

The Evaluation Permission Process under Pennsylvania's New Chapter 14

By Thomas C. Warner

With the arrival of the new Pennsylvania Chapter 14, which took effect on July 1, 2008, School Districts in the Commonwealth face several new responsibilities. One of the more onerous and potentially confusing changes to the regulations involves the request and consent processes for multidisciplinary evaluations. This article is intended as a brief explanation of those changes, along with our suggestions regarding how Districts should operate in order to maximize efficiency.

Section 14.123(c) of the State Regulations states that "Parents may request an evaluation *at any time*, and that request shall be in writing...If a request is made orally to *any professional employee or administrator* of the school entity, that individual shall provide a copy of the permission to evaluate form to the parents *within 10-calendar days* of the oral request (emphasis added). 22 Pa. Code Ch. 14. There are two very important lessons to be learned from this new language. First, parents may orally request an evaluation from *any professional employee*. Thus, parents are not limited to administrators, special education teachers, or the child's current regular education teacher(s), but also may request an evaluation from anyone employed by the District in a professional capacity. Second, there are no time, place, and manner limits upon such requests. Theoretically, a parent may approach a District employee in his or her neighborhood during the District's winter break with an oral request for an evaluation. Under the new regulations, the District must not only issue a permission to evaluate form upon that request, but must do so within 10 days, *regardless of whether the District is closed for a holiday*. Although we assume, at this juncture, that such an absurd result would not be countenanced by the Courts, to date we have no rulings to limit the plain language of the regulations.

In response to these new regulations, the Pennsylvania Department of Education has issued new forms that Districts may use. Among these are two forms governing the evaluation permission process: the "Permission to Evaluate Request" form ("PTER") and the "Permission to Evaluate Consent" form ("PTEC"). Upon the parents' oral request, the District must issue a blank PTER form to the parents within 10 calendar days. At that point, the onus is on the parents to complete and return the form. Once this form has been received by the District, it must then do one of two things: it may fill out and issue a PTEC form, or it may issue a "Notice of Recommended Education Placement/Prior Written Notice" ("NOREP/PWN") denying the parents' request, along with a procedural safeguards notice. If the District issues a PTEC form, it has 60 *calendar days*¹ to complete the evaluation from the date that that form is received from the parents.

Logistically, this new process may appear to be burdensome to the District, as it seemingly directs all professional employees to constantly be in possession of blank PTER forms. However, we recommend that in each building a "point person," specifically a guidance counselor or building administrator, be appointed who will be responsible for the distribution of PTER forms. Upon any oral request for an evaluation, the District employee who received the

¹ We note that the 60 calendar days do not accumulate during the District's summer holiday.

oral request should immediately inform this point person of the request. At that time, the point person should expeditiously send the PTER form to the parents.

Clients who have questions regarding this article, or any education law matter, should feel free to contact us at 215-345-9111.