

# AHCCS Gifted Ed. Procedural Safeguards Procedure (2024-2025)

## **I. Notification Procedures**

### **1. Provide Written Notice**

- AHCCS must send written notice to parents of a gifted student at least **10 school days prior** to specific actions, including:
  - Proposing a multidisciplinary evaluation or reevaluation.
  - Proposing or refusing changes to the student's identification, evaluation, educational placement, or Gifted Individualized Education Plan (GIEP).

### **2. Maintain Current Educational Program During Disputes**

- During any administrative or judicial proceedings, AHCCS will not make any to the student's identification, evaluation, educational placement, or GIEP unless agreed upon by all parties.

### **3. Ensure Clear Communication**

- AHCCS will write notes in a language easily understood by the general public.
- If needed, AHCCS will communicate the notices orally and/or translate into the parents' native language to ensure comprehension.

### **4. Include Specific Information in the Notice**

- AHCCS' notice will detail the following:
  - The proposed or refused action and its rationale.
  - Options considered and reasons for rejection.
  - Each evaluation method, test, record, or report used.
  - Other factors relevant to AHCCS' proposed action steps.
  - A comprehensive explanation of procedural safeguards and the right to impartial hearing.

### **5. Additional Information**

- AHCCS' notices will also inform parents and/or guardians of:
  - Organizations available to assist with hearings.
  - Timelines for evaluation, GIEP development, and hearings.

- Consideration of any outside evaluations provided by parents.
- Details about due process hearings per §16.63.

## II. Parental Consent Requirements

### 1. Documented Parental Consent

- AHCCS must document written parental consent before:
  - Conducting an initial multidisciplinary evaluation.
  - Initially placing a student in a gifted program.
  - Sharing identifiable information with unauthorized people.

### 2. Post-GIEP Completion Procedures

- After GIEP completion:
  - AHCCS will provide the GIEP and a notice of recommended assignment to parent(s) and/or guardian(s) in person (at the end of the GIEP conference) or by certified mail within **5 calendar days**.
  - Parent(s) and/or guardian(s) will then have **10 calendar days** to respond by mail or **5 calendar days** if notified in person. If they approve within **5 days**, AHCCS will wait an additional **5 days** before implementing the GIEP to allow for potential revocation of approval.

## III. Impartial Due Process Hearing Procedures

### 1. Requesting a Hearing

- Parent(s) and/or guardian(s) can request a hearing if they disagree with AHCCS's identification, evaluation, placement, or educational provision for a gifted student.
- AHCCS may also request a hearing if the parent(s) and/or guardian(s) are non-responsive or refuses proposed actions (except initial placement).

### 2. Hearing Arrangements

- The hearing will take place at AHCCS or, if requested by the parent(s) and/or guardian(s), in the evening.
- The hearing must be open to the public unless parent(s) and/or guardian(s) request a closed session **5 days prior**.

### 3. Procedures During the Hearing

- The hearing will be oral and personal; only the decision is public if the hearing is open.
- The hearing officer must document findings of fact, discussion, and conclusions of law.
- A transcript will be provided to the parent(s) and/or guardian(s) at no cost.
- Parent(s) and/or guardian(s) can be represented by counsel and access all educational records.

#### 4. Evidence and Decision Guidelines

- Evidence introduced must be disclosed **5 calendar days** before the hearing.
- Parties can present evidence, including expert testimony.
- Decisions are appealable to the appropriate court, and AHCCS will implement final decisions within **30 school days**.

#### 5. Hearing Officer Responsibilities

- Hearing officers cannot have affiliations with AHCCS or agencies related to the student and/or parent(s) and/or guardian(s).
- They must disclose any conflicts of interest to both parties.

### IV. Mediation Procedures

#### 1. Mediation Process

- Mediation will be available to resolve disputes with an impartial mediator assisting in developing an agreement.
- A mediation agreement will be recorded and added to the GIEP.

#### 2. Confidentiality and Conduct

- Mediation discussions will be confidential and unrecorded, with no part of the session recorded.
- The mediator will not serve as a witness in future proceedings.

#### 3. Post-Mediation Requirements

- A GIEP meeting will be scheduled within **10 school days** to incorporate the mediation agreement.
- Parties will receive copies of the agreement, which is enforceable by the Department.

## V. Confidentiality Procedures

### 1. Privacy Compliance

- All personally identifiable information will be safeguarded in compliance with FERPA and other applicable laws.
- Access to identifiable information about a gifted student will be restricted to authorized individuals only.

## Works Cited

1. National Association for Gifted Children (n.d.). "Identifying Gifted Children from Diverse Populations." National Association for Gifted Children, <https://www.nagc.org>.
2. Pennsylvania Code. (n.d.). *Chapter 16. Special education for gifted students*. Pennsylvania Code & Bulletin. <https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/022/chapter16/s16.1.html&d=>