

PROCEDURAL SAFEGUARDS SUMMARY

The Individuals with Disabilities Education Act (IDEA) includes a set of procedural safeguards designed to protect the rights of children with disabilities and their families, and to ensure that children with disabilities receive a free and appropriate education. IDEA guarantees the following rights to parents:

- Right to be informed in writing of the Procedural Safeguards
- Right to review all educational records
- To be equal partners on the IEP team, along with the school staff
- To participate in all aspects of planning their child's education
- To file complaints with the state education agency
- Request mediation, or a due process hearing

Prior Written Notice

- ❑ At each ARC meeting, you should be provided a copy of a written notice (this is the Conference Summary) before the district proposes, refuses, or changes the identification, evaluation, or placement of your child.

Parental Consent

- ❑ Your written consent will be obtained before the district initially evaluates your child or initially provides services to your child.
- ❑ Your written consent is voluntary; you may refuse or withdraw your consent at any time.

Independent Educational Evaluation

- ❑ If you disagree with the district's evaluation, you may ask for an independent educational evaluation at public expense.

CONFIDENTIALITY OF INFORMATION

Access Rights:

- ❑ You may see all of your child's educational records no later than 45 days after you ask to see them.
- ❑ You have the right to:
 - ❑ have the records explained to you
 - ❑ ask for copies, for which the district may charge a fee
 - ❑ have someone else review the records

Amendment of Records

- ❑ If you believe that any information in your child's records is wrong, misleading, or violates your child's privacy, you may ask for a record amendment.

Consent

- ❑ Your written consent must be obtained before disclosing personally identifiable information about your child to parties other than officials of the participating agencies, private school officials of the school in which your child attends if it is not located in the school district in which you live or before releasing any information to officials of agencies who will be providing or paying for secondary transition services.
- ❑ You must be notified when your child reaches the age of 18 that the rights under IDEA transfer to your child unless you have notified the district that you are your child's legal guardian.

STATE COMPLAINT PROCEDURES

Complaints

- ❑ Any individual or organization may file a formal written complaint alleging a violation of any Part B (IDEA) requirement by a school district, KDE, or any other agency.
- ❑ The complaint must allege a violation that occurred one (1) year before KDE receives the complaint.

Due Process Hearing

- ❑ You or the district may initiate a due process hearing about anything proposed or refused regarding the identification, evaluation, educational placement, or provision of a free appropriate public education to your child.

- ❑ The violation must have occurred not more than three (3) years before you knew or should have known about the alleged action.

Mediation

- ❑ You and the district may request mediation services to settle differences about the identification, evaluation, educational placement, or provision of a free appropriate public education to your child.
- ❑ Mediation is voluntary and cannot be used to deny or delay your right to a due process hearing or other IDEA rights.

Child's Placement While the Due Process Request and Hearing are Pending (Stay Put)

- ❑ If your child is involved in any administrative (hearing or appeal) or judicial (court) proceeding, your child remains in his/her placement unless you and the district agree otherwise.

Resolution Process

- ❑ The district invites you to a meeting within 15 days of receiving notice of the due process request, and before the hearing begins, to try to resolve the issues.
- ❑ You may agree to use the Mediation process instead of the resolution process.
- ❑ You and the district may agree in writing to waive the resolution meeting.
- ❑ If the due process issues have not been resolved within 30 days of the hearing request, the due process hearing may occur.
- ❑ If you and the district agree on a resolution, then you and the district enter into a legally binding agreement.
- ❑ You and the district may void the resolution agreement within three (3) business days of the time you signed the agreement.

Appeals

- ❑ A decision made in a due process hearing is final, unless you or the school district appeals the decision to the Exceptional Children Appeals Board (ECAB).
- ❑ The decision made by the ECAB is final unless you or the school district brings a civil action.

Attorney Fees

- ❑ If you win in a due process hearing, appeal, or at Court, the District Courts of the United States may award reasonable attorneys' fees.

PROCEDURES WHEN DISCIPLINING CHILDREN WITH DISABILITIES

- ❑ Your child may be removed from their current educational placement to an appropriate interim alternative educational setting as determined by the Admissions and Release Committee, another setting, or suspension for not more than 10 consecutive school days during a school year.
- ❑ If your child is removed from their current educational placement for more than 10 consecutive school days, the district must provide special education services according to the IEP and provide a functional behavioral assessment and behavior intervention plan.
- ❑ If your child violates the Student Code of Conduct and the behavior is not related to (a manifestation of) his/her disability, the district may apply the same disciplinary procedures as are applied to students without disabilities.
- ❑ Your child may be placed in an interim alternative educational setting for up to forty-five (45) school days if your child:
 - ❑ Carries a weapon or has a weapon at school or a school function;
 - ❑ Knowingly has or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function; or
 - ❑ Inflicts serious bodily injury on another person while at school, on school premises, or at a school function.
- ❑ If your child is removed from their current educational placement, the ARC will meet to review your child's IEP and placement.

REQUIREMENTS FOR UNILATERAL PLACEMENT BY PARENTS OF CHILDREN IN PRIVATE SCHOOLS AS PUBLIC EXPENSE

- ❑ The district is not required to pay for the cost of a private school education if a free appropriate public education was made available to your child and you decide to place your child in a private school.
- ❑ If you and the district disagree about the availability of a free appropriate public education, you may request mediation or a due process hearing.