

Parent Rights and Special Education Condensed Procedural Safeguards

NOTE: This is a condensed version of the procedural safeguards. Please follow the link below to the Michigan Department of Education website for the full version or request a printed copy from your local Director of Special Education. http://www.michigan.gov/mde/0,1607,7-140-6530_6598_36168-188305--,00.html

Notice of Special Education Rights: You must be informed of your rights upon: 1) initial referral for evaluation, 2) invitation to attend an Individualized Education Program (IEP) meeting, 3) reevaluation of your student, 4) filing a complaint and 5) before disciplinary action, to change the placement of your student.

Parent Consent: You must give your written permission before the school can evaluate your student for special education or initially place your student in a special education program or service. Before you give your consent you have the right to: 1) examine all records, 2) be assured that you can attend all meetings where decisions about your student are made, 3) bring other people with you to the meetings 4) provide information for the evaluation of your student, 5) obtain an independent educational evaluation if you disagree with the school's evaluation of your student. The independent evaluation may or may not be at the school's expense depending upon the circumstances and 6) present information at the IEP meeting.

Prior Notice to Parents: The school must give you written notice each time it proposes or refuses to initiate or change the identification, evaluation or educational placement of your student in its obligation to provide a free appropriate public education (FAPE) for your student. This notice must include a description and explanation of what the school intends to do or refuses to do in addition to a description of any options the school considered and the reasons why those options were rejected. You must be given a description of evaluation procedures and a list of sources that you may contact to help you in understanding the special education laws. Refer to the booklet entitled "Guide for Special Education" for the list of these sources.

Evaluation Procedures: An evaluation will determine if your student has a disability, the nature and extent of the special education and related services your student needs and will provide information about your student's involvement and progress in the schools general curriculum. You have the right to have an interpreter during testing if needed, be assured that the testing does not discriminate against your student, be assured that the tests are appropriate and are given by trained people. You must be assured that no single evaluation procedure will be used as the sole means for determining an appropriate special education program for your student and that all areas of suspected disability will be evaluated. You have the right to provide the multidisciplinary evaluation team (MET) with information about your student's suspected disability along with any evaluations you may have obtained elsewhere. After the initial evaluation, you can expect a reevaluation every three years to determine if your student is still eligible for special education.

Access to Records: You have the right to inspect and review all of your student's education records on identification, evaluation, program, educational placement and provision of FAPE and to receive explanations and interpretations of the records. The school may charge a reasonable fee for copying records. The school may presume that the parent has authority to inspect and review records unless the school has been advised that the parent does not have the authority under laws governing guardianship, separation and divorce. You also have the right to request amendments to your student's records if you believe they are inaccurate, misleading or they violate the privacy or other rights of your student. If the school decides not to amend the records, you can request a hearing. If the hearing official decides that the records should not be amended, you have the right to place a statement in the records outlining your objections and that statement becomes a permanent part of your student's records.

Complaints: You have the right to file a written complaint alleging that the school has violated certain laws or rules that govern special education. Should you suspect a violation, you should contact the Ingham ISD Director of Student Support Services at (517) 244-1263. The Director may attempt to resolve your concerns informally, but your full rights must be explained to you including your right to an investigation into your allegations with a written report following the investigation. If you disagree with the report, you can appeal to the Michigan Department of Education.

Mediation: Mediation is a method of settling disagreements between parents and the school before going to a formal due process hearing. It is free and voluntary. All parties must mutually agree upon the mediation. Agreements reached by the parties will be written in a mediation agreement and may be used in your student's individualized education program (IEP). Mediation cannot be used to deny your right to a due process hearing.

Impartial Due Process Hearing: You or the school may initiate a hearing regarding the school's proposal or refusal to initiate or change the identification, evaluation or educational placement of your student or providing a FAPE. You must inform the school if you file for a hearing. Contact your school district's Special Education Administrator to assist you in filing a due process request.

Due Process Hearing Rights: Both you and the school, being parties to a hearing, have the right to: 1) be accompanied and advised by attorneys or other individuals, 2) present evidence, cross examine and compel the attendance of witnesses, 3) prohibit evidence under certain circumstances, 4) obtain a verbatim record of the hearing, 5) obtain written findings of fact and decisions and 6) you have the right to have your student present at the hearing which you may choose to be open or closed to the public.

Administrative Appeal: Impartial Review:

If either you or the school is aggrieved or injured by the findings and decisions following the hearing, an appeal can be made to the Michigan Department of Education. The Department will conduct a review and make an independent decision with written findings to the parties.

Civil Action: Any party aggrieved by the findings and decisions made in an administrative review, has the right to bring a civil action in state or federal court.

Student's Education Placement During Due Process Hearings and Court Actions:

During the time of a hearing or court action, your student must remain in school and without a change in educational placement unless you and school agree otherwise. If the dispute involves initial admission to school, your student must be admitted to school until the dispute is settled.

The school can, however, place your student in a temporary, interim, alternative educational setting for disciplinary reasons but you have the right to challenge the alternative setting by requesting a hearing. Your student must remain in the alternative setting pending the decision of the hearing officer or until the expiration of your student's assignment to the setting. If the school wants to make a permanent change in placement, following the expiration of the interim alternative placement, you may request a hearing and your student must stay in the original placement during the hearing process unless the hearing officer orders a different placement.

Placement in an Alternative Educational Setting: There are time limits for placement in alternative educational settings for disciplinary reasons. Your student cannot be suspended from school or placed in an alternative setting for more than ten school days in a year. If, however, your student carries a weapon to school, uses, tries to sell or knowingly possesses illegal drugs while at school, the student can be placed in an alternative educational setting for not more than 45 days. The procedures involved in suspension and expulsion from school is complex and detailed; therefore, the booklet entitled "Guide to Special Education" should be consulted for a full explanation.

Students Enrolled in Private Schools: A school may not be required to pay the cost of education, including special education, if: 1) you do not inform the IEP team before removing your student from the public school, 2) you do not make your student available for evaluation, or 3) the action is determined to be "unreasonable" by the judicial system. You must inform the IEP team, in writing, of your concerns and intent to enroll your student in a private school at public expense. This notice must be received by the school ten business days prior to the removal of the student and enrollment in a private school.

Award of Attorney Fees: The conditions under which attorney fees can be awarded to you resulting from due process hearings or court proceedings are complex so you should refer to the booklet entitled "Guide to Special Education" for a full explanation of the conditions.

Transfer of Parental Rights at Age of Majority: When your student reaches age 18 and a legal guardian has not been appointed by the court, the school must inform both you and your student that all rights held by you transfer to your student.

Surrogate Parents: The school must assign a person to act as a surrogate for the parent to protect the education rights of a student when: 1) no parent can be identified, 2) the school, after reasonable efforts, cannot discover the whereabouts of a parent or 3) the student is a ward of the state.

Rule of Construction: Nothing in these procedural safeguards shall be interpreted so as to limit the state and federal laws that protect the rights of children with disabilities, except that before filing for civil action relating to remedies also available under these safeguards, the impartial due process hearing and appeal procedures must be used to the fullest.

Full version is also available at: http://www.michigan.gov/mde/0,1607,7-140-6530_6598_36168-188305--,00.html