupata makubaliano au uamuzi wa kuwa elimu hiyo maalum na huduma husika kama inayopendekezwa na Timu ya IEP ya mtoto wako itapewa mtoto wako bila kibali chako.

Ukikataa kutoa kibali chako ili mtoto wako kuanza kupokea elimu maalum na huduma husika, au usipojibu ombi la kutoa kibali kama hicho na LEA ikose kumpa mtoto wako elimu maalum na huduma husika ambayo ilitafuta kibali chako kwa ajili yake, LEA yako:

1. Haitakuwa imekiuka mahitaji ya kufanya FAPE ipatikane kwa mtoto wako kwa kukosa kutoa huduma hizo kwa mtoto wako; **na**
2. Hakuhitajiki kuwa na mkutano wa IEP au kuanzisha IEP ya mtoto wako ya elimu maalum na huduma husika ambazo kibali kiliombwa kwa ajili yake.

3. Kibali cha Tathmini Upya (34 CFR §300.300)

Lazima LEA yako ipate kibali chako unachokifahamu kabla ya kutathmini tena mtoto wako, isipokuwa LEA yako inaweza kuonyesha kwamba:

1. Ilichukua hatua zinazofaa za kupata kibali chako cha kutathmini mtoto wako tena; **na**
2. Haukujibu.

4. Je, Hati ya Jitihada Zinazofaa za Kupata Kibali cha Mzazi Ni Nini? (34 CFR §300.300)

Lazima LEA yako ihifadhi hati za jitihada zinazofaa za kupata ruhusa ya mzazi ya tathmini za kwanza, za kutoa elimu maalum na huduma husika kwa mara ya kwanza, za kutathmini tena na kuwapata wazazi wa wanaolindwa na Serikali kwa ajili ya tathmini za kwanza.

Lazima hati iwe na rekodi ya majaribio ya LEA katika maeneo haya, kama vile:

1. Rekodi za kina za simu zilizopigwa au zilizojaribiwa kupigwa na matokeo ya simu hizo;
2. Nakala za mawasiliano zilizotumiwa wazazi na majibu yoyote yaliyopokewa; **na**
3. Rekodi za kina za ziara zilizofanywa kwa nyumba ya mzazi au mahali pa ajira na matokeo ya ziara hizo.

5. Ni Wakati Gani Kibali Hakihitajiki Kinachohusiana na Tathmini? Kibali chako hakihitajiki kabla ya LEA yako kuweza:

1. Kukagua data iliyopo kama sehemu ya tathmini ya mtoto wako au kutathmini tena; **au**
2. Kumpatia mtoto wako mtihani au tathmini nyingine ambayo inapewa watoto wote isipokuwa, kabla ya mtihani huo au tathmini, kibali kinahitajika kutoka kwa wazazi wote wa watoto wote.

6. Nini Iwapo Nitakataa Kukubali Tathmini Upya?

Ukikataa kukubali mtoto wako atathminiwe upya, LEA inaweza, lakini haitakiwi, kufuatilia mtoto wako kutathminiwa tena kwa kutumia upatanisho, malalamiko ya usikilizaji wa kesi, mkutano wa utatuzi, na utaratibu wa usikilizaji wa kesi bila upendeleo ili kutaka kubadilisha kukataa kwako kutoa kibali cha mtoto wako kutathminiwa upya. Sawasawa na tathmini za kwanza, LEA yako haikiuki wajibu wake chini ya Sehemu B ya IDEA ikikataa kufuatilia utathmini upya kwa njia hii.

LEA yako haitatumia kukataa kwako kutoa kibali cha huduma au shughuli moja ili kukunyima au mtoto wako huduma, manufaa, au shughuli zingine.

Ikiwa umemwandikisha mtoto wako katika shule ya kibinafsi kwa gharama yako mwenyewe au ikiwa unamfunza mtoto wako nyumbani, na hutoi kibali chako cha tathmini ya kwanza ya mtoto wako au mtoto wako kutathminiwa tena, au ukikosa kujibu ombi la kutoa kibali chako, LEA haiwezi kutumia utaratibu wake wa kubatilisha kibali (k.v., upatanisho au malalamiko ya usikilizaji wa kesi, mkutano wa utatuzi, na utaratibu wa usikilizaji wa kesi bila upendeleo) na haihitajiki kumzingatia mtoto wako kama anayestahiki kupokea huduma za haki (huduma zinazopatikana kwa watoto walemavu wa shule ya kibinafsi waliyowekwa hapo na wazazi).

7. Nini Iwapo Sikubaliani na Tathmini?

a. Tathmini Huru za Elimu (34 CFR §300.502)

1) Jumla

Kama ilivyofafanuliwa hapa chini, una haki ya kupata tathmini huru za elimu (IEE) za mtoto wako ikiwa hukubaliani na tathmini za mtoto wako ambazo zilipatikana na wilaya ya shule yako. Ukiomba IEE, lazima LEA ikupe maelezo kuhusu mahali ambapo unaweza kupata IEE na kuhusu kigezo cha LEA ambacho kinatumika kwa IEE.

2) Ufafanuzi

- a) **Tathmini huru ya elimu** inamaanisha tathmini inayotekelezwa na mtahini anayestahiki ambaye hajaajiriwa na LEA ambayo inawajibika kwa elimu ya mtoto wako.
- b) **Gharama ya umma** inamaanisha kwamba LEA italipa gharama yote ya tathmini au itahakikisha kwamba tathmini imetolewa bila malipo, kulingana na utoaji wa Sehemu B ya IDEA, ambayo Huruhusu kila Serikali kutumia rasilimali yoyote ya Serikali, mitaa, Shirikisho na kibinafsi ya usaidizi inayopatikana katika Serikali ili kufikia mahitaji ya Sheria ya Sehemu ya B.

3) Haki ya mzazi ya tathmini kwa gharama ya umma

Una haki ya IEE ya mtoto wako inayolipiwa na umma ikiwa haukubaliani na tathmini za mtoto wako ambazo zilipatikana na LEA yako, chini ya masharti yafuatayo:

- a) Ukiomba IEE ya mtoto wako inayolipiwa na umma, lazima LEA yako, bila kupoteza muda wowote, aidha: (a) Iwasilishe malalamiko ya kesi kuomba kusikilizwa ili ionyeshe kwamba mtoto wako anafaa; au (b) Itoe IEE kwa gharama ya umma, isipokuwa LEA ionyeshe wakati wa kusikilizwa kwamba tathmini ya mtoto wako ambao ulipata haukufikia kanuni za LEA.

- b) Ikiwa LEA itaomba kusikilizwa na uamuzi wa mwisho uwe kwamba tathmini za LEA kwa mtoto wako zinafaa, bado una haki ya IEE, lakini si kwa gharama ya umma.
- c) Ukiomba IEE ya mtoto wako, LEA inaweza kukuuliza kwa nini unakataa tathmini za mtoto wako zilizopatikana na LEA yako. Hata hivyo, huenda LEA yako isihitaji ufafanuzi na haitapoteza muda kutoa IEE ya mtoto wako inayolipiwa na umma au kuwasilisha malalamiko ya kesi ili kuomba usikilizaji wa kesi wa kulinda tathmini za LEA za mtoto wako.
- d) Una haki ya IEE moja pekee ya mtoto wako inayolipiwa na umma kila wakati LEA yako inapotekeleza tathmini za mtoto wako ambazo ulikataa.
- e) Kigezo cha LEA
Ikiwa IEE inalipiwa na umma, kigezo ambacho tathmini hizo zinapatikana, pamoja na eneo la tathmini na sifa zinazostahili za mtahini, lazima ziwe sawa na kigezo ambacho LEA hutumia inapoanzisha tathmini (kwa kiwango ambacho vigezo hivyo vinalingana na haki yako ya IEE).
Isipokuwa kwa kigezo kilichofafanuliwa hapa juu, LEA haiwezi kuweka masharti au muda maalum unaohusiana na kupata IEE kwa gharama ya umma.

b. Tathmini zilizoanzishwa na mzazi

Ukipata IEE ya mtoto wako inayolipiwa na umma au ushiriki na LEA tathmini za mtoto wako ambazo ulizipata kwa gharama zako mwenyewe:

- 1) Lazima LEA yako izingatie matokeo ya tathmini za mtoto wako, ikiwa zinakidhi vigezo vya LEA ya IEE, katika uamuzi wowote uliofanywa kulingana na utoaji wa FAPE kwa mtoto wako; **na**
- 2) Wewe au LEA yako inaweza kuleta tathmini hiyo kama ushahidi wa usikilizaji wa kesi kuhusu mtoto wako.

c. Maombi ya tathmini na maafisa wa kusikiliza

Ikiwa afisa wa kusikiliza ataomba IEE ya mtoto wako kama sehemu ya mchakato wa malalamiko, lazima gharama za tathmini zigharamiwe na umma.

G. Ruhusa ya Kufichua Maelezo ya Kibinafsi Yanayoweza Kutambuliwa (34 CFR §300.622)

Isipokuwa maelezo hayo yawe katika rekodi za elimu, na ufichuzi umeidhinishwa bila kibali cha mzazi chini ya FERPA, lazima kibali chako kipatikane kabla ya maelezo yanayoweza kumtambua mtu kufichuliwa kwa wahusika wengine kando na maafisa wa mashirika husika. Isipokuwa chini ya hali zilizoelzwa hapa chini, kibali chako hakihitajiki kabla ya maelezo ya kibinafsi yanayoweza kutambuliwa kufichuliwa kwa maafisa wa mashirika husika kwa madhumuni ya kufikia mahitaji ya Sehemu B ya IDEA.

Kibali chako, au kibali cha mtoto anayestahiki ambaye amefikia umri wa wengi chini ya Sheria za Serikali, lazima kipatikane kabla ya maelezo ya kibinafsi yanayoweza kutambuliwa kufichuliwa kwa maafisa wa mashirika husika yanayotoa au kulipia huduma za mabadiliko.

Ikiwa mtoto wako yupo, au anaenda shule ya kibinafsi ambayo haipo katika LEA moja unayoishi, lazima kibali chako kipatikane kabla ya maelezo yoyote yanayoweza kumtambua mtoto wako kufichuliwa kati ya maafisa katika LEA ambapo shule hiyo ya kibinafsi ipo na maafisa katika LEA ambapo unaishi.

II. MAELEZO YA SIRI

Nani Anaweza Kupata Maelezo ya Siri Yanayohusiana na Mtoto Wangu? (34 CFR §300.611)

A. Ufafanuzi

1. Mambo yanayohusiana na usiri wa maelezo, ufafanuzi ufuatao unatumika:
 - a. **Uharibifu** unamaanisha uharibifu asili au vitambulisho vya kibinafsi kuondolewa kutoka kwa maelezo ili maelezo hayo yasiweze kutambuliwa kibinafsi tena.
 - b. **Rekodi za elimu** inamaanisha aina za rekodi zilizoshughulikiwa chini ya ufafanuzi wa “rekodi za elimu” katika 34 CFR Sehemu ya 99 (maagizo yanayotekeleza Sheria ya Faragha na Haki ya Elimu ya Jamii ya mwaka wa 1974, 20 U.S.C. 1232g (FERPA).
 - c. **Shirika husika** inamaanisha kuwa LEA, shirika au taasisi ambayo hukusanya, kutunza, au kutumia maelezo ya mtu binafsi yanayoweza kutambuliwa, au ambapo maelezo yanapatikana, chini ya Sehemu B ya IDEA.

B. Inayoweza Maelezo ya Kibinafsi Yanayoweza Kutambuliwa (34 CFR §300.32) inamaanisha maelezo ambayo:

- 1) Jina la mtoto wako, jina lako kama mzazi, au jina la mwanafamilia mwingine;
- 2) Anwani ya mtoto wako;
- 3) Kitambulisho cha kibinafsi, kama vile nambari ya mtoto wako ya ruzuku ya serikali au nambari ya mwanafunzi; **au**
- 4) Orodha ya sifa za kibinafsi au maelezo mengine ambayo yanaweza kufanya iwezekane kumtambua mtoto wako bila tashwishi.

C. Haki za Ufikiaji (34 CFR §300.613)

a. Ufikiaji wa Mzazi

Lazima LEA ikuruhusu kuchunguza na kukagua rekodi zozote za kielimu zinazohusiana na mtoto wako ambazo zilikusanywa, zilitunzwa, au zilitumiwa na LEA yako chini ya Sehemu B ya IDEA. Lazima shirika husika lifuate ombi lako la kuchunguza na kuhakiki rekodi zozote za kielimu kuhusu mtoto wako bila kupoteza wakati wowote na kabla ya mkutano wowote unaohusiana IEP, au usikilizaji wa kesi bila upendeleo (pamoja na mkutano wa utatuzi au usikilizaji unaohusiana na tabia), na katika hali yoyote isiwe zaidi ya siku 45 za kalenda baada ya ombi lako.

- 1) Haki yako ya kuchunguza na kuhakiki rekodi za kielimu inajumuisha:
- 2) Haki yako ya kujibiwa maombi yako muhimu kuhusu ufafanuzi na utafsiri wa rekodi kutoka kwa shirika husika;
- 3) Haki yako ya kuomba kwamba shirika husika litoe nakala za rekodi ikiwa huwezi kuchunguza na kuhakiki vilivyo rekodi isipokuwa upokee nakala hizo; **na**
- 4) Haki yako ya mwakilishi wako kuchunguza na kuhakiki rekodi hizo.
 - a) Shirika husika linaweza kudhania kwamba unaidhini ya kuchunguza na kuhakiki rekodi zinazohusiana na mtoto wako isipokuwa washauriwe kwamba huna idhini chini ya sheria za Serikali zinazotumika zinazosimamia masuala kama hayo ya ulezi, au kuachana na talaka.
 - b) Ikiwa **rekodi yoyote ya elimu ina maelezo kuhusu zaidi ya mtoto mmoja**, wazazi wa watoto hao wana haki ya kuchunguza na kuhakiki maelezo yanayohusiana na watoto wao tu au kujulishwa kuhusu maelezo hayo maalum.
 - c) Ikiombwa, kila shirika husika ni lazima likupe **orodha ya aina na maeneo ya rekodi za elimu** zilizokusanywa, zilizotunzwa, au kutumiwa na shirika hilo.

b. Ufikiaji Mwingine Ulioidhinishwa (34 CFR §300.614)

Kila shirika husika ni lazima lihifadhi rekodi za wahusika wanaofikia rekodi za elimu zinazokusanywa, zinazotunzwa, au kutumiwa chini ya Sehemu B ya IDEA (isipokuwa kwa ufikiaji wa wazazi na wafanyakazi walioidhinishwa wa shirika husika), pamoja na jina la mhusika, tarehe ambayo ufikiaji ulitolewa, na madhumuni ya shirika hilo kuidhinishwa kutumia rekodi hizo.

D. Ada

Kila shirika husika linaweza kulipisha ada ya nakala za rekodi (34 CFR §300.617) ambazo hukutengenezea chini ya Sehemu B ya IDEA, ikiwa ada hiyo haikuzuii kutokana na kutekeleza haki yako ya kuchunguza na kuhakiki rekodi hizo.

Shirika husika linaweza kukosa kulipisha ada ya kutafuta au kurejesha maelezo chini ya Sehemu B ya IDEA.

E. Kurekebisha Rekodi Mzazi Akiomba(34 CFR §300.618)

Ukiamini kwamba maelezo katika rekodi za elimu yaliyokusanywa, kutunzwa, au kutumiwa kuhusu mtoto wako chini ya Sehemu B ya IDEA si sahihi, yanapotosha, au yanakeuka siri au haki zingine za mtoto wako, unaweza kuomba shirika husika ambalo linatunza maelezo hayo libadilishe maelezo hayo.

Lazima shirika husika liamue iwapo litabadilisha maelezo hayo kulingana na ombi lako kati ya kipindi cha muda unaoeleweka baada ya kupokea ombi lako.

Shirika husika likikataa kubadilisha maelezo hayo kulingana na ombi lako, ni lazima likujulishe kuhusu kukataa na likushauri kuhusu haki ya kusikilizwa kwa madhumuni haya.

F. Fursa ya Usikilizaji wa Rekodi (34 CFR §300.619)

Lazima LEA, ikiombwa, itoe nafasi ya kusikilizwa ili maelezo katika rekodi za elimu kuhusu mtoto wako yapingwe ili kuhakikisha kwamba ni sahihi, hayapotoshi, au kama sivyo hayakiuki siri au haki zingine za mtoto wako.

a. Taratibu za Kusikilizwa (34 CFR §300.621)

Kusikilizwa ili kupinga maelezo yaliyo kwenye rekodi za elimu lazima itafanyika kulingana taratibu zinazofuata za kusikilizwa chini ya Sheria ya Faragha na Haki za Elimu ya Familia ya Mwaka wa 1974 20 U.S.C. Section 1233g (FERPA):

- 1) Shirika au taasisi ya elimu itasikiliza kesi hiyo ndani ya muda ufaao baada ya kupokea ombi la kusikilizwa kwake kutoka kwa mzazi au mwanafunzi anayestahiki.
- 2) Shirika au taasisi ya elimu litampa mzazi au mwanafunzi anayestahiki notisi ya tarehe, saa na eneo, kwa wakati ufaao kabla ya kusikilizwa.
- 3) Usikilizaji unaweza kuendeshwa na mtu yeyote, ikiwemo na afisa wa shirika au taasisi ya elimu ambayo haina mapendeleo ya moja kwa moja katika matokeo ya kusikilizwa.
- 4) Shirika au taasisi ya elimu itampa mzazi au mwanafunzi anayestahiki fursa kamili na ya haki ya kuwasilisha ushahidi wa kupinga maudhui ya rekodi za elimu ya mwanafunzi kwa misingi kwamba maelezo yaliyomo kwenye rekodi za elimu si sahihi, yanapotosha au yanakiuka haki za faragha za mwanafunzi. Mzazi au mwanafunzi anayestahiki anaweza, kwa gharama zao wenyewe, kusaidiwa au kuwakilishwa na mtu mmoja au zaidi ambao atachagua, ikiwemo wakili.

- 5) Shirika au taasisi ya elimu itafanya uamuzi wake kwa maandishi ndani ya muda unaofaa baada ya kusikilizwa.
- 6) Lazima uamuzi utegemee tu ushahidi uliowasilishwa kwenye kesi, na lazima ujumuishe muhtasari wa ushahidi na sababu za uamuzi huo.

b. Matokeo ya Usikilizaji (34 CFR §300.620)

Ikiwa, kutokana na kusikilizwa, shirika husika likiamua kwamba maelezo si sahihi, yanapotosha, au kama sivyo yanakiuka faragha au haki zingine za mtoto, ni lazima libadilishe maelezo hayo vilivyo na likujulishe kwa kuandika. Ikiwa, kama matokeo ya kusikilizwa, shirika husika likiamua kwamba maelezo haya si sahihi, yanapotosha, au kama sivyo yanakeuka siri au haki za mtoto, unaweza kuweka katika rekodi ambazo linahifadhi kwenye taarifa ya mtoto wako kutoa inayotoa maoni kuhusu maelezo hayo au kutoa sababu zozote ambazo hukubaliani na uamuzi wa shirika husika.

Ufafanuzi kama huo unaowekwa katika rekodi za mtoto wako ni lazima:

1. Zitunzwe na shirika husika kama sehemu ya rekodi za mtoto wako ili mradi rekodi hiyo au sehemu iliyokataliwa itunzwe na shirika husika; **na**
2. Shirika husika likifichua rekodi za mtoto wako au sehemu iliyokataliwa na mhusika yeyote, lazima ufafanuzi huo ufichuliwe kwa mhusika huyo pia.

c. Ulinzi (34 CFR §300.623)

Kila shirika husika lazima lilinde siri ya maelezo ya kibinafsi yanayoweza kutambuliwa katika hatua za ukusanyaji, kuhifadhi, ufichuzi, na uharibifu.

Afisa mmoja kwa kila shirika husika lazima achukue uwajibikaji wa kuhakikisha usiri wa maelezo yoyote yanayoweza kumtambua mtu.

Watu wote wanaokusanya au kutumia maelezo yanayoweza kumtambua mtu lazima wapokee mafunzo au maagizo yanayohusiana na sera na taratibu za Serikali kuhusu usiri chini ya Sehemu B ya IDEA na FERPA.

Kila shirika husika lazima lidumishe, kwa ajili ya ukaguzi wa umma, orodha mpya ya majina na vyeo vya wafanyakazi walio katika shirika hilo ambao kufikia maelezo yanayoweza kumtambua mtu.

d. Uharibifu wa Maelezo (34 CFR §300.624)

Lazima LEA yako ikujulishe wakati maelezo ya kibinafsi yanayoweza kutambuliwa ambayo yalikusanywa, kuhifadhiwa, au kutumiwa hayahitajiki tena ili kutoa huduma za kielimu kwa mtoto wako.

Walakini, rekodi ya kudumu ya jina la mtoto wako, anwani, na nambari ya simu, gredi yake, rekodi ya mahudhurio, darasa alizohudhuria, kiwango cha gredi aliyokamilisha, na mwaka aliyokamilisha zinaweza kuhifadhiwa bila kizuizi cha wakati.

III. UTARATIBU WA MALALAMIKO YA SERIKALI (34 CFR §§300.151-153)

A. Tofauti kati ya Malalamiko ya Usikilizaji wa Kesi na Utaratibu wa Malalamiko ya Serikali

Maagizo ya Sehemu B ya IDEA imeweka utaratibu tofauti wa Malalamiko ya Serikali na malalamiko ya usikilizaji wa kesi. Kama ilivyofafanuliwa hapa chini, mtu yeyote au shirika lolote linaweza kuwasilisha malalamiko ya Serikali linalodai ukiukaji wa mahitaji ya Sehemu yoyote ya B na LEA, Shirika la Elimu la Serikali, au shirika lingine la umma. Ni wewe tu au LEA inaweza kuwasilisha malalamiko ya kesi kuhusu suala lolote linalohusiana na pendekezo au kukataa kuanzisha au kubadilisha kitambulisho, tathmini au mpango wa elimu ya mtoto mlemavu, au utoaji wa FAPE kwa mtoto. Ijapokuwa Wafanyakazi wa Shirika la Elimu la Serikali kwa ujumla lazima watatue malalamiko ya Serikali kati ya muda maalum wa siku 60 za kalenda, isipokuwa muda huo maalum uongezwe, afisa wa kusikiliza kesi lazima asikilize malalamiko ya kesi (ikiwa hayajatatuliwa kupitia mkutano wa utatuzi au kupitia upatanishi) na apeane uamuzi ulioandikwa kati ya siku 45 za kalenda baada ya mwisho wa kipindi cha utatuzi, kama ilivyofafanuliwa kwenye hati hii chini ya kichwa cha Mchakato wa Utatuzi, isipokuwa afisa wa kusikiliza aongeze muda maalum ukiomba au LEA ikiomba. Malalamiko ya serikali au malalamiko ya kesi, utaratibu wa utatuzi na usikilizaji umefafanuliwa zaidi hapa chini.

B. Ninawezaje Kuwasilisha Malalamiko ya Serikali? (34 CFR §300.153)

Shirika au mtu anaweza kuwasilisha Malalamiko ya Serikali yaliyotiwa saine na kuandikwa. Malalamiko ya Serikali lazima yajumuishe:

1. Taarifa ya kwamba LEA au shirika lingine la umma limekeuka hitaji la Sehemu B ya IDEA au kanuni zake;
2. Ukweli wa msingi wa taarifa hii;
3. Saine na maelezo ya mawasiliano ya mlalamishi; na
4. Ikiwa madai ya ukiukaji kuhusu mtoto fulani, jina la mtoto na anwani ya makazi ya mtoto;
5. Jina la shule ambayo mtoto uhudhuria;
6. Katika hali ya mtoto au kijana asiye na makao, maelezo ya mawasiliano yanayopatikana ya mtoto huyo, na jina ya shule ambayo mtoto huyo anahudhuria;
7. Ufafanuzi wa hali ya shida ya mtoto, pamoja na kweli zinazohusiana na shida hiyo;
na
8. Utatuzi uliopendekezwa wa shida hiyo kwa kiwango kinachulikana na kupatikana kwa mhusika anayewasilisha malalamiko hayo wakati malalamiko yanawasilishwa.

Malalamiko hayo lazima yadai ukiukaji uliofanyika zaidi ya mwaka mmoja kabla ya tarehe ambayo malalamiko yalipokewa kama ilivyofafanuliwa chini ya kichwa cha **Kupitishwa kwa Utaratibu wa Malalamiko ya Serikali**.

Mhusika anayewasilisha malalamiko lazima apeleke nakala ya malalamiko kwa LEA au shirika lingine la umma linalohudumia mtoto huyo kwa wakati mmoja ambao mhusika anawasilisha malalamiko hayo kwa Shirika la Elimu la Serikali.

Malalamiko yanapaswa kutumwa kwa:

Mkuu, Idara ya Ofisi ya Uzingatiaji, Ufuatiliaji na Mipango ya
Elimu Maalum
Idara ya Elimu ya Pennsylvania 333
Market Street, 7th Floor Harrisburg, PA
17126-0333

a. Taratibu

1) Kikomo cha muda cha siku 60 za kalenda baada ya malalamiko kuwasilishwa ili:

1. Kufanya uchunguzi wa kujitegemea kwenye kituo, ikiwa Shirika la Elimu la Serikali litaamua kuwa uchunguzi ni muhimu;

2. Kumpa mwenye kulalamika nafasi ya kuwasilisha maelezo zaidi, aidha kwa kusema au kwa kuandika, kuhusu madai kwenye malalamiko;
3. Kupatia LEA au shirika lingine la umma nafasi ya kujibu malalamiko, ikijumuisha, **angalau**; (a) kwa chaguo la shirika; pendekezo la kutatua malalamiko; na (b) nafasi ya mzazi kuwasilisha malalamiko na shirika kukubali kwa hiari kujihusisha katika upatanishi;
4. Kukagua maelezo yote muhimu na kufanya uamuzi huru wa kama LEA au shirika lingine la umma linakiuka mahitaji ya Sehemu B ya IDEA; na
5. Kutoa uamuzi ulioandikwa kwa mlalamishi ambao unashughulikia kila dai katika malalamiko na unajumuisha: (a) matokeo ya ukweli na hitimisho; na (b) sababu za uamuzi wa mwisho wa Shirika la Elimu la Serikali.

2) Muda kungezwa; uamuzi wa mwisho; utekelezaji

- a) Muda wa siku 60 za kalenda unaoweza kungezwa iwapo tu: (a) hali za kipekee zilizopo kulingana na malalamiko ya Serikali maalum; au (b) wazazi na LEA au shirika lingine la umma linalohusika kwa hiari linakubali kungeza muda wa kutatua suala hilo kupitia upatanisho au njia zingine za kutatua mzozo, ikiwa inapatikana katika Serikali.
- b) Uamuzi wa mwisho wa Shirika la Elimu la Serikali utakuwa na taratibu za utekelezaji zinazofaa, ikihitajika, ikijumuisha: (a) shughuli za usaidizi wa kiufundi; (b) majadiliano; na (c) hatua za kusahihisha ili kufikia maafikiano.

3) Marekebisho ya kunyimwa huduma muhimu

Katika kutatua malalamiko ya Serikali ambayo Shirika la Elimu la Serikali limegundua ukosefu wa kutoa huduma muhimu, Shirika la Elimu la Serikali lazima lishughulikie:

- a) Ukosefu wa kutoa huduma muhimu, pamoja na hatua sahihi muhimu ya kushughulikia mahitaji ya mtoto; na
- b) Matoleo muhimu ya baadaye ya huduma kwa watoto wote wenye walemavu.

4) Malalamiko ya serikali na usikilizaji wa kesi

Malalamiko ya Serikali yaliyoandikwa yakipokewa ambayo pia ni suala la usikilizaji wa kesi kama ilivyofafanuliwa hapa chini ya **Kuwasilisha Malalamiko ya Kesi**, au malalamiko ya Serikali yanajumuisha masuala kadhaa ambayo moja au zaidi ni sehemu ya usikilizaji kama huo, lazima Serikali iweke kando malalamiko ya Serikali, au sehemu yoyote ya malalamiko ya Serikali ambayo yanashughulikiwa katika usikilizaji wa kesi hadi usikilizaji ukamilike. Suala lolote katika malalamiko ya Serikali ambayo sio sehemu ya usikilizaji wa kesi lazima litatuliwe kwa kutumia kizuizi cha wakati na utaratibu uliofafanuliwa hapa juu. Iwapo suala lililotolewa katika malalamiko ya Serikali limeamuliwa hapo awali katika usikilizaji wa kesi unaohusisha wahusika sawia (wewe na LEA), kisha uamuzi wa usikilizaji wa kesi uwe wa kufunga katika suala hilo na Shirika la Elimu la Serikali lazima limjulishe mlalamishi kwamba uamuzi ni wa kufunga.

Malalamiko yanayodai LEA au shirika lingine la umma kushindwa kutekeleza uamuzi usikilizaji wa kesi lazima yatatuliwe na Shirika la Elimu la Serikali kulingana na taratibu zilizoenezwa hapa juu.

IV. UTARATIBU WA MALALAMIKO YA KESI

A. Ninawezaje Kuomba Usikilizaji wa Kesi?

1. Kuwasilisha Malalamiko ya Kesi (34 CFR §300.507)

Jumla

Wewe au LEA inaweza kuwasilisha malalamiko ya kesi kuhusu suala lolote linalohusiana na pendekezo au kukataa kuanzisha au kubadilisha kitambulisho, tathmini au mpango wa elimu, au utoaji wa FAPE kwa mtoto wako.

Lazima malalamiko ya kesi yadai ukiukaji uliotokea si zaidi ya miaka miwili kabla ya tarehe ambayo wewe au LEA ilijua au ilipaswa kujua kuhusu madai ya hatua ambayo ni msingi wa malalamiko ya kesi.

Muda maalum ulio hapa juu hautumiki ikiwa hauwezi kuwasilisha malalamiko ya kesi kati ya muda maalum kwa sababu:

1. LEA haswa iliwasilisha vibaya kwamba ilikuwa imetatua masuala yaliyotambuliwa kwenye malalamiko; au
2. LEA ilizua maelezo kutoka kwako ambayo ilipaswa kukupa chini ya Sehemu B ya IDEA.

Maelezo ya wazazi

Lazima LEA ikujulishe kuhusu huduma zozote za bila malipo au za bei nafuu na huduma zingine muhimu zinazopatikana katika eneo ikiwa utaomba maelezo hayo, **au** ikiwa wewe au LEA itawasilisha malalamiko ya kesi.

B. Maudhui ya Malalamiko ya Kesi (34 CFR §300.508)

1. Jumla

Ili kuomba kusikilizwa, wewe au LEA (au wakili wako au wakili wa LEA) lazima awasilishe malalamiko ya kesi kwa mhusika huo mwingine. Malalamiko hayo lazima yajumuishe maudhui yote yaliyorodheshwa na lazima yawekwe siri. Wakati huo huo wewe au LEA - yoyote iliyowasilisha malalamiko - hutoa malalamiko ya kesi kwa mhusika mwingine, lazima nakala iwasilishwe kwa Ofisi ya Usuluhishi wa Mzozo (ODR).

2. Yaliyomo kwenye malalamiko

Lazima malalamiko ya kesi yajumuishe:

- a. Jina la mtoto;
- b. Anwani ya makao ya mtoto;
- c. Jina la shule ya mtoto;
- d. Ikiwa ni mtoto au kijana ambaye hana makao, maelezo ya mawasiliano ya mtoto na jina la shule ya mtoto;
- e. Ufafanuzi wa hali ya shida ya mtoto inayohusiana na hatua iliyopendekezwa au kukataliwa, pamoja na kweli zinazohusiana na shida hiyo; **na**
- f. Utatuzi uliopendekezwa wa shida hiyo na kadri inavyojulikana na kupatikana kwako au LEA kwa wakati huo.

3. Taarifa inayohitajika kabla ya kusikiliza malalamiko ya kesi

Huenda wewe au LEA isiwe na usikilizaji wa kesi hadi wewe au LEA (au wakili wako au wakili wa LEA), iwakilishe malalamiko ya kesi ambao unajumuisha maelezo yaliyorodheshwa hapa juu.

4. Utoshelevu wa malalamiko

Ili kuendelea na usikilizaji wa kesi, lazima malalamiko yachukuliwe kuwa yanatosha. Malalamiko ya kesi yatazingatiwa kuwa yanatosha (kuwa yamekidhi mahitaji ya maudhui yaliyo hapa juu) isipokuwa mhusika anayepokea malalamiko ya kesi (wewe au LEA) atarifu afisa wa kusikiliza na mhusika mwingine kwa maandishi,

ndani ya siku 15 za kalenda baada ya kupokea malalamiko, kwamba mhusika anayepokea anaamini kuwa malalamiko ya kesi hayakidhi mahitaji yaliyoorodheshwa hapa juu.

Ndani ya siku tano za kalenda baada ya kupokea taarifa, mhusika anayepokea (wewe au LEA) anaona kuwa malalamiko ya kesi hayatoshi, lazima afisa wa kusikiliza aamue kama malalamiko ya kesi yanafikia mahitaji yaliyoorodheshwa hapa juu, na akuarifu pamoja na LEA kwa kukuandikia mara moja.

5. Malalamiko kurekebishwa

Wewe au LEA inaweza kufanya mabadiliko kwa malalamiko iwapo tu:

- a. Mhusika mwingine anaidhinisha mabadiliko kwa kuandika na anapewa nafasi ya kutatua malalamiko ya kesi kupitia mkutano wa utatuzi, kama ilivyofafanuliwa hapa chini; **au**
- b. Wakati wowote, lakini sio baada ya siku tano kabla ya usikilizaji wa kesi kuanza, afisa wa kusikiliza atoe kibali cha mabadiliko hayo.

Ikiwa mhusika anayelalamika (wewe au LEA) atafanya mabadiliko kwa malalamiko kesi, muda maalum wa mkutano wa utatuzi (kati ya siku 15 za kalenda baada ya kupokea malalamiko) na kipindi cha muda wa utatuzi (kati ya siku 30 za kalenda baada ya kupokea malalamiko) huanza tena tarehe ambayo malalamiko yaliyorekebishwa yanawasilishwa.

6. Majibu ya LEA kwa malalamiko ya kesi

Ikiwa LEA haijakutumia taarifa iliyoandikwa mapema, kama ilivyofafanuliwa chini ya kichwa cha **Taarifa Iliyoandikwa Mapema**, kuhusu suala kuu katika malalamiko yako ya kesi, lazima LEA, kati ya siku 10 za kalenda baada ya kupokea malalamiko ya kesi, ikutumie majibu ambayo yanajumuisha:

- a. Ufafanuzi wa kwa nini LEA ilipendekeza au kukataa kuchukua hatua iliyoletwa katika malalamiko ya kesi;
- b. Ufafanuzi wa chaguo zingine ambazo Timu ya IEP ya mtoto wako ilizingatia na sababu ambazo chaguo hizo zilikataliwa;
- c. Ufafanuzi wa kila utaratibu wa tathmini, uchunguzi, rekodi au ripoti ambayo LEA ilitumia kama msingi wa hatua iliyopendekezwa au kukataliwa; **na**
- d. Ufafanuzi wa mambo mengine ambayo ni muhimu kwa hatua iliyopendekezwa au kukataliwa na LEA.

Kutoa maelezo katika vipengele 1-4 hapa juu haizuii LEA kuisitiza kwamba malalamiko yako ya kesi hayakutosha.

7. Majibu ya mhusika mwingine kwa malalamiko ya kesi

Isipokuwa kama ilivyosemwa chini ya kichwa-kidogo juu ya, **Majibu ya LEA kwa malalamiko ya kesi**, mhusika anayepokea malalamiko ya kesi lazima, kati ya siku 10 za kalenda baada ya kupokea malalamiko, atumie mhusika mwingine majibu ambayo yanashughulikia haswa maswala kwenye malalamiko hayo.

C. Mchakato wa Utatuzi (34 CFR §300.510)

1. Mkutano wa utatuzi

Kati ya siku 15 za kalenda baada ya kupokea taarifa yako ya malalamiko ya kesi, na kabla ya usikilizaji wa kesi kuanza, lazima LEA iite mkutano kati yako na wanachama wanaofaa wa Timu ya IEP ambao wanaufahamu maalum wa kweli zilizotambuliwa katika malalamiko yako ya kesi. Mkutano huo:

- a. Lazima uwe na mwakilishi wa LEA ambaye ana mamlaka ya kufanya uamuzi kwa niaba ya LEA; **na**
- b. Hauwezi kuwa na wakili wa LEA isipokuwa kama umeandamana na wakili. Wewe na LEA iamue wanachama wanaofaa wa Timu ya IEP watakaohudhuria mkutano huo. Madhumuni

ya mkutano huo ni wewe ujadili malalamiko yako kesi, na kweli ambazo zinaunda msingi wa malalamiko hayo, ili LEA iwe na nafasi ya kutatua mzozo huo.

c. Mkutano huo wa utatuzi sio lazima ikiwa:

- 1) Wewe na LEA mkikubaliana kwa kuandika kuondoa mkutano huo; **au**
- 2) Wewe na LEA mkikubaliana kutumia njia ya upatanisho, kama ilivyofafanuliwa chini ya kichwa cha **Upatanisho**.

2. Kipindi cha utatuzi

Ikiwa LEA haijatatua malalamiko ya kesi hadi ukaridhika kati ya siku 30 za kalenda baada ya kupokea malalamiko ya kesi (wakati wa kipindi cha muda wa mchakato wa utatuzi) usikilizaji wa kesi unaweza kufanyika.

Muda huu maalum wa siku 45 za kalenda wa kutoa uamuzi wa mwisho huanza baada ya siku 30 za kalenda za kipindi cha utatuzi kuisha, na vighairi vingine vya marekebisho yaliyofanywa kwa siku 30 za kalenda za kipindi cha utatuzi, kama ilivyofafanuliwa hapo chini.

Isipokuwa mahali ambapo wewe na LEA mmekubaliana kuondoa mchakato wa utatuzi au kutumia upatanishi, kukosa kwako kuhusika katika mkutano wa utatuzi kunaweza kuchelewesha muda maalum wa mchakato wa utatuzi na usikilizaji wa kesi hadi ukubali kuhusika katika mkutano. Ikiwa baada ya kufanya jitihada na kuandika jitihada hizo, LEA haiwezi kukupata katika mkutano wa utatuzi, LEA inaweza, mwisho wa siku 30 za kalenda za kipindi cha utatuzi, kuomba kwamba afisa wa kusikiliza atupilie mbali malalamiko yako ya kesi. Lazima jitihada hizo kuandikwa kujumuishie rekodi ya majaribio ya LEA kupanga wakati na mahali mnapokubaliana wote, kama vile:

1. Rekodi za kina za simu zilizopigwa au zilizotaribiwa kupigwa na matokeo ya simu hizo;
2. Nakala za mawasiliano ulizotumiwa na majibu yoyote yaliyopokewa; na
3. Rekodi za kina za ziara zilizofanywa kwa nyumba yako au mahali pa ajira na matokeo ya ziara hizo.

LEA ikikosa kufanya mkutano wa utatuzi kati ya siku 15 za kalenda baada ya kupokea taarifa yako ya malalamiko ya kesi **au** ikose kuhusika kwenye mkutano wa utatuzi, unaweza kumuuliza afisa wa kusikiliza atoe amri ya kwamba muda maalum wa usikilizaji wa kesi uanze.

3. Marekebisho ya siku 30 za kalenda za kipindi cha utatuzi

Wewe na LEA mkikubali kwa kuandika kuondoa mkutano wa utatuzi, basi muda maalum wa siku 45 za kalenda za usikilizaji wa kesi huanza siku inayofuata.

Baada ya upatanishi au mkutano wa utatuzi kuanza na kabla ya mwisho wa siku 30 za kalenda za kipindi cha utatuzi, wewe na LEA mkikubali kwa kuandika kwamba hakuna makubaliano yanayowezekana, basi muda maalum wa siku 45 za kalenda za usikilizaji wa kesi huanza siku inayofuata.

Wewe na LEA mkikubali kutumia mchakato wa upatanisho, katika mwisho wa siku 30 za kalenda za kipindi cha utatuzi, wahusika wote wanaweza kukubali kwa kuandika kuendelea na upatanisho hadi makubaliano yapatikane. Walakini, wewe au LEA mkijiondoa kutoka kwa mchakato wa upatanisho, basi muda maalum wa siku 45 za kalenda wa usikilizaji wa kesi huanza siku inayofuata.

4. Makubaliano yaliyoandikwa ya mpango

Utatuzi wa mzozo ukifikiwa katika mkutano wa utatuzi, lazima wewe na LEA muingie katika makubaliano ya kisheria yanayofunga ambayo:

- a. Yametiwa saini na wewe na mwakilishi wa LEA ambaye ana mamlaka ya kufuga LEA; na
- b. Kipindi cha ukaguzi wa makubaliano – Wewe na LEA mkiingia katika makubaliano kama matokeo ya mkutano wa utatuzi, mhusika yeyote (wewe au LEA) anaweza kubatilisha makubaliano hayo kati ya siku 3 za kazi baada ya wewe na LEA kutia saini makubaliano hayo.

V. USIKILIZAJI WA MALALAMIKO YA KESI

A. Usikilizaji wa Kesi Bila Upendeleo (34 CFR §300.511)

1. Jumla

Wakati wowote malalamiko ya kesi yanapowasilishwa, wewe au LEA inayohusika katika mzozo huu lazima iwe nafasi ya usikilizaji wa kesi bila upendeleo, kama ilivyofafanuliwa katika sehemu za **Malalamiko ya Kesi** na **Mchakato wa Utatuzi**. Huko Pennsylvania, mfumo kesi unasimamiwa na Ofisi ya Utatuzi wa Mzozo (ODR). (imeorodheshwa chini ya **Rasilimali**)

2. Afisa mwadilifu wa kusikiliza

Kwa uchache, afisa wa kusikiliza:

- a. Lazima asiwe mfanyakazi wa Shirika la Elimu la Serikali au LEA ambayo inahusika katika elimu au ulezi wa mtoto huyo. Walakini, mtu si mfanyakazi wa shirika kwa sababu analipwa na shirika hilo ili kuhudumu kama afisa wa kusikiliza;
- b. Lazima asiwe na upendeleo wa kibinafsi au wa kitaaluma ambao unazozana na madhumuni ya afisa wa kusikiliza wakati wa usikilizaji.
- c. Lazima awe anafahamu na kuelewa toleo za IDEA, na kanuni ya Jimbo na Serikali kuhusu IDEA, na ukalimani wa kisheria wa IDEA na mahakama za Jimbo na Serikali; **na**
- d. Lazima awe na ufahamu na uwezo wa kutekeleza usikilizaji, na kufanya na kuandika maamuzi, kulingana na kanuni zinazofaa za kisheria.

Kila SEA lazima iweke orodha ya watu wale ambao wanahudumu kama maafisa wa kusikiliza ambayo inajumuisha taarifa ya sifa za kila afisa wa kusikiliza.

3. Suala kuu la usikilizaji wa kesi

Mhusika ambaye anaomba usikilizaji wa kesi (wewe au LEA) hawezi kuleta masuala wakati wa usikilizaji wa kesi ambayo hayakushughulikiwa katika malalamiko ya kesi, isipokuwa mhusika mwingine akubali.

4. Muda maalum wa kuomba kusikilizwa

a. Kizuizi cha Muda

Lazima wewe au LEA muombe usikilizaji wa kesi usiokuwa na upendeleo kati ya miaka miwili tangu tarehe ambayo wewe au LEA ilipojua au ilipaswa kujua kuhusu suala lililoshughulikiwa kwenye malalamiko. Lazima malalamiko ya kesi yadau ukiukaji ambao ulitendeka baada ya miaka miwili kabla tarehe ambayo wewe au wilaya ya shule ilijua na ilipaswa kujua kuhusu hatua iliyodaiwa ambayo ni msingi wa malalamiko ya kesi.

Vighari vya muda maalum

Muda maalum ulio hapa juu hautumiki ikiwa haukuweza kuwasilisha malalamiko kesi kwa sababu:

1. LEA iliwakilisha vibaya kwamba ilikuwa imesuluhisha tatizo au suala ambalo unaleta katika malalamiko yako; **au**
2. LEA ilikuficha maelezo ambayo ilipaswa kukupa chini ya Sehemu B ya IDEA.

B. Haki za Kusikilizwa (34 CFR §300.512)

1. Jumla

Mhusika yeyote katika usikilizaji wa kesi (pamoja na usikilizwaji unaohusiana na taratibu za kinidhamu) au rufaa, kama ilivyofafanuliwa chini ya kichwa kidogo Rufaa ya maamuzi; ukaguzi usio na upendeleo ana haki ya:

- a. Kuzindikishwa na kushauriwa na wakili au watu walio na ufahamu maalum au mafunzo kuhusu shida za watoto walemavu;
- b. Ushahidi wa sasa na kukabili, kuchunguza, na kuhitaji washahidi wahudhurie;
- c. Kukataa ushahidi wowote kuletwa wakati wa kusikilizwa ambao haujafichuliwa kwa mhusika mwingine angalau siku tano za kazi kabla ya kusikilizwa;
- d. Kupata rekodi iliyoandikwa, au, kwa chaguo lako, ya kielektroniki, ya neno kwa neno ya usikilizaji; na
- e. Kupata matokeo yaliyoandikwa, au, kwa chaguo lako, matokeo ya kielektroniki ya ukweli na maamuzi.

2. Ufichuzi zaidi wa maelezo

Angalau siku 5 za kazi kabla ya usikilizaji wa kesi, wewe na LEA lazima mfichue wahusika wengine wote tathmini zote zilizokamilishwa kufikia tarehe hiyo na mapendekezo kulingana na tathmini hizo ambazo wewe au LEA inakusudia kutumia katika usikilizaji huo.

Afisa anayesikiliza anaweza kuzuia mhusika yeyote ambaye atashindwa kutii hitaji hili kuwasilisha tathmini au mapendekezo husika kwenye kikao cha kusikilizwa bila idhini ya mhusika mwingine.

3. Haki za mzazi wakati wa kusikilizwa

Lazima upewe haki ya:

- a. Kuruhusu mtoto ambaye unastahili kusikilizwa akuwepo;
- b. Kufungua kusikilizwa kwa umma; **na**
- c. Kupewa rekodi ya kusikilizwa, matokeo ya kweli na maamuzi bila gharama yoyote.

C. Maamuzi ya Usikilizaji (34 CFR §300.513)

1. Uamuzi wa afisa wa kusikiliza

- a. Uamuzi wa afisa wa kusikiliza wa iwapo mtoto wako alipokea FAPE lazima uzingatie misingi ya kweli.
- b. Katika hoja zinazodai ukiukaji wa utaratibu, afisa wa kusikiliza anaweza kupata kwamba mtoto wako hakupokea FAPE ikiwa tu mapungufu ya utaratibu:
 - 1) Yaliingiliana na haki za mtoto wako za FAPE;
 - 2) Yaliingiliana pakubwa na nafasi yako ya kushiriki katika mchakato wa kutoa uamuzi kuhusu utoaji wa FAPE kwa mtoto wako; **au**
 - 3) Yalisababisha kunyimwa manufaa ya kielimu.
- c. Ibara ya uundaji
Hamna masharti yoyote yaliyofafanuliwa hapo juu yanaweza kutafsiriwa ili kumzuia afisa wa kusikiliza kuamuru LEA kufuata mahitaji kwenye sehemu ya ulinzi wa utaratibu ya kanuni za Serikali chini ya Sehemu B ya IDEA (34 CFR §§300.500 hadi 300.536). Hakuna masharti chini ya vichwa: **Kuwasilisha Malalamiko ya Kesi; Malalamiko ya Kesi; Fomu za Mfano; Mchakato wa Utatuzi; Usikilizaji wa Kesi Bila Upendeleo; Haki za Kusikilizwa; na Maamuzi ya Usikilizaji** (34 CFR §§300.507 hadi 300.513), yanaweza kuathiri haki yako ya kuwasilisha rufaa ya maamuzi ya usikilizaji wa kesi katika mahakama yenye mamlaka.

2. Ombi la kando la usikilizaji wa kesi

Hakuna chochote katika sehemu ya ulinzi wa utaratibu ya kanuni za Serikali chini ya Sehemu B ya IDEA (34 CFR §§300.500 hadi 300.536) kinachoweza kufasiriwa ili kukuzuia kuwasilisha malalamiko tofauti ya kesi kuhusu suala tofauti na malalamiko ya kesi ambayo tayari yamewasilishwa.

3. Matokeo na uamuzi wa jopo la ushauri na umma kwa ujumla

Baada ya SEA kufuta maelezo yoyote yanayoweza kumtambua mtu, lazima:

- a. Itoe matokeo na maamuzi ya usikilizaji wa kesi au ikate rufaa kwa jopo la Mshauri wa elimu maalum ya Serikali (SEAP); **na**

b. Ifanye matokeo hayo na maamuzi hayo yapatikane kwa umma.

D. Kukamilika kwa uamuzi; Kukata rufaa; Uhakiki Usiokuwa na

Upendeleo (34 CFR §300.514) Kukamilika kwa uamuzi wa

usikilizaji

Uamuzi unaofanywa katika usikilizaji wa kesi (pamoja na usikilizaji unaohusiana na taratibu za nidhamu) ni wa mwisho, isipokuwa kama mhusika yeyote anyehusika katika usikilizaji (wewe au LEA) anaweza kuomba rufaa ya uamuzi katika mahakama yenye mamlaka.

E. Muda Maalum wa Urahisi wa Kusikilizwa (34 CFR §300.515)

1. Muda Maalum

Lazima SEA ihakishe kwamba isipite siku 45 za kalenda baada ya siku 30 za kalenda za kipindi cha mkutano wa utatuzi kuisha **au**, kama ilivyofafanuliwa chini ya kichwa-kidogo cha **Marekebisho kwa siku 30 za kalenda za kipindi cha utatuzi**,

- a. Uamuzi wa mwisho ufikiwe katika usikilizaji, **na**
- b. Nakala ya uamuzi huo imetumwa kwako na kwa LEA.

2. Muda Kuongezwa

Afisa anayesikiliza au kukagua anaweza kuongeza muda zaidi ya vipindi vilivyoelezwa hapa juu (siku 45 za kalenda kwa uamuzi wa kusikilizwa na siku 30 za kalenda kwa uamuzi wa ukaguzi) ikiwa wewe au LEA itatoa ombi la muda maalum kuongezwa. Kila usikilizaji unaohusika mabishano ya mdomo lazima ufanywe kwa wakati na mahali ambapo ni rahisi kwako na kwa mtoto wako.

F. Mashtaka ya Kiraia, Pamoja na Kipindi cha Muda Ambao Unaweza Kuwasilisha Mashtaka Hayo (34 CFR §300.516)

1. Jumla

Mhusika yeyote (wewe au LEA) ambaye hakubaliani na matokeo na uamuzi wa SEA ana haki ya kuleta mashtaka kiraia yanayohusiana na suala ambalo lilikuwa suala la usikilizaji wa kesi (pamoja na usikilizaji unaohusiana na taratibu za nidhamu). Mashtaka hayo yanaweza kuletwa katika mahakama ya wilaya ya Marekani bila kuzingatia kiasi cha mzozo au katika mahakama ya Jimbo yenye mamlaka (mahakama ya serikali ambayo ina mamlaka ya kusikiliza kesi ya aina hii). Huko Pennsylvania, mahakama yenye mamlaka ni Mahakama ya Jumuiya ya Madola.

2. Kizuizi cha muda

Mhusika (wewe au LEA) anayeleta mashtaka hayo katika mahakama ya wilaya ya Marekani atakuwa na siku 90 za kalenda kuanzia tarehe ya uamuzi wa SEA kuwasilisha mashtaka ya kiraia. Mhusika anayeleta mashtaka katika Mahakama ya Jumuiya ya Madola atakuwa na siku 30 za kalenda kuanzia tarehe ya uamuzi wa SEA kuwasilisha mashtaka ya kiraia.

3. Taratibu zaidi

Katika mashtaka yoyote ya kiraia, mahakama:

1. Hupokea rekodi za kesi za usimamizi;
2. Husikia ushahidi wa ziada ukiomba au LEA ikiomba; **na**
3. Huweka uamuzi wake kwa kuwepo kwa ushahidi na hupeana msaada ambao mahakama huonelea inafaa.

4. Sheria ya uundaji

Hakuna kitu chochote katika Sehemu B ya IDEA kinachopinga au kuzuia haki, utaratibu na marekebisho yanayopatikana chini ya Katiba ya Marekani, Sheria ya 1990 ya Waamerika wenye Ulemavu, Title V cha Sheria ya Urekebishaji ya 1973 (Sehemu ya 504), au sheria zingine za Shirikisho zinazolinda haki za watoto wenye ulemavu, isipokuwa kama kabla ya kuwasilisha mashtaka ya kiraia chini ya sheria hizi ukitafta msaada ambao unapatikana pia chini ya Sehemu B ya IDEA, utaratibu wa kesi uliofafanuliwa hapa juu

lazima utumike kwa kiwango sawa ambacho kingehitajika ikiwa mhusika aliwasilisha mashtaka chini ya Sehemu B ya IDEA. Hii ina maana kwamba unaweza kuwa na masuluhisho yanayopatikana chini ya sheria zingine yanayoingiliana na yale yanayopatikana chini ya IDEA, lakini kwa ujumla, ili kupata usaidizi chini ya sheria hizo zingine, lazima kwanza utumie zinazopatikana chini ya IDEA, lakini kwa ujumla, ili kupata usaidizi chini ya sheria hizo zingine, lazima kwanza utumie masuluhisho ya kiutawala yanayopatikana chini ya IDEA (yaani, malalamiko ya kesi, mkutano wa utatuzi, na taratibu usikilizaji wa kesi bila upendeleo) kabla ya kwenda mahakamani isipokuwa kuna uwezekano fulani mahususi wa kimahakama ambao utafanya matumizi ya masuluhisho ya kiutawala kutokuwa na manufaa.

G. Ada za Wakili (34 CFR §300.517)

1. Jumla

Katika mashtaka yoyote au kesi iliyoletwa chini ya Sehemu B ya IDEA, mahakama, kwa uamuzi wake, inaweza kukutoza ada ya wakili kama sehemu ya gharama yako.

- a. Kwako ikiwa unazingatiwa kuwa sehemu iliyotawala.
- b. Kwa Shirika la Elimu la Serikali liliopo au LEA, itakayolipwa na wakili wako, ikiwa wakili:
(a) aliwasilisha malalamiko au kesi ya mahakama ambayo mahakama inaonelea kuwa ni hafifu, isiyoeleweka, au isio na msingi ; **au** (b) ameendelea kuenda mahakamani baada ya madai kuwa hafifu, yasiyoeleweka, au yasio na msingi; **au**
- c. Kwa Shirika la Elimu la Serikali au LEA, ilipwe na wewe au wakili wako, ikiwa ombi lako la usikilizaji wa kesi au kesi ya baadaye ya mahakama iliwasilishwa kwa sababu zisizostahili, kama vile kunyanyasa, kusababisha ucheleweshaji usiofaa, au kuongeza gharama ya mashtaka au kesi hiyo.

2. Ada Zinazofaa

Mahakama hutoa ada zinazofaa za mawakili kulingana na yafuatayo:

- a. Lazima msingi wa ada iwe viwango vilivyo kwenye jamii ambayo mashtaka au kusikilizwa kulianza kwa aina na ubora wa huduma zilizotolewa. Hakuna bonasi au kizidishi kinachoweza kutumika katika kukokotoa ada zinazotolewa.
- b. Ada haziwezi kutunukiwa na gharama husika haziwezi kurudishwa katika mashtaka au kesi yoyote chini ya Sehemu B ya IDEA ya huduma zilizotekelezwa baada ya toleo lililoandikiwa la maafikiano ikiwa:
 - 1) Toleo linalotolewa ndani ya muda uliowekwa na Kanuni ya 68 ya Kanuni za Shirikisho za Utaratibu wa Kiraia au, katika hali ya usikilizaji wa kesi au ukaguzi wa kiwango cha Serikali, wakati wowote zaidi ya siku 10 za kalenda kabla ya kesi kuanza;
 - 2) Toleo hilo halikubaliwi kati ya siku 10 za kalenda; **na**
 - 3) Mahakama au afisa wa usikilizaji wa usimamizi akipata kwamba usaidizi ambao ulipata mwishowe haukufai zaidi ya toleo la maafikiano.
 - 4) Bila kuzingatia vizuizi hivi, utunukiwaji wa ada ya wakili na gharama husika zinaweza kufanywa kwako ikiwa utaendelea na kama ulikuwa na sababu mwafaka ya kukataa toleo la maafikiano.
- c. Ada zinazohusiana na mkutano wowote wa Timu ya IEP hazitatunukiwa isipokuwa mkutano huo ufanywe kama matokeo ya kesi ya usimamizi au mshataka ya mahakama. Mkutano wa utatuzi, kama ilivyofanuliwa chini ya kichwa cha **Mkutano wa utatuzi**, hauchukuliwi kama mkutano ulioitwa kama matokeo ya kusikilizwa kwa msimamizi au mashtaka ya mahakama na pia haichukuliwi kama usikilizaji wa usimamizi au mashtaka ya mahakama kwa madhumuni ya toleo hizi za ada ya wakili.
- d. Huenda ada zisitunukiwe kwa upatanishi kama ilivyofanuliwa katika kichwa cha upatanishi.

3. Ada kupunguzwa

Mahakama hupunguza, kama inavyostahili, kiwango cha ada ya wakili iliyotunukiwa chini ya Sehemu B ya IDEA kama mahakama itapata kwamba:

- a. Wewe, au wakili wako, wakati wa mchakato wa mashtaka au kesi, mlichelewesha utatuzi wa mwisho wa mzozo;

- b. Kiwango cha ada ya wakili kiilichoidhinishwa kituzwe kilipita kiwango cha kila saa kilipo katika jamii kwa huduma sawa ya mawakili wenye ustadi, sifa na ujuzi huo mmoja.
- c. Muda uliochukuliwa na huduma za kisheria zilizotolewa zilipita kiasi kulingana na hali ya hatua au kesi; **au**
- d. Wakili anayekuwakilisha hakupatia LEA maelezo yanayofaa katika taarifa ya ombi la kesi kama ilivyofafanuliwa chini ya kichwa cha **Malalamiko ya Kesi**.

Walakini, mahakama haiwezi kupunguza ada ikiwa mahakama itagundua kwamba Serikali au LEA ilichelewesha utatuzi wa mwisho wa mashtaka au kesi au kulikuwa na ukiukaji chini ya utoaji wa ulinzi wa utaratibu katika Sehemu B ya IDEA.

H. Fomu za Mfano (34 CFR §300.509)

Ingawa Shirika la Elimu la Serikali (SEA) limeanzisha fomu za mfano ili kukusaidia kuwasilisha malalamiko ya kesi na malalamiko ya Serikali. Huenda SEA au LEA isikuhitaji utumie fomu hizi za mfano. Kwa hakika, unaweza kutumia mfano wa fomu hii au fomu nyingine inayofaa, maadamu ina maelezo yanayohitajika ya kuwasilisha malalamiko ya kesi au malalamiko ya Serikali.

VI. UPATANISHI (34 CFR §300.506)

A. Jumla

Lazima SEA ifanye upatanishi upatikane ili kukuruhusu pamoja na LEA kutatua mizozo inayohusiana na suala lolote chini ya Sehemu B ya IDEA, pamoja na maswala yanayotokea baada ya kuwasilisha malalamiko ya kesi. Hivyo basi, upatanisho unapatikana ili kutatua mizozo chini ya Sehemu B ya IDEA, iwe umewasilisha au LEA imewasilisha malalamiko ya kesi ili kuomba usikilizaji wa kesi kama ilivyofafanuliwa chini ya kichwa cha **Kuwasilisha Malalamiko ya Kesi**.

B. Mahitaji ya Utaratibu

Utaratibu lazima uhakikishe kwamba mchakato wa upatanisho:

1. Ni wa kujitolea kwa upande wako na kwa upande wa LEA’;
2. Haujatumiwa kukunyima au kuchelewesha haki yako ya usikilizaji wa kesi, au kukataa haki zingine zozote ambazo unazo chini ya Sehemu B ya IDEA; **na**
3. Umetekelezwa na mpatanishi aliyehitimu na asiye na upendeleo ambaye amefunzwa kuhusu mbinu kamili za upatanisho.
4. Lazima SEA idumishe orodha ya watu ambao ni wapatanishi waliohitimu na wanaofahamu sheria na masharti yanayohusiana na matoleo ya elimu maalum na huduma husika. Lazima SEA iwachague wapatanishi kwa mpangilio usio na utaratibu, kwa kuzunguka, au njia zingine bila upendeleo.
5. Serikali ina wajibu wa gharama ya mchakato wa upatanisho, pamoja na gharama za mikutano.
6. Kila Kikao katika mchakato wa upatanishi lazima upangwe kwa wakati unaofaa na ufanywe mahali panapokufaa wewe na LEA.
7. **Wewe na LEA mkitatua mzozo kupitia mchakato wa upatanisho, lazima wahusika wote waingie kwa makubaliano ya kisheria yanayofunga ambayo yanaorodhesha utatuzi huo na:**
 - a. Yanayosema kwamba majadiliano yote yaliyofanywa wakati wa mchakato wa upatanisho utasalia kuwa ya siri na hauwezi kutumiwa kama ushahidi katika usikilizaji wowote wa kesi au kesi ya umma; **na**

- b. Yametiwa saini na wewe na mwakilishi wa LEA ambaye ana mamlaka ya kufuga LEA.
- 8. Makubaliano yaliyoandikwa, na kutiwa saini yanaweza kulazimishwa katika mahakama yoyote ya Serikali yenye mamlaka ya kisheria (mahakama ambayo ina mamlaka ya kusikiliza kesi ya aina hii chini ya sheria za Serikali) au katika mahakama ya wilaya ya Marekani.
- 9. Majadiliano ambayo yalifanyika wakati wa mchakato wa upatanisho lazima yawe siri. Hayawezi kutumiwa kama ushahidi katika usikilizaji wowote wa kesi ya baadaye au kesi ya umma ya mahakama yoyote ya Shirikisho au ya Serikali inayopokea usaidizi chini ya Sehemu B ya IDEA.

C. Uadilifu wa Mpatanishi

Mpatanishi huyo:

1. Hawezi kuwa mfanyakazi wa SEA au LEA ambayo inahusika katika elimu au ulezi wa mtoto wako; **na**
2. Lazima asiwe na upendeleo wa kibinafsi au wa kikazi ambao unazozana na madhumuni ya mpatanishi.

Mtu ambaye anahitimu kama mpatanishi si mfanyakazi wa LEA au SEA kwa sababu analipwa na shirika au wilaya ili ahudumu kama mpatanishaji.

VII. MPANGO WA MTOTO UNAOSUBIRI UPATANISHI NA USIKILIZAJI WA KESI (34 CFR §300.518)

A. Jumla

Mpango wa Mtoto Unaosubiri Upatanishi na Usikilizaji wa Kesi (34 CFR §300.518)

Isipokuwa kama ilivyotolewa hapa chini ya kichwa cha **Taratibu Wakati wa Kuwaadibu Watoto Wenye Ulemavu**, mara tu malalamiko ya kesi yanapotumwa kwa mhusika mwingine, wakati wa mchakato wa utatuji, wakati wa upatanishi, na unaposubiri uamuzi wa usikilizaji wa kesi bila upendeleo au kesi yoyote ya mahakama, isipokuwa wewe na Serikali au LEA mkubaliane, lazima mtoto wako asalie katika mpango wake wa sasa wa kielimu.

Ikiwa malalamiko ya kesi yanahusisha maombi ya kuandikishwa kwa mara ya kwanza katika shule ya umma, mtoto wako, akiwa na ruhusu yako, lazima awekwe katika mpango wa kawaida wa shule ya umma hadi kesi hizo zote zikamilike.

Ikiwa malalamiko ya kesi yanahusisha maombi ya huduma ya kwanza chini ya Sehemu B ya IDEA ya mtoto ambaye anabadilika kutoka kwa huduma chini ya Sehemu C ya IDEA hadi Sehemu B ya IDEA na ambaye hastahiki tena kupata huduma za Sehemu C kwa sababu mtoto amefikia miaka mitatu, wilaya ya shule haipaswi kutoa huduma za Sehemu C ambazo mtoto huyo amekuwa akipokea. Watoto wana haki ya kutegemea - yaani, kuendelea kwa huduma zilizoainishwa katika IFSP yao – wakati mzozo unatokea wanapohamia kwenye mpango wa Uingiliaji wa Mapema wa shule ya chekechea wakiwa na umri wa miaka mitatu (3) na familia inaomba usikilizaji rasmi ili kutatua mzozo huo. Mtoto huyo akipatikana anastahiki chini ya Sehemu B ya IDEA na umetoa ruhusa mtoto huyo apokee elimu maalum na huduma husika kwa mara ya kwanza, basi, ukisubiri matokeo ya kesi, lazima LEA itoe elimu maalum na huduma hizo husika ambazo hazina mizozo (zile ambazo wewe na LEA mnakubaliana).

VIII. VIPI IKIWA MTOTO WANGU ATAFUKUZWA SHULENI KWA SABABU YA MASWALA YA NIDHAMU?

SEHEMU HII INAANGAZIA TARATIBU ZA KUWATENGA WATOTO WENYE ULEMAVU KWA NIDHAMU.

Kuna sheria maalum huko Pennsylvania za kuwatenga watoto wenye ulemavu wanaohudumiwa na LEA kwa sababu za kinidhamu. Isipokuwa imeonyeshwa vinginevyo, watoto katika shule za umma hufuata taratibu sawia:

A. Mamlaka ya Wahudumu wa Shule (34 CFR §300.530)

1. Uamuzi wa kesi baada ya kesi

Mhudumu wa shule anaweza kuzingatia hali yoyote ya kipekee kwa misingi ya kesi baada ya kesi, anapoamua kubadilisha mpango, iliyofanywa kulingana na mahitaji yanayofuata yanayohusiana na tabia, inamfaa mtoto mlemavu ambaye anakiuka kanuni ya shule ya mwenendo wa mwanafunzi.

2. Jumla

Kwa kiwango ambacho pia wanachukua hatua kama hizo kwa watoto wasiokuwa na ulemavu, mhudumu wa shule anaweza, kwa **siku zisizopita 10 za shule**, kuondoa mtoto mlemavu (isipokuwa mtoto mwenye ulemavu wa akili) ambaye anakiuka kanuni za wanafunzi kutoka mpango wake wa sasa hadi kwa mpangilio mwingine mbadala wa elimu, mpangilio mwingine, au kusimamishwa. Mhudumu wa shule anaweza pia kulazimisha uondoaji wa ziada wa mtoto kwa **siku zisizopita 10 za shule** katika mwaka mmoja wa shule kwa matukio tofauti ya utovu wa nidhamu, maadamu kuondolewa huko hakujumuishi mabadiliko ya mpango (angalia **Mabadiliko ya Mpango kwa Sababu za Kinidhamu** kwa ufafanuzi, hapa chini) au kuzidi siku 15 za jumla za shule katika mwaka wa shule. Mara tu mtoto mlemavu akihamishwa kutoka kwa mahali pake pa sasa kwa jumla ya **siku 10 za shule** katika mwaka mmoja wa shule, wilaya ya shule lazima, wakati wa siku za uhamisho zinazofuata katika mwaka huo wa shule, itoe huduma kama inavyotakikana hapo chini, chini ya kichwa-kidogo cha Huduma.

3. Mamlaka ya ziada

Ikiwa tabia iliyokiuka kanuni za mienendo ya wanafunzi haikuwa onyesho la ulemavu wa mtoto (angalia hapa chini ya **Uamuzi wa onyesho**) na mabadiliko ya kinidhamu ya mpango inaweza kupita **siku 10 mtawaliwa za shule**, mhudumu wa shule anaweza kutumia utaratibu wa nidhamu kwa mtoto huyo mlemavu kwa njia sawa na muda sawa kama ingekuwa kwa watoto wasio na ulemavu, isipokuwa shule hiyo lazima itoe huduma kwa mtoto huyo kama ilivyofafanuliwa hapa chini ya **Huduma**. Timu ya EIP ya mtoto huamua mpangilio mwingine wa elimu ya muda kwa huduma kama hizo. Chini ya kanuni za elimu maalum za PA (22 Pa. Code Sec. 14.143), mwanafunzi mwenye ulemavu kutengwa kwa ajili ya nidhamu kwa zaidi ya siku 15 za jumla za shule katika mwaka wa shule kutazingatiwa kuwa muundo ili kuzingatiwa kuwa ni mabadiliko katika mpango wa elimu (imefafanuliwa chini ya **Mabadiliko ya Mpango kwa Sababu ya Uondoaji wa Kinidhamu**). LEA inahitajika kutoa NOREP/Taarifa Iliyoandikwa Mapema kwa wazazi kabla ya kuondolewa ambayo inajumuisha mabadiliko ya mpango (kuondolewa kwa zaidi ya siku 10 mfululizo au siku 15 kwa jumla).

4. Huduma

Huduma ambazo lazima zitolewe kwa mtoto mlemavu ambaye amehamishwa kutoka mpango wake wa sasa zinaweza kutolewa hadi mpangilio mbadala wa muda wa elimu. LEA inahitajika tu kutoa huduma kwa mtoto mlemavu ambaye amehamishwa kutoka mpango wake wa sasa kwa **siku 10 za shule au chini** katika mwaka huo wa shule, ikiwa hutoa huduma kwa mtoto asiye na ulemavu ambaye ameondolewa vivyo hivyo. Wanafunzi wanaweza kuwa na jukumu la kufanya mitihani na kufanya kazi waliyokosa huku wakiadhibiwa kwa kusimamishwa na wanaweza kuruhusiwa kukamilisha kazi hizi ndani ya miongozo iliyoanzishwa na LEA yao.

Mtoto mlemavu ambaye ameondolewa kutoka mpango wake wa sasa kwa zaidi ya **siku 10 za mtawaliwa shule** lazima:

- a. Aendelee kupokea huduma za kielimu, ili kumwezesha mtoto aendelee kuhusika katika mtalaa wa elimu ya jumla, ijapokuwa katika mpangilio mwingine, na kuendelea kufikia malengo yaliyowekwa katika IEP ya mtoto; **na**
- b. Apokee, kama inavyotakikana, uchunguzi unaotumika wa kitabia, na huduma za uingiliaji tabia na urekebishaji ambazo zimeundwa ili kushughulikia ukiukaji wa tabia ili isifanyike tena.

Baada ya mtoto mlemavu kuondolewa kwa mpango wake wa sasa kwa **siku 10 za shule** katika mwaka huo mmoja wa shule, na **ikiwa** uondoaji wa sasa ni wa siku **10 za shule** zikifuatana au chini na ikiwa uondoaji huo sio mabadiliko ya mpango (angalia ufafanuzi hapa chini), **basi** mhudumu wa shule, kwa kushauriana na angalau mmoja wa waalimu wa mtoto, anaweza kuamua kiwango ambacho huduma zitahitajika ili kumwezesha mtoto kuendelea kuhusika katika mtalaa wa elimu ya jumla, ijapokuwa katika mpangilio mwingine, na kuendelea kufikia malengo yaliyowekwa katika IEP ya mtoto.

Ikiwa uondoaji ni mabadiliko ya mpango (angalia ufafanuzi hapa chini), Timu ya IEP ya Mtoto itaamua huduma zinazofaa ili kumwezesha mtoto kuendelea kuhusika katika mtalaa wa elimu ya jumla, ijapokuwa katika mpangilio mwingine, na kuendelea kufikia malengo yaliyowekwa katika IEP ya mtoto.

5. Uamuzi wa onyesho

Kati ya siku 10 za shule **za uamuzi wowote wa kubadilisha mpango wa mtoto mlemavu kwa sababu ya ukiukaji wa kanuni za mwenendo wa mwanafunzi (isipokuwa kwa uondoaji ambao haujumuishi mabadiliko katika mpango wa elimu yaani ni kwa siku 10 mfululizo za shule au chini na si mabadiliko ya mpango), LEA, mzazi, na wanachama husika wa Timu ya IEP (kama ilivyoamuliwa na mzazi na LEA) lazima wakague maelezo yote muhimu katika faili ya mwanafunzi, ikiwemo IEP ya mtoto, uchunguzi wowote wa mwalimu, na maelezo yoyote muhimu yaliyotolewa na wazazi ili kuamua:**

- a. Kama mwenendo unaozungumziwa ulisababishwa, au ulikuwa na uhusiano dhabiti na wa moja kwa na ulemavu wa mtoto; **au**
- b. Kama mwenendo unaozungumziwa ulikuwa ni matokeo ya moja kwa moja ya wilaya ya LEA kukosa kutekeleza IEP ya mtoto.

Ikiwa LEA, mzazi, na wanachama husika wa Timu ya IEP ta mtoto wakiamua kwamba hali hizo zote zilifikwa, mwenendo huo lazima uamuliwe kuwa ni onyesho la ulemavu wa mtoto.

Ikiwa LEA, mzazi, na wanachama husika wa Timu ya IEP ya mtoto wakiamua kwamba mwenendo unaozungumzia ulikuwa matokeo ya moja kwa moja ya LEA kukosa kutekeleza IEP, lazima LEA ichukue hatua ya moja kwa moja ya kurekebisha upungufu huo.

6. Uamuzi wa kwamba tabia ilikuwa onyesho la ulemavu wa mtoto

Ikiwa LEA, mzazi, na wanachama husika wa Timu ya IEP ya mtoto wakiamua kwamba mwenendo huo ulikuwa onyesho la ulemavu wa mtoto, Timu ya IEP ya mtoto aidha lazima:

- a. Ifanye tathmini ya utendaji ya tabia, isipokuwa LEA ilikuwa imefanya tathmini ya utendaji ya tabia, kabla ya tabia ambayo ilisababisha mabadiliko ya mpango kufanyika, na kutekeleza mpango wa kuingilia tabia ya mtoto; **au**
- b. Ikiwa mpango wa kuingilia kati tabia tayari umetengenezwa, kagua mpango wa kuingilia kati tabia, na urekebishe, inapohitajika, ili kushughulikia tabia hiyo.

Isipokuwa kama ilivyofafanuliwa hapa chini ya kichwa-kidogo cha **Hali maalum**, lazima LEA irejeshe mtoto huyo mahali ambapo mtoto huyo aliamishwa, isipokuwa wazazi na wilaya ikubali kubadilisha mpango kama sehemu ya kurekebisha mpango wa kuingilia tabia.

7. Hali maalum

Iwe tabia ilikuwa onyesho au sio onyesho la ulemavu wa mtoto, mhudumu wa shule anaweza kuondoa mwanafunzi kwa mpangilio mbadala wa muda wa elimu (inayoamuliwa na Timu ya IEP ya mtoto) hadi siku 45 za shule, ikiwa mtoto:

- a. Anabeba silaha shuleni au ana silaha shuleni (angalia **Ufafanuzi** hapa chini), kwa majengo ya shule, au kwa hafla ya shule chini ya mamlaka ya LEA;
- b. Anamiliki au ana madawa ya kulevya akijua (angalia Ufafanuzi hapa chini), au anauza au anaomba mauzo ya dawa zinazodhibitiwa, (angalia **Ufafanuzi** hapa chini), akiwa shuleni, kwa majengo ya shule, au kwa hafla ya shule chini ya mamlaka ya kisheria LEA; **au**
- c. Amemuumiza mtu mwingine vibaya sana kimwili (angalia **Ufafanuzi** hapa chini), akiwa shuleni, kwa majengo ya shule, au kwa hafla ya shule chini ya mamlaka ya Shirika la Elimu la Serikali au LEA.

8. Ufafanuzi

- a. Kitu kinachodhibitiwa inamaanisha dawa au kitu kingine kinachotambuliwa chini ya ratiba I, II, III, IV, au V katika sehemu ya 202 (c) ya Sheria ya Vitu Vianvyodhibitiwa (21 U.S.C. 812 (c)).
- b. Dawa isiyo halali inamaanisha kitu kinachodhibitiwa; lakini haijumuishi kitu kinachodhibitiwa ambacho kinamilikiwa kihalali au kutumiwa chini ya usimamizi wa mtaalamu wa kimatibabu aliyeidhinishwa au ambayo inamilikiwa kihalali au kutumiwa chini ya utawala mwingine chini ya Sheria hiyo au chini ya utoaji mwingine wowote wa Sheria ya Serikali.
- c. Kuumizwa vibaya kimwili ina maana uliyopewa neno la "kuumizwa vibaya kimwili" chini ya aya ya (3) ya sehemu ndogo ya (h) ya sehemu ya 1365 ya kichwa cha 18, Kanuni za Marekani.
- d. Silaha ina maana uliyopewa neno la "silaha hatari" chini ya aya ya (2) ya sehemu ndogo ya kwanza ya (g) ya sehemu ya 930 ya kichwa cha 18, Kanuni za Marekani.

9. Taarifa

Tarehe ambayo uamuzi unatolewa wa kuondoa ambao ni mabadiliko ya mpango wa mtoto kwa sababu ya ukiukaji wa kanuni za mienendo ya wanafunzi, lazima LEA iwajulishe wazazi kuhusu uamuzi huo, na iwapatie wazazi taarifa ya ulinzi wa utaratibu.

B. Mabadiliko ya Mpango kwa Sababu ya Uondoaji wa Kinidhamu (34 CFR §300.536)

Uondoaji wa mtoto mlemavu kutoka kwa mpango wake wa sasa elimu ni **mabadiliko ya mpango** yanayohitaji NOREP/taarifa iliyoandikwa mapema ikiwa:

1. Uondoaji huo ni wa zaidi ya siku 10 za shule; **au**
2. Uondaji wa ni kwa jumla ya siku 15 za shule zilizojumlishwa katika mwaka wowote wa shule;
3. Mtoto huyo amepitia misururu ya uondoaji ambayo yanajumuisha mtindo kwa sababu:
 - a. Misururu hiyo ya uondoaji wa ujumla ni zaidi ya siku 10 za shule kwa mwaka wa shule;
 - b. Tabia ya mtoto ni sawa kabisa na tabia ya mtoto huyo katika matukio ya hapo awali ambayo yalisababisha misururu hiyo ya uondoaji;
 - c. Kama vile mambo ya ziada kama urefu wa kila uondoaji, jumla ya kiwango cha wakati ambao mtoto huyo ameondolewa, na ukaribu uondoaji na ule mwingine; **na**

Ikiwa mtindo wa uondoaji unaojumlisha mabadiliko ya mpango yanaamuliwa kwa misingi ya kesi baada ya kesi na LEA na, kama itapingwa, inaweza kuhakikiwa kupitia usikilizaji wa kesi kisheria.

C. Uamuzi wa Mpangilio (34 CFR §300.531)

Lazima IEP iamue mpangilio mbadala ya elimu ya muda kwa ajili ya kuondolewa ambayo ni **mabadiliko ya mpango**, na uondoaji chini ya kichwa cha **Mamlaka ya ziada** na **Hali maalum**, hapa juu.

D. Rufaa (34 CFR §300.532)

1. Jumla

Mzazi wa mtoto mlemavu anaweza kukata rufaa ya malalamiko ya kesi (angalia hapa juu) ili aombe usikilizaji wa kesi ikiwa hakubaliani na:

- a. Uamuzi wowote unaohusiana na mpango uliofanywa chini ya utoaji wa tabia; au
- b. Uamuzi wa onyesho uliofafanuliwa hapa juu.

LEA inaweza kuwasilisha malalamiko ya kesi (angalia hapa juu) ili aombe usikilizaji wa kesi ikiwa inaamini kwamba kudumisha mpango wa sasa wa mtoto kutakuwa na uwezekano mkubwa wa kusababisha jeraha kwa mtoto au kwa wengine.

2. Mamlaka ya afisa wa kusikiliza

Afisa wa kusikiliza ambaye anafikia mahitaji yaliyofafanuliwa chini ya kichwa-kidogo cha **Afisa Mwadilifu wa Kusikiliza** lazima ateleze usikilizaji wa kesi na atoe uamuzi.

Afisa wa kusikiliza anaweza:

- a. Kumrudisha mtoto mlemavu kwa mpango ambapo mtoto huyo aliondolewa ikiwa afisa wa kusikiliza ataamua kwamba uondoaji huo ulikuwa ukiukaji wa mahitaji yaliyofafanuliwa chini ya kichwa cha Mamlaka ya Mhudumu wa Shule, au kwamba tabia ya mtoto ilikuwa onyesho la ulemavu wa mtoto; au
- b. Kuamuru mabadiliko ya mpango wa mtoto mlemavu hadi kwa mpangilio mwingine wa elimu ya muda isiyozidi siku 45 za shule ikiwa afisa wa kusikiliza ataamua kwamba kudumisha mpango wa sasa wa mtoto kutakuwa na uwezekano mkubwa wa kusababisha jeraha kwa mtoto au kwa wengine.

Utaribu huu wa usikilizaji unaweza kurudiwa, ikiwa LEA inaamini kwamba kumrudisha mtoto kwa mpango wa kwanza kutakuwa na uwezekano mkubwa wa kusababisha jeraha kwa mtoto au kwa wengine.

Wakati wowote mzazi au LEA inapowasilisha malalamiko ya kesi ya kuomba usikilizaji huo, lazima usikilizaji ambao unakidhi mahitaji yaliyofafanuliwa chini ya vichwa vya **Taratibu za Usikilizaji wa Kesi, Usikilizaji wa Malalamiko ya Kesi** ufanyike, isipokuwa kama ifuatavyo:

1. Lazima SEA ifanye mipango ya usikilizaji wa kesi ulioharakishwa, ambao lazima ufanywe kati ya siku **20** za shule kwanza tarehe ya usikilizaji kuwasilishwa na lazima itoe matokeo ya uamuzi kati ya siku **10** za shule baada ya kusikilizwa.
2. Isipokuwa wazazi na LEA ikubali kuondoa mkutano kwa kuandika, au ikubali kutumia upatanisho, lazima mkutano wa utatuzi ufanyike kati ya siku **7** za kalenda baada ya kupokea taarifa ya malalamiko ya kesi. Kusikilizwa kunaweza kuendelea isipokuwa suala hilo liwe limetatuliwa hadi wahusika wote wakaridhika kati ya siku **15** za kalenda baada ya kupokea malalamiko ya kesi.

Mhusika anaweza kukata rufaa ya uamuzi katika usikilizaji wa kesi ulioharakishwa kwa njia sawa na kama vile wanavyoweza katika usikilizaji mwingine kwa kesi (angalia **Rufaa**, hapa juu).

E. Mpango Wakati wa Rufaa (34 CFR §300.533)

Kama ilivyofafanuliwa hapa juu, wakati wazazi au LEA inawasilisha malalamiko ya kesi inayohusiana na maswala ya kinidhamu, lazima mtoto (isipokuwa mzazi na Shirika la Elimu la Serikali au LEA ikubali) asalie kwa mpangilio mbadala wa elimu wa muda akisubiri uamuzi wa afisa wa kusikiliza, au hadi kipindi cha muda wa kuondolewa kuisha kama ilivyotolewa na kufafanuliwa chini ya kichwa cha **Mamlaka ya Wahudumu wa Shule**, yoyote itakayofanyika kwanza.

Kanuni Maalum za Wanafunzi wenye Ulemavu wa Kiakili

Uondoaji wa kinidhamu kwa mtoto mwenye ulemavu wa kiakili anayehudhuria shule ya LEA au ya umma kwa muda wowote inachukuliwa kuwa mabadiliko ya mpango chini ya 22.

Pa. Code Sec. 14.143 na inahitaji NOREP/taarifa iliyoandikwa mapema (ikiwa tukio la kinidhamu halihusishi dawa za kulevya, silaha na/au majeraha mabaya ya mwili). Kuondolewa shuleni si mabadiliko ya mpango kwa mtoto anayetambuliwa kuwa na ulemavu wa akili wakati tukio la kinidhamu linahusisha silaha, dawa za kulevya na/au majeraha mabaya ya mwili.

Kulingana na uhakikisho fulani ambao Jumuiya ya Madola iliingia unaohusiana na amri ya idhini ya PARC, LEA inaweza kusimamisha chini ya masharti, mwanafunzi mwenye ulemavu wa kiakili ambaye anajihatarisha mwenyewe au wengine baada ya ombi na kuidhinishwa na Ofisi ya Elimu Maalum na kwa kiwango ambacho mwanafunzi mwenye ulemavu isipokuwa mlemavu wa akili anaweza kusimamishwa.

F. Ulinzi kwa Watoto Ambao Bado Hawastahiki Elimu Maalum na Huduma Husika (34 CFR §300.534)

1. Jumla

Ikiwa mtoto hajaamuliwa kwamba anastahiki elimu maalum na huduma husika na akiuke kanuni za mienendo ya wanafunzi, lakini LEA ilikuwa na ujuzi (kama ilivyoamuliwa hapa chini) kabla ya tabia hiyo ambayo ilisababisha hatua iliyofanyika ya kinidhamu, kwamba mtoto huyo alikuwa mtoto mlemavu, basi mtoto huyo anaweza kudai ulinzi wowote uliofananuliwa katika ilani hii.

2. Misingi ya ufahamu kwa maswala ya kinidhamu

Lazima LEA ichukuliwe kuwa ilijua kwamba ni mtoto mlemavu ikiwa, kabla ya tabia ambayo ilisababisha hatua ya kinidhamu kufanyika:

- a. Mzazi wa mtoto alionyesha wasiwasi wake kwa kuandika kwamba mtoto anahitaji elimu maalum na huduma husika kutoka kwa wafanyakazi wa usimamizi au utawala wa shirika sahihi la elimu, au mwalimu wa mtoto huyo;
- b. Mzazi aliomba tathmini inayohusiana na ustahiki wa elimu maalum na huduma husika chini ya Sehemu B ya IDEA; **au**
- c. Mwalimu wa mtoto huyo, au wahudumu wengine wa LEA walionyesha wasiwasi maalum kuhusu mtindo wa kitabia ulionyeshwa na mtoto huyo moja kwa moja kwa mkurugenzi wa LEA wa elimu maalum au kwa wahudumu wengine wasimamizi wa LEA.

3. Kighairi

LEA haitachukuliwa kuwa na ufahamu kama huo ikiwa:

- a. Mzazi wa mtoto hakuruhusu tathmini ya mtoto au alikataa huduma ya elimu maalum; **au**
- b. Mtoto ametathminiwa na akaamuliwa kuwa si mtoto mlemavu chini ya Sehemu B ya IDEA.

4. Hali zinazotumika kama hakuna misingi ya ufahamu

Ikiwa kabla ya kuchukua hatua za kinidhamu dhidi ya mtoto, LEA haikuwa na ufahamu kwamba mtoto ni mtoto mlemavu, kama ilivyofananuliwa hapa juu chini ya kichwa-kidogo cha **Misingi ya ufahamu kwa maswala ya kinidhamu** na **Kighairi**, mtoto huyo anaweza kupitia hatua za kinidhamu ambazo zinatumiwa kwa watoto wasio walemavu ambao hujihusisha na tabia kama hizo.

Walakini, kama ombi litafanywa la tathmini ya mtoto wakati wa kipindi cha muda ambao mtoto anapitia hatua za kinidhamu, tathmini hiyo lazima itekelezwe kwa njia ya haraka.

Hadi tathmini hiyo ikamilike, mtoto husalia katika mpango wa elimu ulioamuliwa na mamlaka ya shule, ambayo inaweza kujumuisha kusimamishwa au kufukuzwa bila huduma za kielimu.

Ikiwa mtoto ataamuliwa kuwa mtoto mlemavu, tukizingatia maelezo kutoka kwa tathmini iliyofanywa na LEA, na maelezo yaliyotolewa na wazazi, lazima LEA itoe elimu maalum na huduma husika kulingana na Sehemu B ya IDEA, pamoja na mahitaji ya kinidhamu yaliyofafanuliwa hapa juu.

G. Rufaa kwa na Hatua ya Watekelezaji Sheria na Mamlaka za Mahakama (34 CFR §300.535)

1. Kanuni za serikali na shirikisho:

- a. Hazikatazi shirika kuripoti uhalifu uliofanywa na mtoto mlemavu kwa mamlaka zinazofaa; **au**
- b. Haiwazui watekelezaji sheria wa Serikali na mamlaka za mahakama kutekeleza majukumu yao kuhusu matumizi ya sheria ya Shirikisho na Serikali kwa uhalifu unaotendwa na mtoto mwenye ulemavu.

Kufuatia rufaa kwa watekelezaji sheria, tathmini ya tabia na mpango wa usaidizi wa tabia nzuri iliyosasishwa inahitajika.

2. Usambazaji wa rekodi

LEA ikiripoti uhalifu uliofanywa na mtoto mlemavu, LEA:

- a. Lazima ihakikishe kwamba nakala za rekodi za kinidhamu na elimu maalum ya mtoto zimesambazwa ili kuzingatiwa na mamlaka ambayo shirika linaripoti uhalifu; **na**
- b. Inaweza kusambaza nakala za elimu maalum na rekodi za kinidhamu za mtoto kwa kiwango kinachoruhusiwa na FERPA.

IX. NI HUDUMA GANI ZA ELIMU MAALUM ZINAZOPATIKANA KWA MTOTO WANGU, IKIWA MZAZI ATAMPELEKA KATIKA SHULE YA KIBINAFSI?

Sehemu Hii Inahusu Huduma za Elimu Maalum Zinazopatikana kwa Watoto Waliopolekwa Wazazi Wao katika Shule ya Kibinafsi.

A. Kanuni ya Jumla (34 CFR §300.148)

Sehemu B ya IDEA haihitaji LEA ilipie gharama ya elimu, ikiwemo elimu maalum na huduma husika, za mtoto wako mlemavu aliye katika shule au majengo ya kibinafsi ikiwa LEA ilifanya FAPE ipatikane kwa mtoto wako na ukachagua kupeleka mtoto wako katika shule au majengo ya kibinafsi. Walakini, IU ambapo shule ya kibinafsi ipo, lazima ijumuishe mtoto wako kati ya watu ambao mahitaji yao yameshughulikiwa chini ya utoaji wa Sehemu B kuhusu watoto ambao wamewekwa na wazazi wao katika shule ya kibinafsi chini ya 34 CFR §§300.131 hadi 300.144.

B. Vighairi

1. Kurudishiwa fedha ya kuwekwa katika shule ya kibinafsi

Ikiwa mtoto wako hapo awali alipokea elimu maalum na huduma husika chini ya mamlaka ya LEA, na uchague kumwandikisha mtoto wako katika shule ya mapema ya kibinafsi, shule ya msingi, au shule ya upili bila ruhusa au kutumwa na LEA, mahakama au afisa wa kusikiliza anaweza kuhitaji shirika hilo likurudishie gharama ya kuandikishwa huko ikiwa mahakama au afisa wa kusikiliza atapata kwamba shirika hilo halikufanya FAPE ipatikane kwa mtoto wako kwa wakati unaofaa kabla ya kuandikishwa na kwamba mpango wa kibinafsi unafaa. Afisa wa kusikiliza au mahakama

inaweza kupata kwamba mpango unafaa, hata kama mpango haufikii viwango vya Serikali ambavyo vinatumika kwa elimu iliyotolewa na Shirika la Elimu la Serikali na LEA.

2. Kizuizi cha kurudishiwa fedha

Gharama itakayorudishwa iliyofafanuliwa katika aya iliyo hapa juu inaweza kupunguzwa au kukataliwa:

- a. Ikiwa: (a) Katika mkutano wa hivi karibuni wa IEP ambao ulihudhuria kabla ya mtoto wako kuondolewa katika ya shule ya umma, hukujulisha timu ya IEP kwamba ulikuwa ukikataa mpango uliopendekezwa na LEA ili itoe FAPE kwa mtoto wako, pamoja na kusema hoja zako na lengo lako la kumwandikisha mtoto wako katika shule ya kibinafsi kwa gharama ya umma; au (b) angalau siku 10 za kazi (pamoja na siku zozote za likizo ambazo zinatokea siku ya kazi) kabla ya mtoto wako kuondolewa shule ya umma, haukutoa taarifa iliyoandikwa kwa wilaya ya shule kuhusu maelezo hayo;
- b. Ikiwa, kabla ya mtoto wako kuondolewa shule ya umma, LEA ilikupa taarifa iliyoandikwa mapema, kuhusu ya lengo lake la kumtathmini mtoto wako (pamoja na taarifa ya madhumuni ya tathmini ambayo ilifaa na iliyokuwa ya busara), lakini haukufanya mtoto apatikane kwa ajili ya tathmini hiyo; **au**
- c. Baada ya matokeo ya mahakama kwamba hatua zako hazikuwa za busara.

3. Vighairi kwa Kizuizi cha Kurudishiwa Fedha

Gharama itakayorudishwa:

- a. Lazima isipunguzwe wala kunyimwa kwa kukosa kutoa taarifa ikiwa: (a) Shule ilikuzuia usitoe taarifa hiyo; (b) Hukupokea taarifa ya wajibu wako wa kutoa taarifa hiyo iliyofafanuliwa hapa juu; au (c) Kufuata mahitaji yaliyo hapa juu yangesababisha madhara ya kimwili kwa mtoto wako; **na**
- b. Mahakama ikipendelea au afisa wa kusikiliza akipendelea, haitapunguzwa au kunyimwa kwa ajili ya wazazi kukosa kutoa taarifa iliyohitaji ikiwa: (a) Mzazi hajasoma au hawezi kuandika Kiingereza; au (b) Kufuata mahitaji yaliyo hapa juu yanaweza kusababisha madhara makali ya kihisia kwa mtoto.

C. Ushiriki Sawa (34 CFR §300.138)

Ni sera ya Idara ya Elimu ya Pennsylvania kwamba lazima Shirika la Elimu (IU) litafute, litambue, na kutathmini watoto wote wenye ulemavu ambao wameandikishwa na wazazi wao katika shule za kibinafsi, ikijumuisha shule za kidini, shule za msingi na shule za upili zilizo ndani ya eneo la huduma ya IU.

Katika hali ambapo wazazi wanapeleka watoto wao katika shule za kibinafsi, wakati FAPE si suala, lazima IU itoe masharti, kwa kiwango kinacholingana na idadi na eneo la watoto wenye ulemavu ambao wameandikishwa na wazazi wao katika shule za kibinafsi, zilizopo katika eneo la huduma ya IU, kwa ajili ya ushiriki wa watoto hao katika mpango unaosaidiwa au uliofanywa chini ya mpango wa IU, kwa kuwapa elimu maalum na huduma husika, ikiwemo huduma za moja kwa moja zilizoamuliwa kwa mujibu wa makubaliano ya ushiriki sawa (EP) kati ya shule za kibinafsi na IU. Lazima mpango wa huduma uandaliwe na kutekelezwa kwa kila mtoto wa shule ya kibinafsi aliye na ulemavu ambaye ameteuliwa na IU ambapo shule ya kibinafsi iko, ili kupokea elimu maalum na huduma husika kama ilivyoamuliwa na makubaliano ya EP.

Hakuna mtoto wa shule ya kibinafsi aliyewekwa na mzazi aliye na ulemavu ana haki ya kibinafsi ya kupokea baadhi ya elimu maalum na huduma husika ambazo mtoto angepokea akiandikishwa katika shule ya umma. Malalamiko ya Kesi na Serikali hayatumiki, **isipokuwa** ikiwa kunashukiwa kuwa IU inashindwa kutimiza mahitaji ya mtoto.

KIAMBATISHO A - RASILIMALI

THE ARC OF PENNSYLVANIA

301 Chestnut Street, Suite 403
Harrisburg, PA 17101
1-877-337-1970
www.thearcpa.org

SIMU YA MOJA KWA MOJA, SIMU YA USAIDIZI WA WAZAZI

800-879-2301
Wafanyakazi wa Simu ya Moja kwa Moja wanapatikana kwa wazazi na watetezi wa watoto wenye ulemavu au watoto wanaofikiriwa kuwa walemavu ili kueleza sheria za shirikisho na serikali zinazohusiana na elimu maalum; kuelezea chaguo ambazo zinapatikana kwa wazazi; kuwajulisha wazazi kuhusu ulinzi wa utaratibu; kutambua mashirika mengine na huduma za usaidizi; na kuelezea utatuzi unaopatikana na jinsi wazazi wanaweza kuendelea.

HAKI ZA WALEMAVU ZA PENNSYLVANIA

301 Chestnut Street
Suite 300
Harrisburg, PA 17101
800-692-7443 (Simu ya Sauti Isiyolipishwa:)
877-375-7139 (TDD)
717-236-8110 (Sauti)
717-346-0293 (TDD)
717-236-0192 (Faksi)
www.disabilityrightspa.org

HISPANOS UNIDOS PARA NIÑOS EXCEPCIONALES (PHILADELPHIA HUNE, INC.)

2215 North American Street
Philadelphia, PA 19133
215-425-6203
215-425-6204 (Faksi)
huneinc@aol.com
www.huneinc.org

MISSION EMPOWER

1611 Peach Street, Suite 120
Erie, PA 16501
814-825-0788
advocate@missionempower.org
www.missionempower.org

OFISI YA UTATUZI WA MZOZO

6340 Flank Drive
Harrisburg, PA 17112-2764
717-901-2145 (Simu)
800-222-3353 (Hailipishwi katika PA pekee) Watumiaji wa TTY: PA

Relay 711
717-657-5983 (Faksi)

www.odr-pa.org

Ofisi ya Utatuzi wa Mzozo inasimamia upatanishi na mifumo ya kesi katika jimbo lote, na hutoa mafunzo na huduma kuhusu mbinu mbadala za kutatua mizozo.

KITUO CHA UONGOZI WA ELIMU NA UTETEZI WA MZAZI (PEAL)

2325 E Carson St. #100a
Pittsburgh, PA 15203
412-281-4404
412-281-4408 (Faksi)
520 N Christopher Columbus Blvd., Suite 602
Philadelphia, PA 19123
215-567-6143
866-950-1040 (Hailipishwi)
www.pealcenter.org

KITUO CHA PHILADELPHIA CHA SHERIA YA MAPENDELEO YA UMMA

United Way Building
1709 Benjamin Franklin Parkway, Second Floor
Philadelphia, PA 19103
215-627-7100
215-627-3183 (Faksi)
www.pilcop.org

CHAMA CHA WANASHERIA WA PENNSYLVANIA

100 South Street
Harrisburg, PA 17101
800-932-0311
www.pabar.org

SHIRIKA LA PENNSYLVANIA LA MAFUNZO NA USAIDIZI WA KIUFUNDI (PaTTAN)

Harrisburg 800-360-7282
King of Prussia 800-441-3215
Pittsburgh 800-446-5607
www.pattan.net

KIKOSI KAZI CHA SERIKALI KUHUSU HAKI YA ELIMU

3190 William Pitt Way
Pittsburgh, PA 15238
1-800-446-5607 ext. 6828

KIAMBATISHO B



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Fomu ya
Maombi ya
Upatanishi

Uwezeshaji wa IEP/IFSP/GIEP

Maelezo ya Huduma

Tarehe ya Leo:	Imeombwa na: <input type="checkbox"/> Mzazi/Mlezi <input type="checkbox"/> LEA (wilaya ya shule; umma; au IU) <input type="checkbox"/> Uingiliaji wa Mapema	
Jina/Anwani ya Mtu Anayekamilisha Fomu Hii:	Uhusiano na Mwanafunzi:	Simu:
Tafadhali tia alama kwenye aina ya huduma iliyoombwa: <input type="checkbox"/> Upatanishi <input type="checkbox"/> Uwezeshaji wa IEP <input type="checkbox"/> Uwezeshaji wa GIEP <input type="checkbox"/> Uwezeshaji wa IFSP (Uingiliaji wa Mapema)		

Maelezo ya Mwanafunzi

Jina la Mwisho:	Jina la Kwanza:
Tarehe ya Kuzaliwa:	Upekee:
Jina la Shule/Mpango:	

Maelezo ya Wazazi/Walezi

Majina ya Mzazi/Mlezi:	Mzazi wa Pili au Mzazi asiyeishi na Mwanafunzi:
Anwani:	Anwani
Simu ya Nyumbani:	Simu ya Nyumbani:
Simu ya Kazini:	Simu ya Kazini:
Simu ya Mkononi:	Simu ya Mkononi:
Barua pepe:	Barua pepe:

MAELEZO YA SHIRIKA LA MTA A LA ELIMU (LEA):

Wilaya ya Shule/Shule ya Umma/Jina la Shirika:

Anwani:

Jina la Mwasiliani:

Cheo:

Simu:

Faksi:

Barua pepe:

Tafadhali toa maelezo mafupi ya maswala yanayozungumziwa, na utatuzi wowote unaopendekezwa kwa tatizo.

Tafadhali kamilisha sehemu hii ikiwa unaomba aina yoyote ya huduma ya uwezeshaji. Mkutano wa IEP/IFSP/GIEP kwa sasa umepangwa kuwa:

(tarehe, saa na eneo)

 Mkutano wa IEP/IFSP/GIEP bado haujapangwa.

Kwa maombi yote, ikiwa kuna maelezo ya ziada ungependa kutoa, tafadhali yaweke hapa.

- Wazazi walio na maswali kuhusu huduma hizi au chaguo zingine za kutatua mizozo wanaweza kuwasiliana na Simu ya Moja kwa Moja ya Elimu Maalum katika 800-879-2301 au 717-901-2146.
- Maswali yoyote ya kuzaliwa-3 yanapaswa kutumwa kwa OCDEL katika 717-346-9320.
- Wakati fulani, mfanyakazi wa ODR anaweza kuomba kuhudhuria mojawapo ya mikutano hii kwa madhumuni ya kutathmini huduma. Wahusika watajulishwa kabla ya wakati, na maswali yoyote yatashughulikiwa wakati huo.
- Tafadhali hifadhi nakala ya fomu hii na tuma BARUA, FAKSI au BARUA PEPE ya fomu iliyojazwa kwa Ofisi ya Utatuzi wa Mzozo katika:

6340 Flank Drive, Harrisburg, PA 17112-2764 717-

901-2145 • Hailipishwi 800-222-3353 (PA pekee)

Faksi 717-657-5983 • Watumiaji wa TTY:

Upitishaji wa PA 711 Barua pepe: odr@odr-pa.org



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Malalamiko ya Kesi

*inaonyesha sehemu inayohitajika

Maelezo Msingi			
<input type="checkbox"/> IDEA	<input type="checkbox"/> IDEA na Elimu ya Wenye Vipawa	<input type="checkbox"/> Elimu ya Wenye Vipawa	<input type="checkbox"/> Sehemu ya 504
*Tarehe ya Leo:		*Imeombwa na: <input type="checkbox"/> Mzazi <input type="checkbox"/> LEA	
*Jina/Anwani ya Mtu Anayekamilisha Ombi Hii:	*Uhusiano na Mwanafunzi:	*Simu:	
Tafadhali tuma nakala ya Malalamiko ya Kesi iliyokamilishwa kwa mhusika anayepinga wakati inapowasilishwa kwa Ofisi ya Utatuzi wa Mzozo.			
Iwapo unahitaji marekebisho maalum ili kushiriki katika usikilizaji a kesi, lazima arifu LEA.			

Maelezo ya Mwanafunzi			
*Jina la Mwisho:	*Jina la Kwanza:	Tarehe ya Kuzaliwa:	Jinsia: <input type="checkbox"/> Mwanaume <input type="checkbox"/> Mwanamke
Upekee:		Upekee:	
*LEA (Shirika la Mtaa la Elimu) – ikiwa linajulikana		*Majengo ya Shule Ambayo Mwanafunzi Anahudhuria:	

Wazazi Wanaoishi na Mwanafunzi			
*Jina la Mwisho:	*Jina la Kwanza:	*Uhusiano: <input type="checkbox"/> Mama <input type="checkbox"/> Baba <input type="checkbox"/> Mlezi	
*Simu ya Nyumbani:	Simu ya Mkononi:	Simu ya Kazini:	Barua pepe:
Mbinu inayopendelewa ya majibu yaliyoandikwa:		<input type="checkbox"/> Barua pepe	<input type="checkbox"/> Barua ya Marekan
Jina la Mwisho:	Jina la Kwanza:	Uhusiano: <input type="checkbox"/> Mama <input type="checkbox"/> Baba <input type="checkbox"/> Mlezi	
Simu ya Nyumbani:	Simu ya Mkononi:	Simu ya Kazini:	Barua pepe:
Mbinu inayopendelewa ya majibu yaliyoandikwa:		<input type="checkbox"/> Barua pepe	<input type="checkbox"/> Barua ya Marekan
*Anwani ya Mzazi/Mwanafunzi:			
Wakili Mzazi (ikiwa anawakilishwa):			Simu ya Wakili:
Anwani ya Wakili:			Barua pepe ya Wakili:

Wazazi Ambao Hawaishi na Mwanafunzi

Jina la Mwisho:	Jina la Kwanza:	Uhusiano: <input type="checkbox"/> Mama <input type="checkbox"/> Baba	
Simu ya Nyumbani:	Simu ya Mkononi:	Simu ya Kazini:	Barua pepe:
Mbinu inayopendelewa ya majibu yaliyoandikwa:		<input type="checkbox"/> Barua pepe	<input type="checkbox"/> Barua pepe ya Marekani
Anwani ya Mzazi:			
Wakili Mzazi (ikiwa anawakilishwa):		Simu ya Wakili:	
Anwani ya Wakili:		Barua pepe ya Wakili:	

Maelezo ya Shirika la Mtaa la Elimu (lea):

I. Maelezo ya Mwasiliani wa LEA

Jina la Mwisho:	Jina la Kwanza:	Cheo:
Simu ya Mkononi:	Simu ya Kazini:	Barua pepe:
Anwani:		

II. Msimamizi/CEO

Jina la Mwisho:	Jina la Kwanza:	Cheo:
Anwani:		Simu:

III. Wakili wa LEA

Simu ya Wakili:	Barua pepe ya Wakili:
Anwani ya Wakili:	

IV. Usikilizaji wa kesi utafanyika katika anwani inayofuata:

(Jina la Jengo, Anwani na Nambari/Jina la Chumba - kukamilishwa na LEA)

Kumbuka: Usikilizaji utafanyika wakati na mahali ambapo ni rahisi kwako na kwa mtoto anayehusika. Kwa kesi za elimu ya wenye vipawa, usikilizaji utafanyika katika wilaya ya shule mahali ambapo ni rahisi kwa wazazi na, kwa ombi la wazazi, inaweza kufanyika jioni.

Maelezo Kuhusu Malalamiko ya Kesi (Kesi za IDEA pekee)

A. Je, suala lako linahusu uamuzi wa afisa anayesikiliza ambao haujatekelezwa? <input type="checkbox"/> Ndiyo <input type="checkbox"/> La (Ikiwa ndiyo, Ofisi ya Elimu Maalum itajulishwa, na itachunguza suala hilo. Usikilizaji wa kesi hautapatiakana wakati suala linahusiana na uamuzi wa afisa anayesikiliza kutotekelezwa.)
B. Je, hili ni ombi la kusikilizwa ni la msingi wa kutokubaliana kuhusu: <input type="checkbox"/> Nidhamu <input type="checkbox"/> ESY (Mwaka wa Shule Uliongezwa)
<input type="checkbox"/> Tia alama hapa ikiwa mwanafunzi yuko katika kundi lengwa la ESY

Maelezo Kuhusu Malalamiko ya Kesi (Kesi Zote)

Unaweza kutumia fomu hii kueleza asili ya mzozo wako, au unaweza kuambatisha karatasi tofauti yenye maelezo haya.

*Mzozo unahusu nini? Tafadhali jumuisha ukweli katika maelezo yako.

*Je, ungependa kuona likitatuliwa vipi? Unatafuta nini?

Ikiwa unajua msimamo wa upande mwingine kuhusu tatizo hili, tafadhali lielezee hapa.

Mkutano wa Utatuzi (Kesi za IDEA pekee)

Kabla ya usikilizaji wa kesi, ikiwa mzazi aliwasilisha malalamiko ya kesi hiyo, sheria (34 CFR §300.510) inahitaji wahusika kushiriki katika mkutano wa utatuzi, isipokuwa wahusika wote wakubaliane kwa maandishi kuondoa hitaji hili. Tafadhali kamilisha maelezo yafuatayo:

1. Mkutano wa utatuzi wa kujadili masuala haya umepangwa kuwa: (Tarehe)

2. Mkutano wa utatuzi ulifanyika: (Tarehe)

3. Ushiriki katika mkutano wa utatuzi uliondolewa na wahusika wote na LEA kwa maandishi mnamo:

4. Badala ya mkutano wa utatuzi, ninaomba upatanishi. (Tarehe)

Ikiwa nambari ya 4 itachaguliwa, msimamizi wa kesi ya upatanishi wa ODR atawasiliana na wahusika.

Mfanyakazi wa ODR atathibitisha kupokea malalamiko na kutoa maelezo ya msimamizi wa kesi na afisa anayesikiliza.

Maelezo zaidi kuhusu kesi inapatikana kwenye tovuti ya ODR, www.odr-pa.org, au kwa kupiga Simu ya Moja kwa Moja wa Elimu Maalum (800-879-2301).