

**CHAPTER 341. [Reserved]****Source**

The provisions of this Chapter 341 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3339. Immediately preceding text appears at serial pages (133125) to (133126), (35155) to (35156), (56597) to (56598), (124037) to (124038), (114231) to (114234), (117071) to (117072), (114237) to (114238), (108517) to (108518), (140993) to (140995), (35171) to (35172), (86999) to (87000), (78833), (38617) to (38627) and (88243) to (88244).

**Notes of Decisions***Authority*

It was proper for the Secretary of Education to require a school district to provide an individualized education program to a mentally gifted child, beyond that of the usual “enrichment” program offered by the district. *Centennial School District v. Department of Education*, 539 A.2d 785 (Pa. 1988).

The State Board of Education did not exceed its statutory authority by promulgating regulations which require school districts to provide individualized education programs to mentally gifted children. *Centennial School District v. Department of Education*, 539 A.2d 785 (Pa. 1988).

**§ 341.1. [Reserved].****Source**

The provisions of this § 341.1 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; amended November 21, 1980, effective November 22, 1980, 10 Pa.B. 4423; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (35157) to (35158).

**Notes of Decisions***Brain-Damaged*

The bare assertion by a special school director that his institution would be able to implement an Individualized Education Plan formulated in accordance with 22 Pa. Code § 341.15, thereby providing an appropriate program of education as defined in 22 Pa. Code § 13.1 is insufficient to support a recommended assignment regarding the ability of an institution to implement an IEP and cannot constitute substantial evidence for placing a student who is brain-damaged as defined by 22 Pa. Code § 341.1(i) and speech and language impaired as defined by 22 Pa. Code § 341.1(ix) in that particular school. *Murphy v. Department of Education*, 460 A.2d 398 (Pa. Cmwlth. 1983); affirmed 504 A.2d 382 (Pa. Cmwlth. 1986).

*Negligent Diagnosis*

Only cause of action available to student, who sought damages for allegedly negligent diagnosis of her as educable mentally retarded when she was in fact learning disabled, is a statutory cause of action under Public School Code of 1949 (24 P. S. §§ 1-101—16-1613). *Agostine v. School District of Philadelphia*, 527 A.2d 193 (Pa. Cmwlth. 1987); appeal denied 536 A.2d 1334 (Pa. 1987).

**§ 341.11. [Reserved].****Source**

The provisions of this § 341.11 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial page (124038).

**§ 341.12. [Reserved].****Source**

The provisions of this § 341.12 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (124038) and (114231).

**§ 341.13. [Reserved].****Source**

The provisions of this § 341.13 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (114231) to (114233).

**§ 341.15. [Reserved].****Source**

The provisions of this § 341.15 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (114233) to (114234).

**Notes of Decisions***Individualized Education Plan*

The bare assertion by a special school director that his institution would be able to implement an Individualized Education Plan formulated in accordance with 22 Pa. Code § 341.15, thereby providing an appropriate program of education as defined in 22 Pa. Code § 13.1 is insufficient to support a recommended assignment regarding the ability of an institution to implement an IEP and cannot constitute substantial evidence for placing a student who is brain-damaged as defined by 22 Pa. Code 341.1(i) and speech and language impaired as defined by 22 Pa. Code § 341.1(ix) in that particular school. *Murphy v. Department of Education*, 460 A.2d 398 (Pa. Cmwlth. 1983); affirmed 504 A.2d 382 (Pa. Cmwlth. 1986).

Individualized Educational Program for mathematically gifted students which did not provide for a math course was appropriate where student had already been provided several advanced math courses and it was the educational staff's opinion that the student had gone "too far too fast" in math, to the detriment of his education in other subject areas, and where the IEP was otherwise appropriate. *Scott S. v. Department of Education*, 512 A.2d 790 (Pa. Cmwlth. 1986).

**§ 341.16. [Reserved].****Source**

The provisions of this § 341.16 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (114234) and (117071).

**§ 341.17. [Reserved].****Source**

The provisions of this § 341.17 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (117071) to (117072).

**§ 341.18. [Reserved].****Source**

The provisions of this § 341.18 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial page (117072).

**§ 341.21. [Reserved].****Source**

The provisions of this § 341.21 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial page (114237).

**Notes of Decisions***Discipline*

Since private as well as public schools exist to instruct their pupils and an expressed goal of this section is that special students be returned to regular classrooms, the maintenance of discipline and order in classrooms is vital to certification as an Approved Private School. *Wiley House v. Scanlon*, 502 Pa. 228, 465 A.2d 995, 999 (1983).

*Classroom Instruction*

Parental preference for classroom instruction over independent ability was not sufficient to establish that instruction provided under Individualized Educational Program must be in classroom setting. *Scott S. v. Department of Education*, 512 A.2d 790 (Pa. Cmwlth. 1986).

**§ 341.22. [Reserved].****Source**

The provisions of this § 341.22 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (114237) to (114238) and (108517).

**Notes of Decisions***Appropriate Education*

Existence of an approved district program for gifted children does not necessarily mean that the program, without some individual modifications, satisfies the district's duty to provide an appropriate education to each exceptional student. *Centennial School District v. Department of Education*, 503 A.2d 1090 (Pa. Cmwlth. 1986); appeal granted 527 A.2d 545 (Pa. 1987); affirmed 539 A.2d 785 (Pa. 1988).

**§ 341.31. [Reserved].****Source**

The provisions of this § 341.31 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial page (108517).

**§ 341.32. [Reserved].****Source**

The provisions of this § 341.32 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial page (108517).

**§ 341.33. [Reserved].****Source**

The provisions of this § 341.33 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial page (108518).

**§ 341.35. [Reserved].****Source**

The provisions of this § 341.35 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (108518) and (140993) to (140994).

**Notes of Decisions***Peremptory Judgment*

Peremptory judgment could be granted for the limited purpose of compelling the Department of Education to discuss plan amendments with an intermediate unit prior to disapproval of those amendments but a peremptory judgment can not be based on the fact that the intermediate unit had not been afforded the right to a hearing after disapproval of plan amendments. *Lincoln Intermediate Unit No. 12 v. Department of Education*, 553 A.2d 1020 (Pa. Cmwlth. 1989).

*Public Records*

Special education plans, amendments and related documents with respect to which a Department determination had yet to be made were not "public records" open to public examination under proposals and 65 P. S. § 66.2 and would not become "public records" until such time as the Depart-

ment's decision had been made. *Pennsylvania Association for Children and Adults with Learning Disabilities v. Department of Education*, 498 A.2d 16 (Pa. Cmwlth. 1985).

**§ 341.51. [Reserved].**

**Source**

The provisions of this § 341.51 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (140994) to (140995) and (35171).

**§ 341.53. [Reserved].**

**Source**

The provisions of this § 341.53 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (35171) to (35172).

**§ 341.55. [Reserved].**

**Source**

The provisions of this § 341.55 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (35172) and (86999).

**§ 341.57. [Reserved].**

**Source**

The provisions of this § 341.57 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial page (86999).

**Notes of Decisions**

*Supportive Personnel*

Specific program needs of emotionally and socially disturbed children may include the requirement of supportive personnel to assist teachers on a full-time basis. *Wiley House v. Scanlon*, 432 A.2d 324 (Pa. Cmwlth. 1981).

While the language of subsection (b) does not mandate instructional aides in all programs, a determination, based on testimony of an Evaluator, that private school teachers working with severely disturbed children require some sort of back-up and assistance on a routine basis was supported by substantial evidence. *Wiley House v. Scanlon*, 465 A.2d 995 (Pa. 1983).

**§ 341.58. [Reserved].**

**Source**

The provisions of this § 341.58 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (86999) to (87000).

**§ 341.59. [Reserved].****Source**

The provisions of this § 341.59 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial page (87000).

**§ 341.61. [Reserved].****Source**

The provisions of this § 341.61 adopted December 15, 1978, effective December 16, 1978, 8 Pa.B. 3571; reserved June 5, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (87000), (78833) and (38617) to (38618).

**§ 341.62. [Reserved].****Source**

The provisions of this § 341.62 adopted December 15, 1978, effective December 16, 1978, 8 Pa.B. 3571; reserved June 5, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (38618) to (38620).

**§ 341.63. [Reserved].****Source**

The provisions of this § 341.63 adopted December 15, 1978, effective December 16, 1978, 8 Pa.B. 3571; reserved June 5, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial page (38620).

**§ 341.64. [Reserved].****Source**

The provisions of this § 341.64 adopted December 15, 1978, effective December 16, 1978, 8 Pa.B. 3571; reserved June 5, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (38620) to (38621).

**§ 341.65. [Reserved].****Source**

The provisions of this § 341.65 adopted December 15, 1978, effective December 16, 1978, 8 Pa.B. 3571; reserved June 5, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (38621) to (38622).

**§ 341.67. [Reserved].****Source**

The provisions of this § 341.67 adopted December 15, 1978, effective December 16, 1978, 8 Pa.B. 3571; reserved June 5, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (38622) to (38623).

**§ 341.68. [Reserved].**

**Source**

The provisions of this § 341.68 adopted December 15, 1978, effective December 16, 1978, 8 Pa.B. 3571; reserved June 5, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (38624) to (38625).

**§ 341.69. [Reserved].**

**Source**

The provisions of this § 341.69 adopted December 15, 1978, effective December 16, 1978, 8 Pa.B. 3571; reserved June 5, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (38625) to (38626).

**§ 341.71. [Reserved].**

**Source**

The provisions of this § 341.71 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2792; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (38627) and (88243).

**Notes of Decisions**

The Department of Education has an obligation to review budgets previously approved for special education plans to determine whether they are reasonably consistent with those plans; a determination that the budgets exceeded the allocations assigned by the Department is insufficient to establish the unreasonableness of such budgets. *Philadelphia County Intermediate Unit No. 26 v. Department of Education*, 60 Pa. Cmwlth. 546, 551, 432 A.2d 1121, 1126 (1981).

**§ 341.91. [Reserved].**

**Source**

The provisions of this § 341.91 adopted April 14, 1978, effective April 15, 1978, 8 Pa.B. 1102; reserved June 15, 1990, effective July 1, 1990, 20 Pa.B. 3357. Immediately preceding text appears at serial pages (88243) to (88244).

[Next page is 342-1.]

341-8

(256446) No. 298 Sep. 99

*Copyright © 1999 Commonwealth of Pennsylvania*