

# Parental Rights Summary

This is a **very brief summary** of your rights. In order to assure that you have a full explanation of your rights, you are to receive a copy of the **Procedural Safeguards Manual for Parents (Parental Rights in Special Education)** at least one time each school year. In addition, you must be given a copy (1) upon an initial referral or your request for evaluation for your child, (2) upon your filing 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 your child's placement. You also get a copy of the procedural safeguards whenever you ask for one. In addition to your 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 for your child to receive educational benefit. *Educational benefit* is a broad term that includes access to and progress in the general education curriculum used for all children, access to the same activities and settings as children who do not have disabilities and progress towards the individual goals set specifically for your child.

**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 FAPE.

## 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 or withhold your consent to an evaluation to determine if your child is eligible for special education services,

- (2) You have the right to give or withhold your consent to reevaluations of your child,
- (3) You have the right to give or withhold your consent for your child's initial placement in special education, &
- (4) You have the right to withdraw your consent for continued special education and related services for your child. This must be done in writing.

Your consent to an evaluation may be withdrawn before the evaluation is completed. Your consent to an initial placement may be withdrawn before the placement is made.

### **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, &
- (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 right:** 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:**

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

You have the right to **request a due process hearing** if a disagreement about your child's identification, 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 pre-appeal conference by the Kentucky Department of Education. Like mediation meetings, a resolution session or a pre-appeal conference 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. Due process hearing decisions can be appealed to the courts. In most circumstances, once you have requested a pre-appeal 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.

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 Kentucky Department of Education and a written report is issued.

**Reimbursement rights:** Under certain circumstances, parents have the right to be reimbursed for expenses such as attorney's fees or private school expenses. See the ***Procedural Safeguards Manual for Parents*** for more 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 Kentucky, 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.

Remember, this is a <b>very brief summary</b> of your rights. See the <b><i>Procedural Safeguards Manual for Parents</i></b> for complete and detailed information.
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