

Summary of Procedural Safeguards

GENERAL INFORMATION

Prior Written Notice

- ❑ At each ARC meeting, the district gives you a copy a written notice (this is the Conference Summary) before the district proposes, refuses, or changes the identification, evaluation, or placement of your child.
- ❑ For each action the district proposes or refuses to take, the notice describes the action and provides an explanation for taking the action, including the information used to make a decision; describes other choices the district considered and reasons for rejecting those choices; and the district makes sure you understand the procedural safeguards (Parent Rights) and know how to access resources to help you understand.

Native Language

- ❑ Native language and mode of communication means the language or communication normally used by the family and/or child.
- ❑ The district makes sure you get a copy of your rights in your native language, or in the mode of communication you use, unless it's clearly not feasible to do so.
- ❑ If your native language or mode of communication is not a written language, the district makes sure the notice is translated or provided in another mode of communication; you understand the notice; and documents that these requirements have been met.

Electronic Mail

- ❑ The district may offer to send the following documents by email: prior written notice (Conference Summary), Procedural Safeguards Notice (Parent Rights), and notices relating to a due process complaint.

Parental Consent

- ❑ Consent means that you have been informed, in your native language or mode of communication, of everything the district is requesting to do for your child.
- ❑ The district asks for your written consent before the district initially evaluates your child or initially provides services to your child.
- ❑ The district asks you to give your written consent voluntarily; you may refuse or withdraw your consent at any time.
- ❑ Withdrawal of consent does not undo any action that has already been done.
- ❑ If you refuse or do not respond to a request for consent for initial evaluation, the district *may* ask for mediation or a due process hearing and resolution meeting.
- ❑ If you refuse or do not respond to a request for consent for initial services, the district *will not* ask for a due process hearing and resolution meeting.
- ❑ The district takes reasonable steps to obtain your consent for a reevaluation; however, if you do not respond, the district may provide a reevaluation of your child.
- ❑ If you refuse to provide consent for a reevaluation, the district *may*, but is not required to, ask for a due process hearing and resolution meeting.
- ❑ If your child is in a private (or home) school, and you do not provide consent for an initial or reevaluation, the district *may*, but is not required to, request a due process hearing.
- ❑ The district does not ask for consent when reviewing existing data as a part of your child's evaluation or reevaluation or when giving an evaluation to your child that is given to all children, unless consent is required from all parents of all children.

Independent Educational Evaluation

- ❑ If you disagree with the district's evaluation, you may ask for an independent educational evaluation at public expense.
- ❑ An independent evaluation is conducted by a qualified evaluator and meets the district's criteria for an evaluation, including qualifications of the examiner and location of the evaluation, consistent with the school's criteria for evaluations.
- ❑ The district may either provide an independent evaluation by a qualified examiner or file a request for a due process hearing to show the district's evaluation is appropriate.
- ❑ You are entitled to one independent educational evaluation at public expense each time the district conducts an evaluation of your child with which you disagree.
- ❑ If you obtain an independent evaluation at your own expense, the district must consider the results of the evaluation.

CONFIDENTIALITY OF INFORMATION

Notice to Parents

The Kentucky Department of Education (KDE) must provide notice in newspapers and/or other media before conducting any "Child Find" (identification, location, or evaluation) activities. The notice includes:

- ❑ A description of the extent of the notice, in the native language, to all populations in the state;
- ❑ A description of the children for whom confidential information is maintained, the types, methods of gathering the information, and uses of the information;
- ❑ A summary of policies and procedures that school districts and other agencies must follow; and
- ❑ A description of the rights of parents and children regarding this information and under the Family Education Rights and Privacy Act (FERPA).

Access Rights:

- ❑ You may see all of your child's educational records no later than 45 days after you ask to see them.
- ❑ The school presumes that both parents may see your child's records unless you, as the parent, give the school a court order or other legal document that revokes these rights.
- ❑ 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
- ❑ The school keeps a record of everyone who obtains access to your child's records. The school does not keep a record of each time the record is accessed by you as the parent, or the school employees who work directly with your child.
- ❑ If any educational record contains information on more than one child, the parents of that child have the right to inspect and review information in that record pertaining only to their child.
- ❑ The district will provide you with a list of the types and locations of education records collected, maintained, and used by the district.
- ❑ The district may charge a fee for copies of records, as long as the fee does not prevent you from inspecting and reviewing the record.

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.
- ❑ If the district refuses to change the information, you may ask for a hearing to challenge their decision.
- ❑ As a result of the hearing, the district either changes the information or does not change the information. If the information stays the same, you have a right to place an explanation in the record of the reason(s) you disagree with the decision.

Consent

- ❑ The district asks for your written consent before disclosing personally identifiable information about your child to parties other than officials of the participating agencies.
- ❑ The district asks for your written consent before releasing information to private school officials of the school in which your child attends if it is not located in the school district in which you live.
- ❑ The district asks for your, or the student, if 18 years or older, for written consent before releasing any information to officials of agencies who will be providing or paying for secondary transition services.
- ❑ The district notifies you 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.

Safeguards

- ❑ The district has a person responsible for ensuring the confidentiality of educational records at the stages of: collection, storage, disclosure, and destruction.
- ❑ All persons collecting or using confidential information receive training regarding the district's policies and procedures and according to the Family Education Rights and Privacy Act.
- ❑ The district keeps a record of the names and positions of the employees who may have access to confidential information.

Destruction

- ❑ The district provides notice to the parent and student who is age 18 or older, when confidential information is no longer needed to provide services.
- ❑ The district destroys the information at the request of the parent or student who is age 18 or older.
- ❑ The district may keep a permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year.

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.
- ❑ Formal complaints result in an investigation and report, and may also result in mediation or a due process hearing.

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.

Updated 10/19/08

- ❑ The violation must have occurred not more than three (3) years before you knew or should have known about the alleged action.
- ❑ The district informs you of any free or low cost legal services if you request the information, or if you request a due process hearing.
- ❑ The request for a due process hearing is sent to the Kentucky Department of Education and they will provide a qualified hearing officer.

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.
- ❑ The request for mediation is sent to the Kentucky Department of Education and they will provide an impartial mediator.

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.

Updated 10/19/08

- 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.

Appeal

- You may file a due process hearing request if you disagree with the placement and/or manifestation decisions.
- The district may file a due process hearing request if they believe that maintaining the child's current placement may result in injury to the child or others.
- Unless you and the district agree otherwise, the child remains in the interim alternative educational setting until the hearing officer decision or the 45 school days is over.

Protections for Children Not Yet Eligible for Special Education and Related Services

- If your child has not been determined eligible for special education and related services and violates the Student Code of Conduct, you may assert protections under the IDEA if the district has knowledge that your child was a child with a disability before the behavior occurred.
- If the district does not have knowledge that your child is a child with a disability before taking disciplinary action, your child will be subject to the same disciplinary action as those applied to children without disabilities.
- If a request is made to evaluate your child during the time the disciplinary procedures are applied, the district will expedite the evaluation and your child will remain in an educational placement determined by school personnel pending the evaluation results.

Referral to and Action by Law Enforcement and Judicial Authorities

- The district is not prohibited from reporting a crime committed by a child with a disability to local authorities.
- If the district reports a crime committed by a child with a disability, the district follows the requirements of the Family Education Rights and Privacy Act in transmitting records.

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.