

To help you better understand the attached rights and required special

Help is just a phone call or a mouse click away...

Parent Training and Information Center

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Procedural Safeguards Notice
Parents' Rights under the
Individuals with Disabilities Education Act
IDEA 2004

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GENERAL INFORMATION

PRIOR WRITTEN NOTICE

34 CFR §300.503

Notice

Your school district must give you written notice (provide you certain information in writing), whenever it:

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

Content of Notice

The written notice must:

1. Describe the action that your school district proposes or refuses to take;
2. Explain why your school district is proposing or refusing to take the action;
3. Describe each evaluation procedure, assessment, record, or report your school district used in deciding to propose or refuse the action;
4. Include a statement that you have protections under the procedural safeguards provisions in Part B of the IDEA;
5. Tell you how you can obtain a description of the procedural safeguards if the action that your school district is proposing or refusing is not an initial referral for evaluation;
6. Include resources for you to contact for help in understanding Part B of the IDEA;
7. Describe any other choices that your child's individualized education program (IEP) Team considered and the reasons why those choices were rejected; **and**
8. Provide a description of other reasons why your school district proposed or refused the action.

Notice in Understandable Language

The notice must be:

1. Written in language understandable to the general public; **and**
- 2.

IDEA PART B - PROCEDURAL SAFEGUARDS NOTICE FOR THE STATE OF

Parental Consent for Reevaluations

Your school district must obtain your informed consent before it reevaluates your child, unless your school district can demonstrate that:

1. It took reasonable steps to obtain your consent for your child's reevaluation; **and**
2. You did not respond.

If you refuse to consent to your child's reevaluation, the school district may, but is not required to, pursue your child's reevaluation by using the mediation or impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your school district does not violate its obligations under Part B of the IDEA if it declines to pursue the reevaluation in this manner.

Documentation of Reasonable Efforts to Obtain Parental Consent

Your school must maintain documentation of reasonable efforts to obtain parental consent for initial evaluations, to provide special education and related services for the first time, to reevaluate and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the school district's attempts in these areas, such as:

1. Detailed records of telep

Requests for Evaluations by Hearing Officers

If a hearing officer requests an independent educational evaluation of your child as part of a due process hearing, the cost of the evaluation must be at public expense.

School District Criteria

If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school district uses when it initiates an evaluation (to the extent those criteria are consistent with your right to an independent educational evaluation).

Except for the criteria described above, a school district may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

CONFIDENTIALITY OF INFORMATION

DEFINITIONS

34 CFR §300.611

As used under the heading **Confidentiality of Information**:

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Education records means the type of records covered under the definition of “education records” in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).

Participating agency means any school district, agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the IDEA.

PERSONALLY IDENTIFIABLE

34 CFR §300.32

Personally identifiable means information that has:

- a. Your child's name, your name as the parent, or the name of another family member;

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4. A description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations in 34 CFR Part 99.

34 CFR §300.618

If you believe that information in the education records regarding your child collected, maintained, or used under Part B of the IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the school district that maintains the information to change the information.

The school district must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.

If the school district refuses to change the information in accordance with your request, it must inform you of the refusal and advise you of the right to a hearing for this purpose as described under the heading ***Opportunity For a Hearing***.

OPPORTUNITY FOR A HEARING

34 CFR §300.619

The school district must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.

HEARING PROCEDURES

34 CFR §300.621

A hearing to challenge information in education records must be conducted according to the procedures for such hearings under the Family Educational Rights and Privacy Act (FERPA).

RESULT OF HEARING

34 CFR §300.620

If, as a result of the hearing, the school district decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must change the information accordingly and inform you in writing. If, as a result of the hearing, the school district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must inform you of your right to place in the records that it maintains on your child a statement commenting on the information or providing any reasons you

SAFEGUARDS

34 CFR §300.623

The school district must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

FILING A COMPLAINT

34 CFR §300.153

An organization or individual may file a signed written State complaint under the procedures described above. The State complaint must include:

1. A statement that a school district or other public agency has violated a requirement of Part B of the IDEA or its regulations;
2. The facts on which the statement is based;
3. The signature and contact information for the complainant; and,
4. If alleging violations regarding a specific child:
 - a. The name of the child and address of the residence of the child;
 - b. The name of the school the child is attending;
 - c. In the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending;
 - d. A description of the nature of the problem of the child, including facts relating to the problem; and,
 - e. A proposed resolution of the problem to the extent known and available to the party filing the complaint at the time the complaint is filed.

The school district may develop proc

IDEA PART B

If the school district fails to hold the resolution meeting within 15 calendar days of receiving notice of your due process complaint **or** fails to participate in the resolution meeting, you may ask a hearing officer to order that the 45-calendar-day due process hearing timeline begin.

Adjustments to the 30-calendar-day Resolution Period

Subject Matter of Due Process Hearing

The party (you or the school district) that requests the due process hearing may not raise issues at the due process hearing that were not addressed in the due process complaint, unless the other party agrees.

Timeline for Requesting a Hearing

You or the school district must request an impartial hearing on a due process complaint within two years of the date you or the school district knew or should have known about the issue addressed in the complaint.

Exceptions to the Timeline

The above timeline does not apply to you if you could not file a due process complaint because:

1. The school district specifically misrepresented that it had resolved the problem or issue that you are raising in your complaint; **or**
2. The school district withheld information from you that it was required to provide to you under Part B of the IDEA.

HEARING RIGHTS

HEARING DECISIONS

Manifestation Determination

Within **10 school days** of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that is for **10 school days** in a row or less and not a change of placement), the school district, the parent, and relevant members of the IEP Team (as determined by the parent and the school district) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

Serious bodily injury has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

Weapon has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

Notification

On the date it makes the decision to make a removal that is a change of placement of the child because of a violation of a code of student conduct, the school district must notify the parents of that decision, and provide the parents with a procedural safeguards notice.

CHANGE OF PLACEMENT BECAUSE OF DISCIPLINARY REMOVALS

34 CFR §300.536

A removal of a child with a disability from the child’s current educational placement is a **change of placement** if:

1. The removal is for more than 10 school days in a row; **or**
2. The child has been subjected to a series of removals that constitute a pattern because:
 - a. The series of removals total more than 10 school days in a school year;
 - b. The child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals; **and**
 - c. Of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another;

Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by the school district and, if challenged, is subject to review through due process and judicial proceedings.

DETERMINATION OF SETTING

34 CFR § 300.531

The individualized education program (IEP) Team must determine the interim alternative educational setting for removals that are **changes of placement**, and removals under the headings **Additional authority** and **Special circumstances**, above.

APPEAL

34 CFR § 300.532

General

The parent of a child with a disability may file a due process complaint (see above) to request a due process hearing if he or she disagrees with:

1. Any decision regarding placement made under these discipline provisions; **or**
2. The manifestation determination described above.

The school district may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

Authority of Hearing Officer

A hearing officer that meets the requirements described under the sub-heading **Impartial Hearing Officer** must conduct the due process hearing and make a decision. The hearing officer may:

1. Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading **Authority of School Personnel**, or that the child's behavior was a manifestation of the child's disability; **or**
2. Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

These hearing procedures may be repeated, if the school district believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

Whenever a parent or a school district files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the headings **Due Process Complaint Procedures, Hearings on Due Process Complaints** except as follows:

1. The Arizona Department of Education must arrange for an expedited due process hearing, which must occur within **20** school days of the date the hearing is requested and must result in a determination within **10** school days after the hearing.
2. Unless the parents and the school district agree in writing to waive the meeting, or agree to use mediation, a resolution meeting must occur within **seven** calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within **15** calendar days of receipt of the due process complaint.
3. A State may establish different procedural rules for expedited due process hearings than it has established for other due process hearings, but except for the timelines, those rules must be consistent with the rules in this document regarding due process hearings.

A party may appeal the decision in an expedited due process hearing in the same way as they may for decisions in other due process hearings.

