

RIGHT  
TO  
EDUCATION  
STATE  
TASK  
FORCE  
HANDBOOK

Pennsylvania Department of Education

Revised 2015

6<sup>th</sup> edition

Commonwealth of Pennsylvania

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## Continued Implementation of the Right to Education

TO: Right to Education State Task Force and Local Task Force Members

FROM: **State Task Force Members**

DATE: **October 15, 2015**

Attached is the fifth-edition of the Right to Education State Task Force Handbook. The Handbook will be reviewed at least every five years by the State Task Force.

Any suggestions for further revisions, corrections, deletions or additions should be forwarded in writing to Right to Education State Task Force, Chairperson, Bureau of Special Education, Pennsylvania Department of Education, 333 Market Street, Harrisburg, PA 17126.

## PREFACE

This new edition of the handbook is the direct result of recommendations from Right to Education Local Task Force and State Task members. These suggestions were then compiled to develop this Handbook. Not all suggestions were included in the revised editions. However, since the Handbook will be revised periodically, these or other suggestions may be incorporated in future editions.

The present contents represent the combined efforts of the State and Local Task Force members, parents, advocates and professionals. Consequently, the credits as well as the criticisms can be shared with the view toward further improvement.

No Handbook, regulation, standard or consent agreement can ensure or take the place of the individual attitudes, commitments and efforts necessary to achieve the desired end: that all school-age children who have or are thought to have an intellectual disability (mental retardation) receive a free appropriate program of public education which leads to productive, independent self-determination.

Pennsylvania Department of Education, Bureau of Special Education

### **STF Members – 2015 Revision**

Mr. John Tommasini - 2013 Edition

Dr. Fran James Warkowski – 2003 Edition

Mr. Gary Makuch – 1983 Edition

1979 Edition

1974 Edition

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## 1.0 INTRODUCTION

### 1.1 Purpose of Handbook

On May 5, 1972, the Federal District Court for Eastern Pennsylvania made final the order, injunction, stipulation and consent agreement in the suit filed by the Pennsylvania Association for Retarded Children (PARC), currently The Arc of Pennsylvania, against the Commonwealth of Pennsylvania, the Secretary of the Department of Education, the State Board of Education, the Secretary of the Department of Public Welfare and all their instrumentalities on behalf of 13 children with mental retardation, who had been denied access to a free public program of education and training. *PARC v. Comm. of Pa.*, 343 F. Supp. 279 (1972).<sup>1</sup> The agreement mandated the development of a Commonwealth Plan for the Identification, Location and Evaluation of Mentally Retarded Children (COMPILE), and Commonwealth Plan for the Education and Training of Mentally Retarded Children (COMPET) as well as the establishment of due process procedures. These plans and procedures were developed through the coordinated effort of the Pennsylvania Departments of Education and Public Welfare and PARC. The contents were reviewed and approved. COMPILE provided for the establishment of a State Task Force and 29 Local Task Forces, one in each intermediate unit, whose primary purpose is to ensure that the intent and spirit of the Right to Education Consent Agreement is carried out throughout the Commonwealth.

In compliance with COMPILE, the State Task Force and Local Task Forces were initiated and maintained using the general procedures outlined in the above-cited plans. Because of some ambiguity in the COMPILE document, members expressed concern about the need for more specific guidelines within which to operate. This Handbook was developed for that reason.

Like any other organization, a local task force will have changes in membership. Therefore, it is imperative to have some basic information available for orienting new

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<sup>1</sup> On Oct. 5, 2010, Senate Bill 2781, referred to as Rosa's Law, was signed into law by the President. Rosa's Law amends the provisions of the Mental Health and Mental Retardation Act of 1966, to substitute the term "intellectual disability" for "mental retardation" and "individuals with intellectual disabilities" for "mentally retarded" or "individuals who are mentally retarded." At this time, Rosa's Law does not require changes to be made to terminology in state regulations. However, "intellectual disabilities" is used throughout this document.

members as well as for reference by all other members. With regard to change, circumstances and use may dictate the need for revision in the Handbook itself, and this has been anticipated in its construction and format.

Information contained in this handbook is intended to lead to better informed leadership and membership that will ensure a more effective network of Local Task Forces acting to benefit all school-age children with intellectual disabilities in the Commonwealth.

## 1.2 A Historical Overview

History was made in Pennsylvania in 1972 when John C. Pittenger, Secretary of Education, and Helene Wohlgemuth, Secretary of Public Welfare, signed the Right to Education Consent Agreement which guaranteed a free public program of education and training to all school-age children having, or thought to have, an intellectual disability regardless of their level of disability. The PARC Consent Agreement was developed by all of the parties in the suit, including the Departments of Education and Public Welfare, because of the realization of the need for improved programs and services for school-age children with an intellectual disability. The primary responsibility of carrying out the mandate of the Consent Agreement was assigned to the Secretary of Education with the support of other state agencies.

The Consent Agreement complies fully with school law (which was not changed) and ensures there can be no interpretation of law designed to exclude children from an educational program on the basis of their intellectual functioning. The Consent Agreement established due process procedures making it mandatory to notify every parent or guardian of any change in the educational assignment of a child with an intellectual disability. In the event that the parents or guardians disagree with the assignment, they have access to a hearing and, if necessary, to appeal.

Right to Education was launched by Governor Milton J. Shapp in a statewide public education campaign designed to identify and locate school-age children with an intellectual disability in need of programs and services. A 24-hour toll-free telephone service for the purpose of reporting children not in school was established, publicized and maintained for the duration of the identification and location process. As a result, children were discovered who were either new to the schools or had previously been denied access to appropriate programs and services. By September of 1973, 209 classes for children with severe and profound mental retardation (intellectual disability) had been added to special education programs throughout the Commonwealth.

Prior to and during the first year of implementation of the Consent Agreement, the Department of Public Welfare was responsible for providing education and training to school-age children in facilities which it owned or operated. This arrangement resulted in a dual education system in the Commonwealth. Through administrative agreement, the Department of Education accepted the responsibility of providing education and training to school-age children of state schools and other facilities licensed by the Department of Public Welfare as of September 1973, thus establishing a single delivery system and minimizing the chances of persons being denied a free appropriate public education or training. This agreement added approximately 7,000 children to the public school rolls.

Compliance with the Consent Agreement was initially under the direction of court appointed masters and a Right to Education Office in the Department of Education. Simultaneously, a State Task Force was organized with representatives from the Department of Education and the Department of Public Welfare, the Governor's Office and The Association for Retarded Children (PARC). In addition, 29 Local Task Forces, with broad representation, were established to assist in the implementation in accordance with COMPILE.

Although the initial objective of the Right to Education Consent Agreement in providing a free public program of education and training for school-age children with intellectual disabilities, the need for goals of improving programs and services is ongoing. The Consent Agreement is a commitment on the part of the Department of Education and the Department of Public Welfare as part of a network of governmental agencies to constantly work toward these goals. A viable State Task Force, with similarly effective Local Task Forces, can make valuable contributions by identifying and clarifying problems and making recommendations for necessary change. It is with this spirit of cooperative effort that compliance with the Consent Agreement is continuously monitored by the Task Forces. If we succeed in our combined efforts, not only school-age children with intellectual disabilities, but all citizens, will reap the benefits.

Subsequently, the State Board of Education adopted special education regulations to extend due process procedures to all school-age children with disabilities on June 3, 1975. The State and Local Task Forces are empowered to focus their efforts on school-age children having or thought to have an intellectual disability.

## 2.0 DEFINITIONS

### 2.1 Advocate

Someone who pleads or argues in favor of an individual, group, cause, idea, policy or legislation.

### 2.2 Approved Private School

A private school licensed by the State Board of Private Academic Schools that has a specific special education program for certain school-age children with disabilities that is approved by the Secretary of Education and is thereby eligible to receive payments for tuition, or tuition and maintenance, from funds of the school district, of the Commonwealth or both.

### 2.3 COMPET

This plan was developed in accord with Paragraph 50 of the Consent Agreement as the "Commonwealth Plan for Education and Training of Mentally Retarded Children." Hard copies available upon request.

### 2.4 COMPILE

This plan was developed in accord with Paragraph 48 of the Consent Agreement as the "Commonwealth Plan for the Identification, Location and Evaluation of Mentally Retarded Children." Hard copies available upon request.

### 2.5 Consumer (School-Age Student)

The consumer, as referred to in the Right to Education Handbook is the school-age student with an intellectual disability. For the purposes of membership in the Local Task Force it is the parent, guardian or surrogate of school-age children with disabilities.

### 2.6 County Mental Health and Intellectual Disability Administrator

This person is directly responsible for the administration of services for persons who have an intellectual disability and/or mental illness in a county in compliance with the Mental Health/Mental Retardation Act of 1966. This person is responsible to their county commissioners/council.

### 2.7 Deputy Secretary for the Office of Developmental Programs, DPW-ODP

This person is directly responsible for carrying out and/or enforcing policies and regulations of the Department of Public Welfare in all facilities, both community-based and institutional, which are owned, operated, licensed, funded or contracted to provide services

and programs for person with intellectual disabilities in their region. A representative of DPW-ODP is required to be a member of the State Task Force.

2.8 Due Process Hearings

The Individuals with Disabilities Education Act includes rules of procedure for resolving disputes between parents and schools. These rules include mediation, resolution session(s), due process hearings and appeals to state or federal court. A due process hearing is a formal administrative hearing, similar to a contested trial that usually involves school officials, expert witnesses from both sides, the parent and the school district. In Pennsylvania, an appeal of the decision of the hearing officer is taken to a court.

2.9 Intermediate Unit

Established in 1971 by the Pennsylvania General Assembly, intermediate units operate as regional educational service agencies to Pennsylvania's 500 public school districts and over 2,400 non-public and private schools. In addition, intermediate units serve as liaison agents between the school districts and the Pennsylvania Department of Education.

Over the years, intermediate units have responded to a wide array of needs as they expanded in schools and communities throughout the state. Today, intermediate units continue to fulfill their mission of service by addressing traditional and emerging needs and by serving as essential links for learning in Pennsylvania. Each intermediate unit has its own board of school directors that is composed of board member representatives from public school districts in its service area.

2.10 Local Task Force (LTF)

This is the provider/consumer advocate body organized on an intermediate unit basis meeting the requirements listed in Section 5.0 of this handbook.

2.11 Mediation

Mediation is a voluntary, cost-free, confidential, conflict resolution process. It is available to parents, school districts and agencies engaged in developing educational programs and services for children with special needs from birth to age 21.

2.12 School District

A school district, also known as a local education agency (LEA), is a public and quasi-municipal corporation organized by legislative authority or direction and comprising a defined territory, for the erection, maintenance, governance and support of the public schools within its territory in accordance with and in subordination to the general school

laws of the state. It is invested, for these purposes only, with powers of local self-government and, generally, of local taxation, and is administered by a board of school directors. The school district board of directors is responsible for assuring the education of all its school-age children regardless of where the child is being educated and may not relinquish that primary duty.

2.13 Special Education Adviser

A special education adviser is a regionally assigned Bureau of Special Education employee. There is an adviser assigned to each of the 500 school districts and 29 intermediate units. Advisers respond to parent and school district concerns, investigate formal complaints, conduct school district monitoring, ensure corrective actions and ensure implementation of corrective actions. They also review school district and intermediate unit annual plans for compliance of state and federal regulations.

2.14 State Task Force (STF)

State Task Force is composed of representatives from the following agencies/organizations: Governor's Office of Administration, Department of Public Welfare, Department of Education and The Arc of Pennsylvania.

2.15 Systemic Issue

Circumstances where the noncompliance impacts more than 10% of the special education population.

2.16 The Arc of Pennsylvania

The Arc of Pennsylvania is a statewide non-profit advocacy organization representing children and adults with intellectual and developmental disabilities. A representative of the Arc of Pennsylvania is required to be a member of the State Task Force.

2.17 The Bureau of Special Education

The Bureau of Special Education is one of the major administrative units within the Department of Education, Office of Elementary and Secondary Education, for implementing Special Education Programs and Services and Right to Education.

The majority of the programs and services are located in local education agencies. Also included are educational programs licensed by the Department of Education and private residential facilities licensed by the Department of Public Welfare.

In addition, this bureau administrates and manages program provisions and state appropriations to approved private schools. It likewise assures that all federal resources are appropriately used for exceptional school-aged children. A representative from the Bureau of Special Education is the required chairperson on the State Task Force.

2.18 The Governor's Office of Administration

The primary function of this office is to coordinate all available Commonwealth resources to provide services to any individual who needs them. It represents the Governor in ensuring that programs are being implemented and can provide assistance for additional coordination of effort. A representative of the Governor's Office Administration is required to be a member of the State Task Force.

### 3.0 ORGANIZATION OF THE STATE AND LOCAL RIGHT TO EDUCATION TASK FORCES

COMPILE, developed in accordance with the PARC Consent Agreement, provided for the establishment of a State Task Force and 29 Local Task Forces (one in each intermediate unit), whose primary functions are to act as advocates and advisory bodies to those who have the responsibility for providing programs and services to school-age children with intellectual disabilities in keeping with the Right to Education.

The State and Local Task Forces serve as advocates for school-age children with intellectual disabilities. Although they do not have any authority to issue directives or establish policy for the operating agencies or to become involved in the administration of programs for which these agencies are responsible, they can play an important role in communicating needs and problems to the appropriate sources. Inquiries and concerns of the Local Task Forces can be resolved through collaboration with the intermediate units, public school districts, and other local agencies and organizations. Also, the consumers on the local task forces are in a particularly advantageous position because they are often the first group to know or recognize problems and needs. Their observations can be translated into action for positive change. Local Task Force meetings are intended to provide an opportunity for parents, guardians and surrogates to come and share their issues and concerns openly. Every effort should be made to achieve a reasonable solution at the local level by seeking out all community resources. Solutions provided locally are generally more satisfying and timely. Systemic issues that cannot be solved at the local level are referred to the State Task Force following the procedures in section 6 of this Handbook.

The State Task Force seeks Commonwealth resolution of issues and concerns through administrative and policy making processes. The State Task Force remains an advisory body which makes recommendations to governmental agencies and departments regarding appropriate education of school-age children with intellectual disabilities.

## 4.0 STATE TASK FORCE

### 4.1 Composition

The State Task Force is composed of one representative from each of the following agencies/organizations:

1. Department of Education
2. Department of Public Welfare
3. Governor's Office of Administration
4. The Arc of Pennsylvania

### 4.2 Meetings

The State Task Force meetings are held bi-monthly during the academic year beginning in September. Local Task Force members are invited to attend. The yearly schedule of meetings is announced no later than July 15 of each year. All meetings of the State Task Force are open to the public but are not considered open-discussion meetings. Time may be afforded to the general public for discussion and is limited to 3 minutes per person.

### 4.3 Duties and Responsibilities

The following are the duties and responsibilities of the State Task Force:

1. Promulgate the functions, duties and working procedures of the Local Task Forces through the Handbook, therefore, eliminating the need for Local Task Force by-laws.
2. Respond to a system of 29 Local Task Forces (one in each intermediate unit) which serve as advocates in assisting local education agencies in carrying out the letter and spirit of the Right to Education Agreement.
3. Make recommendations regarding systemic issues and concerns to Commonwealth agencies and departments under the Governor's jurisdiction.
4. Analyze systemic data provided by Local Task Forces to determine the effectiveness of the Right to Education agreement.
5. Develop trainings for Local Task Force members as needed.
6. Review the composition of each Local Task Force with compliance to Section 5.0 of the Handbook.

7. Disseminate resolutions to systemic issues.
8. The State Task Force has direct oversight of all Local Task Forces.

#### 4.4 Procedures

4.4.1 All meetings of the State Task Force are open to the public but are not considered open-discussion meetings. Time may be afforded to the general public for discussion and is limited to 3 minutes per person.

4.4.2 The Local Task Force may have an item placed on the State Task Force meeting agenda by submitting a brief written explanation on the State Task Force form found on the State Task Force website:

<http://www.pattan.net/category/About/Partners/Single/?id=12>

and submitted to the State Task Force chairperson 14 working days prior to each meeting.

4.4.3 Any person may present a written comment or suggestion to the State Task Force at any time.

### 5.0 LOCAL TASK FORCE (LTF)

#### 5.1 Composition

Each Local Task Force (LTF) is composed of the intermediate unit executive director or designee, a representative school district superintendent or designee, a county mental health and intellectual disability administrator(s) or designee(s), a local chapter of the Arc representative, consumer representative(s) and any other private citizen or agency representative necessary to accomplish the purposes of the group.

1. The Local Task Force may, by a simple majority vote of the members present at a regular meeting, add members as it deems necessary.
2. **Persons are eligible for membership upon attending 2 LTF meetings of that current school year. (STF Revision September 2015)**
3. The chair or vice-chair must be a consumer as defined in Section 2.0.
4. The chair and vice-chair are limited to 4 consecutive years in each position. If the circumstance arises, in which no candidate other than the current chair or vice-chair seeks to be elected after the 4 years, then the State Task Force will review this rule and consider any exceptions.

5. The intermediate unit provides the economic and human resources necessary to assist the chairperson in carrying out the responsibilities and assisting the Local Task Force in meeting its obligations.

## 5.2 Meetings

Each Local Task Force meets no less than five times per year. Prior to July 15 of each year a schedule of meetings is published. A copy of the schedule shall be sent to the State Task Force chairperson no later than July 31. Notice of the meeting shall be published (ex. email or flyer).

## 5.3 Elections

- 5.3.1 Elections are to be held at a Local Task Force meeting, on or before June 30<sup>th</sup>. The results must be sent by August 1, to the State Task Force chairperson.
- 5.3.2 The Election meeting is to be announced and advertised to members.
- 5.3.3 Nominations are to be submitted by the call of the Chair and Vice-Chair, from the floor, at the meeting.
- 5.3.4 A second to each nomination is required.
- 5.3.5 The candidate should be present and accept the nomination.
- 5.3.6 The voting can occur by voice vote or paper ballot by membership as defined in Section 5.1.1(2).
- 5.3.7 A simple majority of those present will be declared the winner of the Chair and Vice-Chair office.

## 5.4 Duties and Responsibilities

The following are duties and responsibilities of the Local Task Force:

- 5.4.1 Assist in the training of parents, teachers and others on matters pertaining to The State Task Force on the Right to Education.

- 5.4.2 Make recommendations that assist in improving and strengthening services for school-age children with intellectual disabilities.
- 5.4.3 Carry out the letter and spirit of the Right to Education Consent Agreement (PARC vs. Commonwealth) as an advocate group for school-age children with intellectual disabilities.
- 5.4.4 Follow the policies, procedures and guidelines outlined by the State Task Force and review recommendations and communications from the State Task Force as a regular agenda item.
- 5.4.5 Refer systemic issues identified locally to the appropriate intermediate unit, LEA, local agency, Bureau of Special Education Adviser, or to the State Task Force chairperson for clarification, recommendation or resolution.
- 5.4.6 Train new local task force members and serve as a means for educating the community at large about the needs of school-age children with intellectual disabilities.
- 5.4.7 May review and comment on intermediate unit and school district special education plans and budgets.
- 5.4.8 Assist the State Task Force in the collection of data to determine the effectiveness of the Right to Education for school-age children with intellectual disabilities.
- 5.4.9 The Local Task Force Chair and/or Vice-Chair and/or designee (up to 3 persons) may participate in monitoring the school districts and charter schools in their region by serving as a peer monitor in the cyclical monitoring conducted yearly by the Bureau of Special Education. Interested Local Task Force representatives must first complete the peer training provided by the Bureau of Special Education and sign a contract with the Department of Education.
- 5.4.10 The Local Task Force may conduct a parent satisfaction survey during any school year that the district is not being monitored by the Bureau of Special Education. The survey will be standardized and updated by the State Task Force as necessary.

## 5.5 Procedures

- 5.5.1 All meetings of the Local Task Force are open to the public but are not considered open-discussion meetings. Time may be afforded to the general public for discussion and is limited to 3 minutes per person.
- 5.5.2 Anyone wishing to have an item placed on the agenda for a Local Task Force meeting should send a brief written explanation of the issue to the chairperson of the Local Task Force at least 5 working days prior to the meeting.
- 5.5.3 A single copy of the approved minutes of each Local Task Force is sent electronically to the chairperson of the State Task Force for review. The subject line should include the LTF#. (Ex: LTF #13 November minutes)
- 5.5.4 All Local Task Force minutes should include a section for updates from the State Task Force.

## 6.0 INDIVIDUAL ADVOCACY AND PROBLEM SOLVING

### 6.1 Procedures and Problem Solving

There are times when parents of school-age children with disabilities may have individual issues and need to contact their Local Task Forces for assistance. The following steps should be used by the Local Task Force in the order they are listed to resolve the problem.

- 6.1.1 Refer the individual to the representative of the school district and/or intermediate unit first.
- 6.1.2 If the issue is not resolved or clarified, refer the matter to the Special Education Adviser in the Bureau of Special Education assigned to the LEA.
- 6.1.3 If the issue is still not resolved or clarified, contact the chairperson of the State Task Force who will determine whether it should be referred to the Deputy Secretary for the Office of Elementary and Secondary Education for administrative action or the State Task Force for review and recommendation.

Please note:

Situations involving programs not operated by the Department of Education can be handled in a similar manner by substituting persons responsible for the programs, such as the MH/ID representative, the county MH/ID administrator or regional administrator for intellectual disabilities and finally the chairperson for the State Task Force.