

Voter Registration As Part Of Transition To Adult Life

25 Pa. C.S.A. §1101 et seq.

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PURPOSE

This BEC is designed to provide additional direction for Local Educational Agencies (LEAs) regarding their duty to address voter registration opportunities as part of an eligible student's transition to adult life.

As provided by 22 Pa. Code §14.131 and 34 CFR §300.320, an Individualized Education Program (IEP) team must begin transition planning for each student who is 14 years of age or older. Transition services must be a component described as part of the IEP. Pursuant to 34 CFR §300.43(2), transition services are based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes; instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills, and provision of a functional vocational evaluation.

The school district has the primary responsibility for a student's IEP and must designate persons responsible to coordinate transition activities. When working on transition planning, the IEP team must invite the student to attend the IEP team meeting. If the student does not attend, the school district shall take other steps to ensure that the student's preferences and interests are considered.

LEA Responsibility

Receiving voter registration information and assistance is an important element of preparation for adult life. To comply with 34 CFR §§300.320(b), and 300.43, the transition section during the IEP meeting must include discussion of whether, when, where and how voter registration for the student should take place, and what assistance will be provided by school personnel, if appropriate.

To achieve compliance with the regulations and the settlement agreement in *United States v. Commonwealth of Pennsylvania*, No. 95-CV-382 (E.D. Pa.), and *ACORN, v. Ridge*, No. 94-CV-7671 (E.D. Pa.), voter registration issues must be addressed, at a minimum, in accordance with the procedures set forth below. The implementation of the minimum procedures is also required by the terms of a judicially-approved agreement partially settling litigation brought by the U.S. Department of Justice (DOJ) and several private plaintiff organizations against the Commonwealth to enforce the National Voter Registration Act of 1993 (NVRA).

Court Settlement

In *United States v. Commonwealth of Pennsylvania*, No. 95-CV-382 (E.D. Pa.), and *ACORN, v. Ridge*, No. 94-CV-7671 (E.D. Pa.), DOJ and the private plaintiffs led by ACORN contended (among other things) that the NVRA requires Pennsylvania to

designate all special education offices within public school districts as "voter registration agencies," a position contested by the Commonwealth. In settlement of that issue, DOJ and the ACORN group agreed not to seek such a designation, which otherwise would have required LEAs to implement the NVRA's extensive "agency-based registration" procedures and requirements. In exchange, the agreement approved by the court requires the Commonwealth to establish the much simpler procedures set forth below as the minimum means of achieving compliance with voter registration aspects of the community living component of required transition services.

IEP DEVELOPMENT for Students Age 17 or Older

When an IEP team meets for the purpose of reviewing or developing an IEP for a student who is 17 years of age or older, the IEP team shall discuss whether voter registration is an appropriate community living/citizenship training goal to be included in the IEP, and if so, when and how voter registration should be accomplished. The parents (and student, if present) shall be informed that voter registration can be accomplished at school, that designated school officials will be made available during the school day to assist the student in filling out voter registration forms, and that school officials will transmit completed voter registration forms to the appropriate county voter registration commission's offices at no cost to the student or parents.

The parents (and student, if present) shall also be informed that school-based voter registration or assistance in registering are not mandatory and may be declined at their option, and that they and the student are free instead to make other arrangements for the student to register to vote outside the school setting (for example, in conjunction with driver licensing, or during orientation or other visits to human services offices or other agencies where voter registration forms and/or assistance is available, etc.), or to decline voter registration altogether. Because voter registration may need to be renewed or changed because of changes of residence or other reasons, this discussion shall take place at least annually at an IEP team meeting for a student age 17 or older, whether or not registration has previously been accomplished or offered.

Sample Introductory IEP Discussion

An example of an appropriate way to introduce this subject for the first time at an IEP meeting would be as follows:

"Since (student name) is now 17, and will be of voting age within the next twelve months, we need to discuss whether taking advantage of voter registration is an appropriate transition IEP goal for him (her), and if so, how that should be accomplished. Because of the importance of voting as a basic element of citizenship and community living, we make voter registration information and assistance available here at school, in addition to other registration opportunities that are available in the community through other agencies. We can provide forms and one-on-one help in filling them out, and will transmit completed forms to the appropriate county voter registration office at no cost to you. The purpose of considering this as a possible IEP goal is to make registration opportunities readily accessible for students with disabilities.

The IEP would simply outline what assistance would be provided here at school at the appropriate time, or, for example, whether other registration opportunities will be used instead, such as in conjunction with drivers licensing. Of course, neither registration nor voting is mandatory, even if we include registration as an IEP goal, and it is up to you whether you choose to use school-based assistance. It is also up to the student whether to actually register at the time assistance is offered, and what registration choices to make. If this is included in the IEP, our records would note only that assistance was offered at the time and in the manner set forth in the IEP, but we are not allowed to track or keep records of whether a student actually registers or to know things like party affiliation, which are strictly private information. Is voter registration something you think we should discuss further as a possible as a program modification in the IEP for (student name)?"

Maintaining Records

Beyond an introduction such as that set forth above, school personnel should not further pursue the topic of voter registration during an IEP meeting if the parents indicate that further discussion is not appropriate or is unwanted. Voter registration will not be included in IEP goals without parental consent. Nevertheless, voter registration information or assistance may not be denied to any IEP student who independently requests it, whether or not the topic is addressed in the student's agreed IEP, and will be provided upon such request to the same extent as would be available pursuant to an IEP.

Although school personnel may answer questions about available school-based assistance or other non-school registration opportunities, school personnel are not permitted to influence in any way the parents' and student's decision about whether or how to register, and may not participate in or influence any discussion regarding choice of political party affiliation. Discussion of political party affiliation should not take place during the IEP team meeting or other meeting at which school officials are present, and party affiliation information will not be included in the IEP or other LEA-maintained records.

If the parents agree that voter registration is an appropriate transition goal to be included in the IEP, the time and manner for accomplishing registration will be included in the written IEP and implemented in accordance with it. If the manner of registration chosen by the parents and student does not contemplate use of school-based assistance (e.g., in conjunction with driver licensing or other opportunities), no further action on the part of school personnel is required, unless the student or parents later request school-based assistance. However, even in the absence of such a request, the subject of voter registration will be discussed again in accordance with the above procedure, at least annually, when the IEP team meets to further develop, review or update the IEP.

Registration forms will be provided to the parents or student at any time upon request of the parent or student, whether or not further school-based assistance is desired or voter registration is addressed in the IEP. Forms completed outside the school setting, even if not originally obtained through the school, may be submitted to the LEA for transmission to the appropriate county voter registration commission as provided below.

Program Modifications in the IEP for Voter Registration

If the parents and student choose to make use of school-based assistance in accomplishing voter registration as set forth below, the IEP will:

- specify the time frame in which this will occur (e.g., within 30 days of the student's eighteenth birthday, and no later than 30 days prior to the next election;
- identify the LEA contact person responsible for implementing this aspect of the IEP;
- ensure that the student is provided with a voter registration form and one-on-one assistance in filling it out (unless declined by the student). Such assistance may be provided by a regular or special classroom teacher, guidance counselor, principal or other school personnel, including school office personnel with appropriate knowledge or training in these procedures. The assistance opportunity may be provided by special arrangement for the particular student, or by means of referral to a point of contact for a school-wide procedure under which all students can obtain voter registration forms and assistance upon request, if such a process exists;
- if referral to a general school-wide location or procedure (see below) is the method provided for in the IEP, the LEA must ensure that the student receives any necessary assistance in appearing at the proper location at a time when assistance with voter registration forms is available, and that one-on-one assistance in filling out the form is offered and actually provided (unless declined by the student), even if such assistance is not otherwise provided to the general student population;
- the student may decline to register at any time. A voter registration program modification in an IEP will be considered to have been fulfilled when a voter registration opportunity and assistance have been afforded or offered at the time or in the manner set forth in the IEP, even though the student may have declined and registration did not actually occur. Whether or not registration actually occurs, the fact that the opportunity was afforded at the time and in the manner specified in the IEP will be reported to and noted for record by the lead school official on the IEP team, although the student's records should not reflect whether or not registration was declined or actually accomplished at that time;
- the LEA implementing the portion of the IEP providing for school-based voter registration is responsible for transmitting the completed voter registration form to the appropriate county voter registration commission, at no cost to the student or parents, within ten days after school officials have received the completed form from a student eligible for special education or the parents, whether or not the form was completed within the school setting or with assistance of school personnel. This may be accomplished by first class mail or other reliable means of delivery;
- At no time are voter registration forms to be regarded as student or school records, but all voter registration forms shall be treated as confidential information and safeguarded from unauthorized access or disclosure.

LEA RESPONSIBILITIES – Coding Forms and Contacts Persons

The Pennsylvania Department of State has designed coding information for voter registration forms that will identify forms submitted in connection with school-based registration, for purposes of measuring the frequency of school-based registration. Unless blank form supplies provided to LEAs are pre-marked, the LEA is responsible for marking with the proper code (e.g., by marking boxes indicating some alpha-numeric combination, etc.) upon any registration form it transmits to county voter registration commissions resulting from school-based registration information or assistance as described in this BEC.

Forms provided by school personnel are to be coded when first provided to a student or parents of a student for the student, even where it is anticipated the form will be completed outside the school setting and submitted via other avenues. Forms obtained outside the school setting but submitted to school personnel for transmittal also will be marked with the school-based code at the time they are received for transmittal.

Each LEA is required to designate a contact person responsible for implementation of these procedures within the LEA, to whom the Pennsylvania Department of Education and the Department of State may direct further information and guidance about these procedures, and from whom information about that LEA's compliance with the BEC may be obtained. Each LEA must furnish the name, voice and fax telephone numbers and mailing address of the contact person to the Bureau of Special Education no later than thirty days after the date of this BEC, and within thirty days after any subsequent change in the foregoing information.

Information, training and assistance for school officials providing school-based registration opportunities, including help in coding voter registration forms, is available from the Pennsylvania Department of State, Bureau of Commissions, Elections and Legislation, telephone (717) 787-5280. The Bureau will inform LEAs of the proper form code when that has been established or if it is later changed. The Bureau's existing program of voter registration training for local agency staffs will be expanded to include voter registration training programs for school personnel in selected locations throughout the Commonwealth.

GENERAL SCHOOL-WIDE REGISTRATION PROGRAM

As an alternative to the foregoing IEP-centered procedures, LEAs may satisfy these requirements by implementing a school-wide program affording voter registration opportunities reasonably calculated to offer registration forms and assistance in completing the form to all students of voting age or who are approaching voting age, whether or not identified as exceptional pursuant to the IDEA, as well as timely transmission and coding of completed forms to the proper county registration commission (within ten days of submission to the LEA), at no cost to the student or student's family. The availability of any such alternative program must be communicated to the student body no less than annually. Such a program also must include systems or individualized procedures for ensuring that the opportunity is offered to and accessible to IDEA students of similar age, to whom necessary individual assistance will be available upon request. Any LEA which elects to use this kind of alternative means of compliance must submit a description of the program to the Department of Education, Bureau of Special Education, no later than thirty days

prior to the time that such a program would be substituted for the more IEP-specific procedures described in this BEC.

In such an alternative school-wide mode of school-based registration, the role of school personnel is limited to: (1) providing information about registration procedures and the assistance available; and (2) assisting in the completion and transmission of registration forms. As with students eligible for special education, school personnel are not permitted, in connection with providing registration information and assistance, to exert influence upon choices about whether or how to register or political party affiliation. School officials shall not keep records indicating things such as party affiliation or whether or not any particular student has actually registered to vote or declined the opportunity to do so, and should regard such information, if known, as confidential and inappropriate for mention in school records.

This is not, however, intended to limit discussions of political parties or the importance of voting and other citizenship responsibilities in other contexts in which such topics are typically discussed, such as when relevant in the course of academic courses or the activities of school related civic or other clubs.

REFERENCES:

Purdon's Statutes

25 Pa. C.S. §1101 et seq.
State Board of Education Regulations

22 Pa. Code §14.131(a) (5)
(<http://www.pacode.com/secure/data/022/chapter14/s14.131.html>)

Federal Statutes

42 USC §1973gg et seq., The National Voter Registration Act of 1993

Federal Regulations

34 CFR §300.320 (b) (Content of IEP)
34 CFR §300.43 (Transition)
34 CFR §300.321 (IEP Team)

Other

United States v. Commonwealth of Pennsylvania, No. 95-CV-382 (E.D. Pa.)

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