Sec. 1. PROCEDURAL SAFEGUARDS

The Superintendent or designee shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education ("FAPE"). *20 U.S.C. 1415(a)–(b)*.

These procedures shall include:

1. An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. *34 CFR 300.501*.
2. An opportunity for the parents to obtain an independent educational evaluation of the child. *34 CFR 300.502*.
3. Assignment of an individual to act as a surrogate for the parent when no parent can be identified, Raul Yzaguirre Schools for Success ("RYSS") cannot locate the parents, or the child is a ward of the state. *34 CFR 300.519*.
4. Prior written notice to the parents whenever RYSS proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.503*.
5. Procedures to allow parties to resolve disputes through a mediation process. *34 CFR 300.506*.
6. An opportunity for any party to file a due process complaint on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.507*.
7. Procedures that require either party, or the attorney representing a party, to provide the other party a due process complaint (which shall remain confidential). *34 CFR 300.508*.

Sec. 2. LANGUAGE OF NOTICES

The procedural safeguards and prior written notices described below must be written in a language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. *34 CFR 300.503(c), 300.504(d)*.

a) *Electronic Delivery of Notices*

A parent who has a child with a disability may elect to receive required notices required by 34 CFR 300.503, 300.504 and 300.508 by electronic mail, if RYSS makes that option available. *34 CFR 300.505.*

b) *Notice of Procedural Safeguards*

RYSS shall provide a copy of the procedural safeguards to parents only once per year, except that a copy also shall be given to the parents:

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1. Upon initial referral or parental request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

RYSS may also place a current copy of the procedural safeguards notice on its Internet website.

c) *Contents of Notice*

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
   a. The time period in which to file a complaint,
   b. The opportunity for RYSS to resolve the complaint; and
   c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
6. The availability of mediation;
7. The child's placement during pendency of any due process proceedings;
8. Procedures for children who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents of children in private schools at public expense;
10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees.

20 U.S.C. 1415(a)–(b), (d); 34 CFR 300.504(c).

Sec. 3. DISPUTE RESOLUTION

The possible options for resolving disputes that arise between a parent and RYSS relating to the identification, evaluation, or educational placement of or the provision of FAPE to a student with a disability include, but are not limited to:

1. ARD committee meetings, including IEP facilitation if offered by RYSS, under 19 TAC 89.1196;
2. Meetings or conferences with the student's teachers;

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3. Meetings or conferences, subject to RYSS policies, with the principal, special education director, Superintendent, or Board;
4. Requesting state IEP facilitation in accordance with 19 TAC 89.1197 (relating to State Individualized Education Program Facilitation);
5. Requesting mediation through the Texas Education Agency ("TEA") in accordance with 34 CFR 300.506;
6. Filing a complaint with TEA in accordance with 34 CFR 300.153; or
7. Requesting a due process hearing through TEA in accordance with 34 CFR 300.507-300.514.

19 TAC 89.1150.

Sec. 4. DUE PROCESS COMPLAINT

Whenever a due process complaint has been received by RYSS, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by TEA.

a) *Time Limits*

1. *Due Process Complaints Filed Before September 1, 2022:*

   A due process complaint filed before September 1, 2022 must set forth an alleged violation that occurred not more than one year before the date the parent or RYSS knew or should have known about the alleged action that forms the basis of the complaint.

20 U.S.C. 1415(f)(1)(A); 19 TAC 89.1151(c).

2. *Due Process Complaints Filed On or After September 1, 2022:*

   A due process complaint filed on or after September 1, 2022 must set forth an alleged violation that occurred not more than two years before the date the parent or RYSS knew or should have known about the alleged action that forms the basis of the complaint.

20 U.S.C. 1415(f)(1)(A); Education Code 29.0164.

b) *Exceptions*

These time limits shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by RYSS that it had resolved the problem forming the basis of the complaint; or
2. RYSS's withholding of information from the parent that RYSS was required by the IDEA to provide.

20 U.S.C. 1415(f)(3)(D); 34 CFR 300.511(f);19 TAC 89.1151(d).

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c) *"Stay Put"*

During the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing, the child shall remain in the then-current educational placement unless RYSS and the parent agree otherwise. If the child is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed. *20 U.S.C. 1415(j); 34 CFR 300.518, 300.533*.

d) *Exception*

When a due process hearing has been requested by a parent or RYSS concerning a disciplinary change of placement or manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the child's assignment to the alternative setting, or the 45-day timeline, if applicable, whichever occurs first, unless the parent and RYSS agree otherwise. *20 U.S.C. 1415(k)(3)(A), 1415(k)(4)(A); 34 CFR 300.533*.

e) *Resolution Process*

Within 15 days of receiving notice of a parent's due process complaint, and before initiating a due process hearing under 34 CFR 300.511, RYSS shall convene a meeting with the parent and the relevant member or members of the ARD committee. The purpose of the meeting is for the parent to discuss the due process complaint and the facts that form the basis of the due process complaint, so that RYSS has the opportunity to resolve the dispute.

The meeting need not be held if the parent and RYSS agree in writing to waive the meeting, or the parent and RYSS agree to use the mediation process.

If RYSS has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the complaint, the due process hearing may occur. If RYSS is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, RYSS may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint.

34 CFR 300.510.

Sec. 5. TRANSFER OF RIGHTS TO ADULT STUDENTS

When a student reaches the age of 18, RYSS shall notify the student and the parents of the transfer of parental rights. This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student's IEP include a statement regarding transfer of parental rights.

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A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

34 CFR 300.520; Education Code 29.017(a)–(b); 19 TAC 89.1049(c).

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