

## **Implementation of Chapter 15**

### **22 Pa. Code Chapter 15**

**DATE OF ISSUE:** September 1, 1997

**DATE OF REVIEW:** July, 2009  
July, 1999 (revised)

#### **PURPOSE**

Chapter 15 of Title 22 of the regulations of the State Board of Education addresses the responsibility of school districts to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 34 CFR Part 104 (relating to nondiscrimination on the basis of handicap in activities receiving federal financial assistance). The purpose of the federal law and the state regulations is to require that public educational agencies ensure that protected handicapped students have equal opportunity to participate in school programs and extracurricular activities to the maximum extent appropriate to the ability of the protected handicapped student in question. This BEC identifies the duties of the LEA, definitions and descriptions of Protected Handicapped Students, Service Agreements and Procedural Safeguards and provides forms to use for Chapter 15 Notices and Agreements.

#### **CHAPTER 711**

Although, charter and cyber charter schools are not subject to the procedural mandates contained in Chapter 15, Chapter 711 requires charter and cyber charter schools to ensure compliance with Section 504 and its implementing regulations.

#### **DUTY OF THE LOCAL EDUCATION AGENCY (LEA)**

LEAs shall provide each protected handicapped student enrolled in the district, without cost to the student or family, those related aids, services, or accommodations which are needed to afford the student equal opportunity to participate in and obtain the benefits from the school programs and extracurricular activities without discrimination, and to the maximum extent appropriate to the student's abilities. To meet the criteria for services under Chapter 15, a student needs to be identified as a protected handicapped student.

#### **PROTECTED HANDICAPPED STUDENT DEFINITION**

To meet the criteria of a protected handicapped student a child must be of school age and have a physical or mental disability that substantially limits or prohibits participation in or access to an aspect of the student's school program. The Americans with Disabilities (ADA) Amendments Act of 2008, Public Law 110-325, which also amends the Rehabilitation Act of 1973, broadens the definition of disability. The extent of an individual's impairment should be evaluated without considering the ameliorative effects of mitigating measures. The amendments took effect January 1, 2009.

#### **CRITERIA AND PROCESS FOR PROTECTED HANDICAPPED STUDENT STATUS**

##### *Evaluation*

A child can be referred for evaluation of protected handicapped status either by the school district or the parents of the child. If the parents are requesting an evaluation, their request needs to be presented to the school district in writing. If the school district is requesting an evaluation, then a written notice must be sent to the parents. Any pertinent information needed to make the decision, including medical records, needs to be presented to the school district.

### *Service Agreement*

If the parents and the LEA agree that the student needs to have a service agreement, then the service agreement is written and executed by a representative of the LEA and one or both parents. The service agreement must specify the related aids, services, and accommodations that the student will receive, and the date the services will begin and end. If appropriate, a service agreement should also identify procedures to occur in the event the student has a medical emergency.

### *Procedural Safeguards*

Parents and LEAs are entitled to the following Procedural Safeguards:

- NOTICE - A written explanation of why either the district or the parents desire to determine whether a student is a protected handicapped student. A written explanation when a school district is either going to initiate or terminate a service plan for a student.
- REQUEST FOR RESOLUTION - The Department will investigate and respond to written requests for assistance made by parents within 60 calendar days of receipt of the request unless exceptional circumstances are present.
- INFORMAL CONFERENCE - The parents of a student may request an informal conference with the school district regarding the identification, evaluation, need for related aids, services, and/or accommodations. The informal conference is between the parents and the school district. An informal conference must be convened within 10 school days of the request.
- FORMAL DUE PROCESS HEARING - If a formal hearing is required, it will be held before an impartial hearing officer and shall be governed by 22 Pa. Code §14.162.
- PENDING JUDICIAL APPEALS - If an appeal of an administrative due process proceeding is filed within 90 days in State or Federal court, the decision of the due process hearing officer will be stayed pending the completion of the judicial proceedings unless the parents and school district agree otherwise.
- CONFIDENTIALITY - All personally identifiable information regarding a protected handicapped student is confidential and can be released only by parental consent. Parents and their representatives are able to access the educational records of the student.

### *Forms*

Attached are Sample Forms that school districts may use in implementing Chapter 15:

- Annual Notice of Evaluation Procedures and Services as a Protected Handicapped Student - This form informs parents of the evaluation procedures, services and protections available to Protected Handicapped Students.
- Notice to Parents - Notice to parents from the school district for initiating an evaluation or services or terminating services.
- Procedural Safeguards - This form lists the procedures and safeguards that parents should be presented at the initial evaluation of a student.
- Service Agreement - This form outlines the necessary components of a service agreement between the school district and the protected handicapped student's parents.

## **IMPLEMENTATION QUESTIONS AND REQUESTS FOR DUE PROCESS HEARINGS PERTAINING TO CHAPTER 15**

Questions regarding the implementation of Chapter 15 and requests for resolution under §15.8 should be directed to the Bureau of Special Education. Requests for formal due process hearings should be forwarded to The [Office for Dispute Resolution](#)

Office for Dispute Resolution,  
6340 Flank Drive, Harrisburg, PA 17112,  
telephone 800-879-2301.

### **REFERENCES:**

#### **State Board of Education Regulations**

[22 Pa. Code §14.162](#)

[22 Pa. Code Chapter 15](#)

[22 Pa. Code Chapter 711](#)

#### **Federal Statutes**

Section 504 of the Rehabilitation Act of 1973, 29 USC Sec. 794  
American with Disabilities (ADA) Amendments Act of 2008, Pub. Law 110-325

### **ATTACHMENTS:**

[Notice of District-Initiated Evaluation](#)

[Annual Notice to Parents](#)

[Procedural Safeguards](#)

[Service Agreement](#)

### **BUREAU/OFFICE CONTACT:**

Bureau of Special Education  
Pennsylvania Department of Education  
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Harrisburg, PA 17126-0333  
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