

Summary of Procedural Safeguards for Parents: *Talking Points for IEP Teams*

This is a **very brief summary** of parental rights in special education. In order to assure that parents have a full explanation of rights, they will receive a copy of the ***Procedural Safeguards Manual for Parents (Parental Rights in Special Education)*** at least one time each school year. In addition, parents must be given a copy (1) upon an initial referral or their request for evaluation for their child, (2) upon their filling of a first due process complaint or first state complaint in a school year, and (3) whenever a decision is made to take a disciplinary action that constitutes a change of their child's placement. Parents also receive a copy of the procedural safeguards whenever they ask for one. In addition to covering parental rights, the ***Procedural Safeguards Manual for Parents*** lists sources of assistance for parents and outlines special safeguards related to student discipline. This summary is provided for your convenience and **is not** a replacement for the ***Procedural Safeguards Manual for Parents***. If there are any differences between the ***Procedural Safeguards Manual for Parents*** and this summary, the information and guidance in the ***Procedural Safeguards Manual for Parents*** is followed.

For each child with a disability who requires special education, your public school district and area education agency have the responsibility to provide a free and appropriate public education in the least restrictive environment.

Free and Appropriate Public Education (FAPE). **Free** means that special education services are provided at no cost to the parents. You may be charged the same general education fees that are charged to other parents, such as fees for extracurricular activities or lab fees. **Appropriate** means that your child's program must provide the right kind of services based on your child's needs and enough services to make it likely for your child to receive educational benefit. **Educational benefit** is a broad term that includes access to the general education curriculum used for all children, access to the same activities and settings as children who do not have disabilities, and services and supports that are reasonably calculated to allow your child to make progress that is appropriate in light of your child's circumstances.

Least Restrictive Environment (LRE). Your child will attend classes, participate in nonacademic and extracurricular activities, and receive services with children who are not disabled to the maximum extent appropriate.

Parental Rights. FAPE and LRE for your child are protected by rights you have as parents. These parental rights are referred to as procedural safeguards and they assure that you have an important role in planning and decision-making for your child. These safeguards include:

Participation Rights:

- (1) You have the right to provide information for your child's evaluation,
- (2) You have the right to be a member of any group that makes decisions regarding the educational placement of your child, and
- (3) You have the right to participate in meetings related to your child's identification, evaluation, educational placement and the provision of a free, appropriate public education (FAPE) to your child.

Notice Rights:

- (1) You have the right to be informed in a timely manner of meetings related to your child's identification, evaluation, educational placement and the provision of FAPE,
- (2) You have the right to be informed of any proposed changes in your child's identification, evaluation, educational placement and the provision of FAPE,
- (3) You have the right to be informed of any refusal by the school or AEA to make changes that you have requested in your child's identification, evaluation, educational placement, and the provision of FAPE, and
- (4) You have the right to receive notices in a manner and language you can understand.

Consent Rights:

- (1) You have the right to give, withhold or withdraw your consent to an evaluation to determine if your child is eligible for special education services. Your consent to an evaluation may be withdrawn before the evaluation is completed.
- (2) You have the right to give, withhold or withdraw your consent to reevaluations of your child. Your consent to a reevaluation may be withdrawn before the reevaluation is completed.
- (3) You have the right to give, withhold or withdraw your consent for your child's initial placement in special education. Your consent to an initial placement may be withdrawn before the placement is made.
- (4) You have the right to give, withhold or withdraw your consent for billing insurance providers (e.g., Medicaid) to pay for special education and related services. Your consent for insurance billing may be withdrawn at any time.
- (5) You have the right to withdraw your consent for continued special education and related services for your child. This must be done in writing.

Records Rights:

- (1) You have the right to review educational records,
- (2) You have the right to ask that records be changed if you believe the records are incorrect or misleading, and
- (3) In many circumstances, you have the right to give your consent before records are disclosed to other agencies or persons. Disclosing records without parent consent is allowed by the law only under certain circumstances, such as to another school to which the student is transferring, to respond to a health or safety emergency, to auditors, or to comply with a court order or subpoena.

Independent Educational Evaluation Rights: You have the right to request an independent evaluation at no cost to you if you disagree with the evaluation done by the school and AEA.

Dispute Resolution Rights:

Mediation. You have the right to *request mediation* of a dispute. Iowa's AEAs have trained resolution facilitators who can assist with dispute resolution for any issue. The Iowa Department of Education can also provide a mediator for special education issues. Mediation conferences provide the opportunity for parents and the school or area education agency to resolve disagreements cooperatively with the assistance of a trained mediator.

Due Process Hearing. You have the right to *request a due process hearing* if a disagreement about your child's evaluation, educational placement, or provision of FAPE is not successfully resolved in other ways. Requests must be made within two years of the action by the school or AEA that led to the disagreement. If you request a hearing, you will be offered a resolution session by your child's school or AEA, and you will be offered a mediation conference by the Iowa Department of Education. A mediation conference or a resolution session provides the opportunity for you and the school district or area education agency to resolve the disagreement.

A due process hearing is presided over by an impartial administrative law judge who hears both sides, reviews evidence, and makes a ruling. The parties will be required to disclose evaluations and recommendations that they seek to use in a due process hearing. Due process hearing decisions can be appealed to state or federal courts.

In most circumstances, once you have requested a mediation conference or due process hearing, your child's placement cannot be changed without your agreement until the dispute is resolved. There is an exception to this "stay put" rule when a code of conduct violation involves a weapon, drugs, or serious bodily injury. In that case, the student's placement may be changed in the interim for safety reasons.

State Complaint. You have the right to *file a state complaint* if you believe that a special education law, rule or regulation has been violated. *Complaints must be made within one year of the alleged violation.* Complaints are investigated by the Iowa Department of Education and a written report is issued.

Rights During Disciplinary Proceedings. Under most circumstances, children with disabilities are subject to the same disciplinary actions as all other students. Special disciplinary procedures apply when a removal (suspension or expulsion) of a student constitutes a change in placement. A change of placement occurs when the student is removed for more than ten consecutive school days or for more than ten school days for separate incidents of behavior that constitute a pattern.

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days, if, while at school, on school premises or at a school function: the child carries or possesses a weapon; knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance; or has inflicted serious bodily injury upon another person.

If a proposed disciplinary action is a change of placement, parents have the right to be informed of the change and to be involved in the evaluations and decision-making that will follow. These actions include: meetings to determine if the behavior subject to discipline was a manifestation of the student's disability, discussing potential changes to the IEP and determining an appropriate placement, if a placement change is made; evaluations of student behavior; and creating or revising a behavior plan. See the *Procedural Safeguards Manual for Parents* for detailed information.

Reimbursement Rights: Under certain circumstances, parents have the right to be reimbursed for expenses such as private school expenses when FAPE is an issue or attorney's fees. See the *Procedural Safeguards Manual for Parents* for detailed information.

Transfer of Rights: Parental rights transfer to a student with a disability at the age of majority unless the parent(s) or someone else takes the necessary legal steps to become the young adult's legal guardian. In Iowa, a student reaches the age of majority either on the student's 18th birthday, the date of marriage of a student under age 18, or when a student under age 18 is incarcerated in an adult or juvenile, state or local correctional institution.

This is a *very brief summary*. See the *Procedural Safeguards Manual for Parents* for complete and detailed information.