

# **Procedural Safeguards**

## **Summary of Parental Rights**

## Vision

To create a world-class educational system that gives students the knowledge and skills to be successful in college and the workforce, and to flourish as parents and citizens

## Mission

To provide leadership through the development of policy and accountability systems so that all students are prepared to compete in the global community

- ✓ All Students Proficient and Showing Growth in All Assessed Areas
- ✓ Every Student Graduates High School and is Ready for College and Career
- ✓ Every Child Has Access to a High-Quality Early Childhood Program
- ✓ Every School Has Effective Teachers and Leaders
- ✓ Every Community Effectively Using a World-Class Data System to Improve Student Outcomes

# What are Procedural Safeguards?

The Individuals with Disabilities Education Act (IDEA), the Federal law concerning the education of students with disabilities, mandates that LEAs must establish and maintain procedures to assure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a Free Appropriate Public Education.

# Major Issues Covered by Procedural Safeguards

- Prior Written Notice to Parents
- Independent Educational Evaluation
- Parent Participation, Consent & Agreement
- Confidentiality of Student Records
- Access to and Amendment of Education Records
- State Complaint Procedure
- Mediation
- Due Process Hearing
- Resolution Process
- Student's Status During Proceedings
- Civil Action

# When Should Procedural Safeguards be Given?

A procedural safeguard notice must be provided at least once a year and at:

- The initial referral
- A parental request for formal evaluation and **reevaluation**
- The initial filing for a due process hearing
- The date a decision is made to take a disciplinary action that requires a change of placement
- Initial IEP Committee Meeting
- At the request of the parent

## Prior Written Notice to Parents

# Prior Written Notice to Parents

Written notice must be given to the parents of a child with a disability, in a language understandable to the general public, in a reasonable time before the school:

- Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education (FAPE) to the child; **or**
- Refuses to initiate or to change the identification, evaluation or educational placement of the child, or the provision of FAPE to the child.

34 C.F.R. §300.503 (a)



## Written notice must include:

- A description of the action proposed or refused by the school;
- An explanation of why the school proposes or refuses to take the action;
- A description of each evaluation procedure, assessment, record, or report the school used as a basis for their decision;
- A statement that the parents of a child with a disability have protection under the procedural safeguards and how the parents can obtain a copy of them.

34 C.F.R. §300.503 (b)

## Written notice must include:

- Sources for parents to contact to obtain assistance in understanding these provisions;
- A description of other factors relevant to the school's proposal or refusal;
- A description of other options that the IEP Team considered and the reasons why those options were rejected.

34 C.F.R. §300.503 (b)

# Parent Participation, Consent & Agreement

## Parent's rights include:

- Access to educational records
- Participation in meetings related to identification, evaluation, and educational placement of their child
- Parental consent

# Access to Educational Records

Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any impartial due process hearing (including a resolution meeting or a hearing regarding discipline), and in no case more than **forty-five (45)** calendar days after the request has been made.

34 C.F.R. §300.613

## The right to inspect and review includes:

- The right to a response from the school to the parents' reasonable request for explanations and interpretations of the records;
- The right to request copies of records;
- The right to have a representative inspect and review the records.

# Record of Access

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of IDEA (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

34 C.F.R. §300.614

Parents have the right to participate in any meeting regarding:

- Evaluation;
- Identification;
- Educational placement;
- Provision of FAPE (Free Appropriate Public Education) to their child, including IEP meetings.



## Parents are members of:

- The group that determines whether their child is a child with a disability;
- The IEP committee for their child;
- Any group that makes educational placement decisions for their child.

# LEA Responsibilities

## LEAs must:

- Provide parents with an appropriate notice of a meeting;
- Use other methods to ensure parent participation in IEP committee and placement meetings.

## LEAs may:

- Hold the IEP meeting and the meeting where the child's placement is determined without the parents in attendance if unable to convince the parents to attend and if efforts to secure their participation are documented.

# Parental Consent

Consent means that:

- The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
- The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom.

# Parental Consent

- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime.
- If a parent revokes consent, that revocation is not retroactive.

## INDEPENDENT EDUCATION EVALUATION

# What is an Independent Educational Evaluation (IEE)?

An IEE is an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for educating the child.

# Parents' Rights to IEE

- Parents have a right to obtain an IEE of their child subject to certain procedures.
- If a parent disagrees with an evaluation conducted by the school, he or she has the right to request an IEE of the child at public expense.
- When parents request an IEE, the LEA must provide the parents with information about where an evaluation may be obtained and the criteria that applies to the IEE.

# IEE at Public Expense

If a parent requests an IEE at public expense, the LEA must either:

1. File a due process complaint requesting a hearing to show that its evaluation is appropriate;
2. Ensure that an IEE is provided at no cost to the parent.



## Dispute Resolution Options in IDEA and Mississippi State Board Policy 7219

# What is Dispute Resolution?

It is a process that gives parents and schools expanded opportunities to resolve their disagreements in a positive and constructive way.

- Mediation
- State Complaint
- Due Process Complaint
- Resolution Process
- Expedited due process hearings in disciplinary situations

# Mediation

Parents are encouraged to consider settling disagreements regarding your child's special education program through voluntary mediation, a process through which parents and the District try to find a solution to which both can agree with the help of an impartial mediator.

# State Complaint

A formal State complaint is used to communicate that a public agency has not followed the requirements of the Individuals with Disabilities Education Act (IDEA), and to request an investigation of the problem. Complaints may concern one child or student, or a group of students. Any person or organization, including one from another state, may file a written State complaint.

## A State complaint must include-

- Statement of violation of requirement of Part B;
- Facts on which statement is based;
- Signature and contact information for the complainant;
- Name and address of residence of child and name of school child is attending;
- Description of nature of problem;
- Proposed resolution of the problem.

# Due Process

A due process complaint is a written document used to request a due process hearing related to the identification, evaluation, or educational placement of a child with a disability, or the provision of a Free Appropriate Public Education (FAPE) to the child. The complaint may be filed by a parent or public agency. This starts a process that may lead to a formal hearing where a hearing officer decides the outcome.

# Required Information on Due Process Request

- Name of the child
- Address of the residence of the child
- Name of the school the child is attending
- Description of nature of the problem relating to the proposed or refused initiation or change, including facts relating to the problem
- Proposed resolution of the problem



# Resolution

- You have the right to be part of a resolution session that gives parents and school systems a chance to settle any issues in the due process complaint.
- Parents and school systems may avoid a due process hearing and give immediate benefit to the child.
- If parents and the school reach an agreement, they both must sign a legally binding agreement. If it is not settled, the parents and school may go to a due process hearing.

Once a due process complaint is sent to the other party, during the resolution process time period, and while waiting for the decision of an impartial due process hearing or court proceeding, unless the parent and the MDE or school district agree otherwise, the child must remain in his or her current educational placement.

# Civil Action

Any party (parent or the school district) who does not agree with the findings and decision in the due process hearing (including a hearing relating to disciplinary procedures) has the right to bring a civil action with respect to the matter that was the subject of the due process hearing. The action may be brought in a State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States without regard to the amount in dispute.



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