Notice of Special Education Services

All the public schools of Luzerne Intermediate Unit 18 (LIU), 368 Tioga Ave. Kingston, Pennsylvania provide special education and related services to resident children with disabilities who are ages three through twenty-two. The purpose of this notice is to describe (1) the types of disabilities that might qualify the child for such programs and services, (2) the special education programs and related services that are available, (3) the process by which the public schools screen and evaluate such students to determine eligibility, and (4) the special rights that pertain to such children and their parents or legal guardians. The notice of Special Education Services is prepared annually by the Director of Special Education at the Luzerne Intermediate Unit and is reported each October on behalf of the member school districts. It is meant to inform the public as to the purpose and rights of special needs children and families.

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

Under the federal Individuals with Disabilities Education Act, or "IDEA," children qualify for special education and related services if they have one or more of the following disabilities and, as a result, need such services: (1) intellectual disabilities (formerly mental retardation); (2) hearing impairments, including deafness; (3) speech or language impairments; (4) visual impairments, including blindness; (5) serious emotional disturbance; (6) orthopedic impairments, or physical disabilities; (7) autism, including pervasive developmental disorders; (8) traumatic brain injury, or neurological impairment; (9) other health impairment; (10) specific learning disabilities. Children aged three through the age of admission to first grade are also eligible if they have developmental delays and, as a result, need special education and related services. Children with more than one of the foregoing disabilities could qualify for special education and related services as having multiple disabilities. For infants, birth through three with special needs, contact the Luzerne County Mental Health / Developmental Services.

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

Under Section 504 of the federal Rehabilitation Act of 1973, and under the federal Americans with Disabilities Act, some school age children with disabilities who do not meet the eligibility criteria outlined above might nevertheless be eligible for special protections and for adaptations and accommodations in instruction, facilities, and activities. Children are entitled to such protections, adaptations, and accommodations if they have a mental or physical disability that substantially limits or prohibits participation in or access to an aspect of the school program.

What programs and services are available for children with disabilities?

Public schools must ensure that children with disabilities are educated to the maximum extent appropriate in the regular education environment, and that the instruction they receive conforms as much as possible to the instruction that non-disabled students receive. This practice is commonly referred to as Least Restrictive Environment (LRE). Programs and services available to students with disabilities, in descending order of preference, are (1) regular class placement with supplementary aides and services provided as needed in that environment; (2) regular class placement for most of the school day with itinerant service by a special education teacher either in or out of the regular classroom; (3) regular class placement for most of the school day with instruction provided by a special education teacher in a resource classroom; (4) part time special education class placement in a regular public school or alternative setting; and (5) special education class placement or special education services provided outside the regular class for most or all of the school day, either in a regular public school or alternative setting.

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

Special education services are provided according to the primary educational needs of the child, not the category of disability. The types of service available are (1) learning support, for students who primarily need assistance with the acquisition of academic skills; (2) life skills support, for student) physical assistance with development of skills for independent living; (3) emotional support, for students who primarily need assistance with social or emotional development; (4) deaf or hearing impaired support, for students who primarily need assistance with deafness; (5) blind or visually impaired support, for students who primarily need assistance with blindness; (6) physical support, for students who primarily require physical

assistance in the learning environment; (7) autistic support, for students who primarily need assistance in the areas affected by autism spectrum disorders; and (8) multiple disabilities support, for students who primarily need assistance in multiple areas affected by their disabilities.

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

Within the Luzerne Intermediate Unit, children of preschool age are served by the Hazleton Area School District in a variety of home and school-based settings that consider the chronological and developmental age and primary needs of the child. As with school age programs, preschool programs must ensure that to the maximum extent appropriate, children with disabilities are educated with non-disabled peers.

The public school, in conjunction with the parents, determines the type and intensity of special education and related services that a particular child needs based exclusively on the unique program of special education and related services that the school develops for that child. The child's program is described in writing in an individualized education program, or "IEP," which is developed by an IEP team consisting of educators, parents, and other persons with special expertise or familiarity with the child. The parents of the child have the right to be notified of and to participate in all meetings of their child's IEP team. The IEP is revised as often as circumstances warrant but at least annually. The law requires that the program and placement of the child, as described in the IEP, be reasonably calculated to always ensure meaningful educational progress for the student. IEPs contain, at a minimum, a statement of present levels of educational and functional performance, an enumeration of annual goals and, for some children, short-term objectives or benchmarks, and a statement of the special education, program modifications, and related services that the child needs to make meaningful educational progress. Transition planning begins at age fourteen. For children aged sixteen and older, the IEP must also include a transition plan to assist in the attainment of post-secondary objectives. The public school must invite the child to the IEP team meeting at which the transition plan is developed.

How do the public schools screen and evaluate children to determine eligibility for special education and related services?

Multidisciplinary team evaluation

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

Parents may request a multidisciplinary team evaluation of their children at any time. They must do so in writing or in some cases an oral request can be made but must be followed up by permission to evaluate from the parent. Every public school within the Luzerne Intermediate Unit has a procedure in place by which parents can request an evaluation. For information about the procedures that apply in your public school, contact the public elementary, middle, or high school to which children in your area are assigned. Telephone numbers and addresses for these schools can be found in the blue pages section of the telephone book under the heading "Schools." Parents of preschool age children, age three through five, residing within the Luzerne Intermediate Unit may request an evaluation in writing by addressing a letter as follows: Hazleton Area School District, Early Intervention Services, 1515 West 23rd Street, Hazleton, PA 18202. The telephone number for the Early Intervention Program is (570) 459-8118.

Parents of children in private schools residing within the Luzerne Intermediate Unit may request a multidisciplinary team evaluation of their children from the public school district that they reside without enrolling in the public schools. While some services might be available to some private school children found eligible by public school multidisciplinary teams, the public schools are not required to provide all or any of the special education and related services that children enrolled in the public schools would receive. If, after an evaluation, the multidisciplinary team determines that the child is eligible for special education and related services, the public school must offer the parents a Free Appropriate Public Education (FAPE) and an IEP for a public school-sponsored placement. If parents wish to take advantage of such an offer, they might have to enroll or re-enroll their child in the public schools to receive services and/or dually enroll in both public and non-public settings. Some public schools may offer FAPE through a third party (LIU) in the non-public school. The Luzerne Intermediate Unit through IDEA acts as the Local Education Agent (LEA) for non-public schools under equitable participation (EP). Equitable Participation services are determined annually by the non-public schools within the LIU. EP services are based on funding of students in non-public schools who have known disabilities through appropriate evaluation and are not receiving FAPE through their local public schools. This identification process is called Child Find. Child find is the responsibility of the public schools. The LIU reports the data of child find for the public schools to PDE for IDEA data purposes.

Before the public school can proceed with any evaluation, it must notify the parents in writing of the specific types of testing and assessment it proposes to conduct, of the date and time of the evaluation, and of the parents' rights. The evaluation cannot begin until the parent has signed the written notice indicating that he or she consents to the proposed testing and assessments and has returned the notice to the public school.

Screening

Public schools undertake screening activities before referring most children for a multidisciplinary team evaluation. Screening activities consist of the following:

Ongoing analysis of the child's response to instruction and performance on State-wide and District-wide assessments.

Periodic vision and hearing assessments by the school nurse and review of the results of physical examinations by school or private physicians as Mandated by the Pennsylvania Public School Code.

Team-based baseline assessment and analysis of the child's response to individualized academic or behavioral intervention over a period of up to sixty (60) days. Such intervention-based screening occurs when requested by the child's teacher, parents, or other concerned school personnel.

For information about the dates of various screening activities in your local public school or to request screening activities for a particular child, contact the local public school directly. Telephone numbers and addresses for these schools can be found in the blue pages section of the telephone book under the heading "Schools." Parents of preschool age children, age three through five, residing within the Luzerne Intermediate Unit may obtain information about screening activities, or may request a screening of their children, by calling or writing the Hazleton Area School District, Early Intervention Services, 1515 West 23rd Street, Hazleton, PA 18202. The telephone number for the Early Intervention Program is (570) 459-8118.

Private school administrators, teachers, and parent groups, or individual parents of students in private schools, who are interested in establishing systems in those schools for locating and identifying children with disabilities who might need a multidisciplinary team evaluation may contact Ms. Elizabeth Krokos, Director of Special Education, Luzerne Intermediate Unit 18, 368 Tioga Avenue, Kingston, PA 18704, phone number 570-287-9681. Non-public school administrators are in-serviced yearly at the EP meeting as to the procedures for identification and responsibilities of the non-public, public school district and the LIU for parent privately placed children in non-public schools.

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

State and federal law affords many rights and protections to children with disabilities and their parents. A summary of those rights and protections follows. Interested persons may obtain a complete written summary of the rights and protections afforded by the law, together with information about free or low cost legal services and advice, by contacting the special education or student services department of the school district in which they reside at the address and telephone number listed at the end of this notice, or through the principal of the local public school at the address and telephone number listed in the blue pages section of the telephone book under the heading "Schools." For pre-school identified students residing within the Luzerne Intermediate Unit a written summary is also available through the Hazleton Area School District, Early Intervention Services, 1515 West 23rd Street, Hazleton, PA 18202. The telephone number for the Early Intervention Program is (570) 459-8118.

Rights and Protections

Prior Written Notice. The public school must notify you in writing whenever it proposes to initiate or to change the identification, evaluation, educational program, or placement of a child or whenever it refuses to initiate or make a change in the identification, evaluation, educational program, or placement requested by a parent. Such notice must be accompanied by a written description of the reasons for the proposal or refusal, the options considered, if any, and the reasons why such options were rejected.

Consent. The public school cannot proceed with an evaluation or reevaluation, or with the initial provision of special education and related services, without the written consent of the parents. A public school may override the lack of consent for an initial evaluation by requesting the approval of an impartial hearing officer or judge following a hearing. If the parents fail to respond to a written request for permission to re-evaluate, however, the public school may proceed with the proposed reevaluation without consent. A public school may not seek a hearing to override the refusal of a parent to consent to an initial placement in special education.

Protection in Evaluation Procedures. Evaluations to determine eligibility and current need for special education and related services must be administered in a manner that is free of racial, cultural, or linguistic bias. Evaluations cannot consist of a single test or assessment, and testing must be a valid measure of the psychological, social, emotional, or other learning characteristic or behavior that the school is using it to measure. Testing and assessment must be administered in accordance with professional standards and the criteria established by the publisher. It must be administered in the native language of the child.

Independent Educational Evaluation. If parents disagree with the evaluation conducted by the public school, they may request in writing an independent educational evaluation, or "IEE," at public expense. The policy of the public schools of Luzerne Intermediate Unit 18 is to refuse to pay for such evaluations if the independent evaluator is not a Pennsylvania certified or
Licensed professional, if the evaluation is not conducted in the same manner that the law requires of public-school evaluations, or if the cost of the evaluation substantially exceeds the prevailing cost of similar evaluations in the region. Exceptions to these limitations will be granted only for compelling reasons. If the public school refuses to pay for the IEE, it must request an immediate special education due process hearing to defend the appropriateness of its evaluation.

Due Process Hearing Procedures

The parent or local educational agency (LEA) may request a due process hearing with respect to any matter relating to the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education ("FAPE"). The party requesting the hearing must submit a "Due Process Hearing Request" form to the Office for Dispute Resolution, 6340 Flank Drive, Suite 600, Harrisburg, Pennsylvania 17112; telephone (800) 222-3353; TTY (800) 654-5984. A due process hearing will not proceed until all required information is provided and procedures followed.

Timeline for requesting Due Process. The parent or LEA must request a due process hearing by filing a Due Process Hearing Request within two (2) years of the date to parent or the LEA knew or should have known about the alleged action that forms the basis of the request. There are limited exceptions to this timeline. This timeline will not apply to the parent if— the parent was prevented from requesting the due process hearing due to the specific misrepresentations by the LEA that it had resolved the problem forming the basis of the hearing request, or if the LEA withheld information from the parent that the LEA was required provide.

Filing and Service of the Due Process Hearing Request. The party requesting the hearing must send a copy of the Due Process Hearing Request to the other party and, at the same time, to the Office for Dispute Resolution by mail addressed to the Office for Dispute Resolution, 6340 Flank Drive, Suite 600, Harrisburg, Pennsylvania 17112, or by electronic mail addressed to ODR.pattan.net, or by facsimile at (717) 657-5983.

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

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

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

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

Challenging Sufficiency of the Due Process Hearing Request. The Due Process Hearing Request will be considered to be sufficient unless the party receiving it notifies the Hearing Officer and the other party in writing within fifteen (15) days of receipt that the receiving party believes the Request does not meet the requirements listed above.

Response to Request. If the LEA has not sent a prior written notice ("NOREP") to the parent regarding the subject matter contained in the parent's Due Process Hearing Request, the LEA must send to the parent, within ten (10) days of receiving the Due Process Hearing Request, a response including the following Information: an explanation of why the LEA proposed or refused to take the action raised in the Hearing Request; a description of other options the Individualized Education Program ("IEP") Team considered, if any, and the reasons why those options were rejected; a description of each evaluation procedure, assessment, record, or report the LEA used as the basis for the proposed or refused action; and a description of the factors that are relevant to the proposal or refusal. Filing this response to the parent's Due Process Hearing Request does not prevent the LEA from challenging the sufficiency of the Due Process Hearing Request. If the LEA has already sent prior notice in the form of a NOREP to the parent, or it is the parent receiving the Due Process Hearing Request then a response to the Due Process Hearing Request must be sent to the other side within ten (10) days of receipt of the request. The response should specifically address the issues raised in the Due Process Hearing Request.

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

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

Resolution Session. Before a due process hearing can take place, the LEA must convene a preliminary meeting with the parent and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the Due Process Hearing Request in an attempt to resolve those issues without the need to proceed to a due process hearing. This preliminary meeting must be convened within fifteen (15) days of receipt of the Due Process Hearing Request. A representative of the LEA who has decision-making authority must be present at this meeting. The LEA may not have an attorney attend the meeting unless the parent is also accompanied by an attorney. At the meeting, the parents will discuss the Due Process Hearing Request, and the LEA will be provided with the opportunity to resolve the Due Process Hearing Request unless the parent and the LEA agree, in writing, to waive this meeting, or agree to use the mediation process. If the parents and LEA resolve the issues in the Due Process Hearing Request at the preliminary meeting, they must put the agreement terms in writing, and both the parent and a representative of the LEA who has the authority to bind the LEA must sign the agreement. The agreement is a legally binding document and may be enforced by a court. Either the parent or LEA may void the agreement within three (3) business days of the date of the agreement. After three (3) days, the agreement is binding on both parties.

Amended Due Process Hearing Request. Either the parent or LEA may amend its Due Process Hearing Request only if the other party consents in writing to the amendment and is given the opportunity to resolve the issues raised in the Due Process Hearing Request through a resolution session, or the Hearing Officer grants permission for the party to amend the Due Process Hearing Request. However, the Hearing Officer may grant this permission not later than five (5) days before a due process hearing occurs.

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

Disclosure of Evaluations and Recommendations. Not less than five (5) business days prior to a due process hearing, each party must disclose to all other parties all evaluations completed by that date, and recommendations based on the offering party's evaluations that the party intends to use at the due process hearing. Failure to disclose this information may result in a Hearing Officer prohibiting the party from introducing the information at the hearing unless the other party consents to its introduction.

Due Process Hearing Rights. The hearing for a child with a disability or thought to have a disability must be conducted and held in the LEA at a place and time reasonably convenient to the parent and child involved. The hearing must be an oral, personal hearing and must be closed to the public unless the parent requests an open hearing. If the hearing is open, the decision issued in the case, and only the decision, will be available to the public. If the hearing is closed, the decision will be treated as a record of the child and may not be available to the public. The decision of the Hearing Officer must include findings of fact, discussion, and conclusions of law. Although technical rules of evidence will not be followed, the decision must be based upon substantial evidence presented at the hearing. A written or, at the option of the parent, electronic verbatim record of the hearing will be provided to the parent at no cost. Parents may be represented by legal counsel and accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities. Parents or parent representatives must be given access to educational records, including any tests or reports upon which the proposed action is based. A party has the right to compel the attendance of and question witnesses who may have evidence upon which the proposed action might be based. A party has the right to present evidence, confront, and cross-exam witnesses. A party has the right to present evidence and testimony, including expert medical, psychological, or educational testimony.

Decision of Hearing Officer. A decision made by a Hearing Officer must be made on substantive grounds, based upon a determination of whether the child received a FAPE. In disputes alleging procedural violations, a Hearing Officer may award remedies only if the procedural inadequacies impeded the child's right to a FAPE; significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the child; or caused a deprivation of educational benefits. A Hearing Officer may still order a LEA to comply with procedural requirements even if the Hearing Officer determines that the child receives a FAPE. The parent may still file a Complaint with the Bureau of Special Education within the Pennsylvania Department of Education regarding procedural violations.

The Due Process Hearing will service as the local and state level hearing: appeals may be made to the court of competent jurisdiction.

Civil Action. A party that disagrees with the findings and decision of the Hearing Officer (in the case of Section 504/Chapter 15 cases and early intervention cases) has the right to file an appeal in state or federal court. The party filing an appeal is encouraged to seek legal counsel to determine the appropriate court with which to file an appeal. A party filing an appeal to state or federal court has ninety (90) days from the date of the decision to do so.

Attorney's Fees. A court, in its discretion, may award reasonable attorney's fees to the parent of a child who is a prevailing party or to a State Educational Agency or LEA against the attorney of the parent who files a Due Process Hearing Request or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of the parent who continued to litigate after the litigation clearly became frivolous, unreasonable or without foundation; or to a prevailing State Educational Agency or LEA against the attorney of the parent, or against the parent, if the parent's Due Process Hearing Request or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation. Fees awarded will be based on rates prevailing in the community in which the action or proceeding arose for the kind and quantity of attorney services furnished.

The federal law imposes certain requirements upon the parent and LEA and in some circumstances may limit attorney fee awards. Parents should consult with their legal counsel regarding these matters. The following rules apply: Attorney's fees may not be awarded and related costs may not be reimbursed in any action or proceeding for services performed subsequent to the time of a written offer of settlement to the parent if the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedures, or, in the case of an administrative hearing, at any time more than ten (10) days before the proceeding begins; the offer is not accepted within ten (10) days; and the court finds that the relief finally obtained by the parent is not more favorable to the parent than the offer of settlement. Attorney fees may not be awarded for time spent attending any meeting of the IEP team unless the meeting is convened because of an administrative proceeding or judicial action. A due process resolution session is not considered to be a meeting convened because of an administrative hearing or judicial action, nor an administrative hearing or judicial action for purposes of reimbursing attorney's fees. The Court may reduce the amount of any attorney's fee award when: (a) the parent, or the parent's attorney, during the course of the action or proceeding unreasonably protracted the final resolution of the controversy; (b) the amount of the attorney's fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience; (c) the time spent and legal services furnished were excessive considering the nature of the action or proceeding; or (d) the attorney representing the parent did not provide to LEA the appropriate information in the Due Process Hearing Request. These reductions do not apply in any action or proceedings if the court finds that the State or LEA unreasonably protracted the final resolution of the action or proceedings.

Child's Status during Administrative Proceedings. Except for discipline cases, which have specific rules, while the due process case, the child must remain (pendency) in his or her present educational placement unless the parent and LEA or State agree otherwise. If the due process hearing involves an application for initial admission to public school, the child, with parental consent, must be placed in the public-school program until completion of all the proceedings, unless the parent and LEA agree otherwise.

Private School Tuition Reimbursement. In some cases, parents of children who were identified by the public school as eligible for special education and related services and who received such services can recover in a due process hearing or from a court an award of private school tuition reimbursement. Parents can also receive such awards if their child needs special education

and related services but are not offered such services in a timely manner. To obtain an award of tuition reimbursement, parents must notify their public school of their intent to enroll their child in a private school either verbally at the last IEP team meeting prior to withdrawing their child or in writing received by the public school at least ten days prior to the date on which the child is withdrawn from public school. Parents can obtain tuition only when they can prove at a special education due process hearing that (1) the public school failed to offer an appropriate program or placement to the child, (2) the parents therefore placed their child in a private school, and (3) the private school placement was proper. Tuition reimbursement awards can be denied or reduced if the parent's behavior was improper or if the parents delay unreasonably in asserting a claim against the public school in a due process hearing. Such awards can also be denied or reduced if the parents fail to do one of the following: (1) notify the public school of their intent to place the child in a private school at the last IEP team meeting prior to the planned placement or (2) notify the public school in writing of their intent to place the student in a private school at least ten days before withdrawing the student for that purpose.

Mediation. Parties may agree to submit their dispute to the mediation process by requesting mediation from the Office for Dispute Resolution. Mediation may be requested in place of or in addition to a due process hearing. If a hearing is also requested, mediation cannot delay the scheduling of the due process hearing, unless the Hearing Officer grants a continuance for that purpose at the request of a party. An impartial, trained mediator facilitates the mediation process, which is scheduled at a time and location convenient to the parties. The parties are not permitted to have attorneys participate in the process. Any resolution reached through mediation must be reduced to writing, which will be binding on the parties.

Rights under Section 504 of the Rehabilitation Act of 1973. As noted above, some students with disabilities who are not in need of special education and related services are nevertheless entitled to adaptations and accommodations in their school program or in the physical environment of school buildings, grounds, vehicles, and equipment, when such adaptations or accommodations are required to enable the student to access and participate meaningfully in educational programming and extracurricular activities. Parents are entitled to a written description of the adaptations and accommodations that the public school is willing to offer. This written description is called a "service agreement" or "accommodation plan." The rights and protections described above under the headings "Notice," "Consent," "Protection in Evaluation Procedures," and "Maintenance of Placement" apply to students receiving adaptations and accommodations under Section 504. Parents who have complaints concerning the evaluation, program, placement, or provision of services to a student may request either an informal conference with the public school or a due process hearing. The hearing must be held before an impartial hearing officer at a time and location convenient to the parents. Parents have the right to request a free written or electronic transcript or recording of the proceedings, to present evidence and witnesses disclosed to the public school, to confront evidence and testimony presented by the public school, to review their child's complete educational record on request before the hearing, to receive a written decision from the hearing officer, and to be represented by counsel or an advocate of their choice. An appeal may be taken from the decision of the hearing officer to a court of competent jurisdiction.

Compliance Complaints. In addition to the above hearing rights, parents and others with complaints concerning the education of a child with disabilities or violations of rights guaranteed by either the IDEA or Section 504 may file complaints with the Pennsylvania Department of Education, which must investigate such complaints and issue written findings and conclusions. Information concerning such complaints can be obtained at the following address:

Pennsylvania Department of Education
Bureau of Special Education
Division of Compliance Monitoring and Planning
333 Market Street, 7th Floor
Harrisburg, PA 17126-0333
(800) 879-2301

Student Records

The public schools of Luzerne Intermediate Unit 18 maintain records concerning all children enrolled in public school, including students with disabilities. Records containing personally identifiable information about or related to children with disabilities could include, but are not limited to, cumulative grade reports, discipline records, enrollment and attendance records, health records, individualized education programs, notices of recommended assignment, notices of intent to evaluate and reevaluate,
comprehensive evaluation reports, other evaluation reports by public school staff and by outside evaluators, work samples, test data, data entered into the Penn Data system, PIMS, correspondence between school staff and home, instructional support team documents, referral data, memoranda, and other education-related documents. Records can be maintained on paper, on microfiche, on audio or videotape, and electronically. Records can be located in the central administrative offices of the public school, the school building or building at which the student attended or attends school, private schools and facilities at which the public school has placed the child for educational purposes, central storage facilities and electronic storage systems, and in the secure possession of teachers, building administrators, specialists, psychologists, counselors, and other school staff with a legitimate educational interest in the information contained therein. All records are maintained in the strictest confidentiality and adhere to the Family Educational Rights and Privacy Act (FERPA) regulations.

Records are maintained as long as they remain educationally relevant. The purposes of collecting and maintaining records are (1) to ensure that the child receives programs and services consistent with his or her IEP; (2) to monitor the ongoing effectiveness of programming for the child; (3) to document for the public school and the parents that the student is making meaningful progress; (4) to satisfy the requirements of state and federal agencies who have an interest in inspecting or reviewing documents concerning particular students or groups of students for purposes of compliance monitoring, complaint investigation, and fiscal and program audits; and (5) to inform future programming for and evaluations of the child. When educational records, other than those which must be maintained, are no longer educationally relevant, the public school must notify the parents in writing and may destroy the records or, at the request of the parents, must destroy them. Public schools are not required to destroy records that are no longer educationally relevant unless the parents request in writing.

Parent consent. Parent consent is required in writing prior to the release of any personally identifiable information concerning a child with disabilities. Parent consent is not required, however, prior to the release of information (1) to a hearing officer in a special education due process hearing; (2) to public school staff and contractors with a legitimate educational interest in the information; (3) to officials or staff of other schools and school systems at which the student is enrolled or intends to enroll; (4) to federal or state education officials and agencies and to the Comptroller of the United States; (5) to accrediting organizations to carry out their accrediting functions; (6) to comply with a lawful subpoena or judicial order; (7) in conjunction with a health or safety emergency to the extent necessary to protect the health and safety of the child or others; or (8) that the public schools have designated as "directory information." Disclosure without consent of the parent is subject to certain conditions more fully described in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C § 1332g, and its implementing regulation, 34 C.F.R. Part 99.

Parent access. Upon submitting a request to do so in writing, parents have the right to access the educational records of their child within forty-five days or before any due process hearing or IEP team meeting, whichever is sooner. Access entitles the parent to the following: (1) an explanation and interpretation of the records by public school personnel; (2) copies of the records if providing copies is the only means by which the parent can effectively exercise his or her right of inspection and review; and (3) inspection and review of the records by a representative of the parent's choosing upon presentation to the records custodian of a written authorization from the parent. The public school can charge a fee not to exceed its actual costs for copying records.

"Directory information." Public school entities designate certain kinds of information as "directory information." The public schools of Luzerne Intermediate Unit 18 typically designate the following as "directory information": (1) the name, address, telephone number, and photographs of the child; (2) the date and place of birth of the child; (3) participation in school clubs and extracurricular activities; (4) weight and height of members of athletic teams; (5) dates of attendance; (6) diplomas and awards received; (7) the most recent previous institution or school attended by the child; and (8) names of parents, siblings, and other family members. The district will provide this information to any interested person, including armed forces recruiters who request it, without seeking consent from the parents of the student or the student. Parents who do not want the district to disclose such information must notify the district in writing on or before the first day of the school term. Written notice must identify specific types of directory information that the parent does not want the district to disclose without consent. If the parents fail to notify the district in writing by the first day of the school term, the district may release directory information upon request and without consent.

Disclosure of records containing personally identifiable information to other schools and institutions. Public school entities disclose personally identifiable information concerning students to educational agencies or institutions at which the student seeks to enroll, intends to enroll, or is enrolled, or from which the student receives services, when that agency or institution requests such records.

Access to records by school officials with a "legitimate educational interest." School officials with a legitimate educational interest in the personally identifiable information contained in education records can have access to personally identifiable information without parent or student consent. Each school entity designates in its education records policy those persons who have a "legitimate educational interest" that would allow such access to education records. Such persons typically include teachers of the child, building administrators, guidance counselors to whom the child is assigned, members of instructional support and multidisciplinary teams in the course of screening and evaluation activities, records custodians and clerks, public school administrators with responsibility for programs in which the student is enrolled or intends to be enrolled, school board
members sitting in executive sessions in consideration of matters concerning the child upon which only the school board can act, program specialists and instructional aides working with the child, therapeutic staff working with the child, and substitutes for any of the foregoing persons

Amendment of education records. After reviewing records, a parent or a student who has attained the age of 18 can request that records be amended. The school will make the requested changes or reject the request within forty-five days of the receipt of the request in writing. If the school rejects the request, the parent or student may request an informal hearing. The hearing can be held before any public-school official who does not have a direct interest in its outcome. If the parents are dissatisfied with the outcome of the informal hearing, they may submit to the public school a statement outlining their disagreement with the record. The school thereafter must attach a copy of that statement to all copies of the record disclosed to third parties.

Complaints to the United States Department of Education. Complaints concerning alleged failure of a public-school entity to comply with the requirements of the Family Educational Rights and Privacy Act may be addressed to the United States Department of Education as follows:

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

This notice is only a summary of the special education services, evaluation and screening activities, and rights and protections pertaining to children with disabilities, children thought to be disabled, and their parents. For more information or to request evaluation or screening of a public or private school child contact the public school nearest you. The number and addresses of all public schools in Luzerne Intermediate Unit 18 are in the blue pages of the telephone book under the heading "Schools." Information can also be obtained, and screenings and evaluations requested, by contacting the offices of special education or student services in each of the various school districts or, for preschool children, at Luzerne Intermediate Unit of Hazleton Area School District.

Notice of Services for Gifted Students While "gifted" is not one of the "disabilities" required under the Federal IDEA
legislation, the State Board of Education's regulations as set forth in 22 Pa. Code Chapter 16 – Special Education for Gifted Students, provides recognition that gifted students are considered to be "children with exceptionalities" under the Public-School Code of 1949 and need special designed instruction.

A district shall conduct public awareness activities to inform the public of gifted education services and programs and how to request these services and programs. These awareness activities shall be designed to reach parents of students enrolled in public schools.

Students Who are Mentally Gifted
All Luzerne Intermediate Unit entities, except charter schools, also offer special education services, in the form of acceleration or enrichment, for students who are identified by a gifted multidisciplinary team (GMDT) as "mentally gifted". A child is considered mentally gifted when his or her cognitive ability or other factors, as determined by a multidisciplinary team evaluation, indicate that he or she has outstanding intellectual ability, the development of which requires special programs and services not ordinarily available in the general education program. The school entity engages in screening activities during regular classroom instruction and uses the data generated to determine whether a GMDT evaluation is warranted. In addition, parents may request gifted screening or a GMDT evaluation at any time. Parents are part of the GMDT and, if their child is determined to be mentally gifted, are part of the development and annual review and revision of their child's gifted individualized education program (GIEP) as a member of the GIEP team. The GIEP describes the present levels, annual goals and measurable objectives, and specially designed instruction and related services through which the district will provide the enrichment or acceleration, or both, that is needed to develop the outstanding mental ability of the child. Parents of students who are mentally gifted have the right to request a special education due process hearing or to file a compliance complaint with the Pennsylvania Department of Education at the address listed below. Details concerning the procedures governing hearing requests can be found on the Website of the Office for Dispute Resolution at http://www.pattan.k12.pa.us.
A child can be identified as both a child with a disability and mentally gifted. In such cases, the rights of the child and his or her parents are governed by the rules applicable to children with disabilities and their parents, as described above.

Pennsylvania Department of Education
Bureau of Special Education
Division of Compliance Monitoring and Planning
333 Market Street, 7th Floor
Harrisburg, PA 17126-0333
(800)879-2301

Chapter 4 - The State Board of Education regulations as adopted under statutory authority in the School Code.

Chapter 16- Gifted education is separate from special education services.

Dual Exceptionalities: If a student is both gifted and eligible for special education, the procedures in Chapter 14 shall take precedence. For these students identified with dual exceptionalities, the needs established under the gifted status must be fully addressed in the procedures required in Chapter 14. (22 Pa. Code § 16.7(b)) For students who are gifted and eligible for special education, it is not necessary for school districts to conduct separate screening and evaluations, develop separate IEPs, or use separate procedural safeguards processes to provide for a student's needs as both a gifted and eligible student. (22 Pa. Code § 16.7(c))

Education Placement - The overall educational environment in which gifted education is provided to gifted students in all public schools of Luzerne Intermediate Unit 18. Placements and Programs may vary from school district to school district.

GIEP - Gifted Individualized Education Program.

GMDT– Gifted Multidisciplinary Team

Gifted Education - Specially designed instruction to meet the needs of a gifted student that is:
(i) Conducted in an instructional setting, (ii) Provided in an instructional or skill area, (iii) Provided at no cost to the parents, (iv) Provided under the authority of a school district, directly, by referral or y contract, (v) Provided by an agency, (vi) Individualized to meet the educational needs of the student, (vii) Reasonable calculated to yield meaningful educational benefit and student progress, (viii) Provided in conformity with GIEP.

Gifted Multidisciplinary Evaluation - A systematic process of testing, assessment, and other evaluative processes used by a team to develop a recommendation about whether a student is gifted or needs gifted education.

Gifted Student - A student who is exceptional under section 1372 of the School Code (24 P.S. §13-1371) because the student meets the definition of "mentally gifted" in this section and needs specially designed instruction beyond that required in Chapter 4 (relating to academic standards and assessment.) This term applies to students who are of "school age" as defined under § 11.12 (relating to academic standards and assessment.) This term applies only to students who are of "school age" as defined under §11.12 (relating to school age.)

Instruction setting - A classroom or another setting in which gifted students are receiving gifted education.

Mentally gifted - Outstanding intellectual and creative ability the development of which requires specially designed programs or support services, or both, not ordinarily provided in the regular education program.

Parents - A natural or adoptive parent or parents, guardian or guardians, one or more persons acting as the parent or parents of a student.

Party - Parent or school district.

Regular classroom - A specific instructional grouping within the regular education environment.

Regular education environment - The regular classroom and other instructional settings in which students without a need for gifted education receive instruction programs and the full range of supportive services normally provided to these children.

School Code - The Public-School Code of 1949 (24 P.S. §§1-101, 27-2702)

School day - A Day that school is in session.

Screening and evaluation process - The systematic determination of whether a student is gifted or needs gifted education.

Specially designed instruction - Adaptations or modifications to the general curriculum, instruction, instructional environments, methods, materials, or a specialized curriculum for students who are gifted.

Support services - Services as required under § 16.33 (relating to support services) to assist a gifted student to benefit from gifted education. Examples of the term include:
(i) Psychological services
(ii) Parent counseling and education
(iii) Counseling services
(iv) Transportation to and from gifted programs to classroom in buildings operated by the school district.

This Public Notice Documentation has been submitted by the Luzerne Intermediate Unit on behalf of the LIU member school districts and Dr. Anthony Grieco, Executive Director. The documentation and preparation was completed by Ms. Elizabeth Krokos, Assistant to the Executive Director for Student Services. Information is based on interpretation of Public Laws including "No Child Left Behind", Individuals Disabilities in Education Act", Pa. Chapter 14 Special Education Regulations, Chapter 4, Section 504, Chapter 15, and Chapter 16.

District Contacts for Information Concerning Special Education Services:

Crestwood School District
Ms. Annie Moran, Director of Special Education
281 South Mountain Boulevard
Mountaintop, PA 18707-1913
Phone: 570-474-6782
Administrative Assistant: Tracy Cormier

Dallas School District
Ms. Courtney Paden, Director of Special Education
2000 Conyngham Ave.
Dallas, PA 18612-0720
Phone: 570-674-2887
Administrative Assistant: Jessica Kettell

Greater Nanticoke Area School District
Dr. Meghan McMahon, Director of Special Education
425 Kosciuszko Street
Nanticoke, PA 18634-2690
Phone: 570-735-1003
Administrative Assistant: Jennifer Nestorick

Hanover Area School District
Ms. Shannon Bennett, Director of Special Education
1600 Sans Souci Parkway
Hanover Township, PA 18706
Phone: 570-831-2301
Administrative Assistant: Deidre Mooney

Hazleton Area School District
Mr. Jeff Weed, Assistant Director of Special Education
1515 West 23rd Street
Hazleton, PA 18202
Phone: 570-459-3111
Administrative Assistant: Kelly Peak

Lake Lehman School District
Dr. Tina Antonello, Director of Special Education
P. O. Box 38
Lehman, PA 18627-0038
570-255-2811

Northwest Area School District
Dr. Jason Rushmer, Superintendent
243 Thorne Hill Rd.
Shickshinny, PA 18655-9201
Phone: 570-542-4126
Secretary to the Superintendent: Jessica Hurst

Pittston Area School District
Ms. Amy Bilbow, Director of Special Education
5 Stout Street
Pittston, PA 18640-3399
570-654-2415
Administrative Assistant: Staci Giarrantano

Tunkhannock Area School District
Ms. Deborah Sherman, Director of Special Education
41 Philadelphia Avenue
Tunkhannock, PA 18607
Phone: 570-836-3111
Administrative Assistant: Lisa Volker
368 Tioga Ave.
Kingston, PA 18704-0649

Wilkes-Barre Area School District
Mr. James Geiger, Director of Special Education
730 South Main Street
Wilkes-Barre, PA 18711-0375
Phone: 570-826-7111
Administrative Assistant: Toni Dimaggio

Wyoming Area School District
Ms. Stephanie Anuszewski, Director of Special Education
252 Memorial Street
Exeter, PA 18643-2698
570-655-2836
Administrative Assistant: Lesley Ratchford

Wyoming Valley West School District
Ms. Marya Baratta, Director of Special Education
450 North Maple Ave.
Kingston, PA 18704-3683
Phone: 570-288-6551
Administrative Assistant: Eve Sebolka

Bear Creek Community Charter School
Ms. Bridget Deeble, Director of Intervention & Support Services
30 Charter School Way
Wilkes-Barre, PA 18702
Phone: 570-820-4070

Luzerne Intermediate Unit #18
Northeast Secure Treatment Unit
Ms. Elizabeth Krokos, Assistant to the Executive Director for Student Services
368 Tioga Ave.
Kingston, PA 18704-0649
Phone: 570-287-9681
Administrative Assistant: Laura Johnson