



EAST VALLEY SPECIAL EDUCATION LOCAL PLAN AREA

670 E. Carnegie Drive , San Bernardino, CA 92408

Phone: 909- 252-4507 Fax: 909-252-4533

NOTICE OF PROCEDURAL SAFEGUARDS AND PARENTS' RIGHTS

Special Education Rights of Parents and Children
Under the Individuals with Disabilities Education Act, Part B
2004 Reauthorization (H.R. 1350)

INTRODUCTION

This information provides you as parents, legal guardians, persons authorized to make educational decisions, and surrogate parents of children with disabilities from 3 years of age through age 21 with an overview of your educational rights, sometimes called procedural safeguards. This notice is also provided for students who are entitled to these rights at age 18. (20 USC 1415; EC 56321) A copy of these safeguards will be given to you once a year. Additional copies may be given upon an initial referral or parent request for evaluation, upon the first occurrence of the filing of a complaint under Section 615(b) (6) of H.R. 1350, upon provision of an assessment plan to parents and at your request. If your district has a website, a copy of these procedural safeguards may be made available to you through that website. [615(d) (1) (A-B)] You may elect to receive this notice and other notices required under this section by an electronic mail (e-mail) communication, if your district makes such an option available. [615(n)]

Individuals with Disabilities Education Act (IDEA)

IDEA is a federal law that requires school districts to provide a "free appropriate public education" (FAPE) to eligible children with disabilities. A free appropriate public education means that special education and related services are to be provided as described in an individualized education program (IEP) and under public supervision to your child at no cost to you.

Participation in making decision about your child's education: You have the right to refer your child for special education services. You must be given opportunities to participate in any decision-making meeting regarding your child's special education program. You have the right to participate in an IEP meeting either in person, by teleconference, written communication and/or by sending a representative to discuss the identification (eligibility), assessment, educational placement of your child and other matters relating to your child's free appropriate public education. [20 USC 1414(b)(c)(d) and (f); EC 56341(b), 56343(c)]

You also have the right to participate in the development of the IEP and to be informed of the availability of free appropriate public education, including all appropriate program options, and of all available alternative programs, both public and nonpublic.

Additionally, you have the right to make an audio recording the meeting. The law requires that you notify the district at least 24 hours prior to meeting if you intend to record the proceedings. If the parent or guardian does not consent to the LEA audiotape recording an IEP meeting, the meeting shall not be recorded on an audiotape recorder. (EC 56341.1)

Additional Assistance: When you have a concern about your child's education, it is important that you call or contact your child's teacher or administrators to talk about your child and any problems you see. Staff in the Special Education Department can answer questions about your child's education, your rights and procedural safeguards. When you have a concern, this informal conversation often solves the problem and helps maintain open communication. Additional resources are listed at the end of this document to help you understand the procedural safeguards.

NOTICE, CONSENT, ASSESSMENT, AND ACCESS

Prior Written Notice

You have the right to receive a written notice from the school district before decisions affecting your child's special education are put into place. These include decisions to:

- x identify your child as a child with a disability, or change your child's eligibility from one disability to another;
- x evaluate or reevaluate your child;
- x provide a free appropriate public education to your child, or change a component of your child's free appropriate public education;

- x place your child in a special education program;
- x change your child's special education placement. (20 USC 1415[b]; EC 56500.4) or,
- x revoke consent after consenting to the initial provision of services. [34 CFR 300.300(b)(3) and (4), 1415 (c)(1), 1414 (b)(1); 34 CFR 300.503 and 300.9; EC 56329 and 56506(a)]

The school district must inform you about proposed evaluations of your child in a written notice or an assessment plan within fifteen (15) days of your written request for evaluation. The notice must be understandable and in your native language or other mode of communication, unless it is clearly not feasible to do so. [34 CFR 300.304; EC56321]

You also have the right to written notice from the school district if the district refuses your request to take these actions.

The Prior Written Notice must include the following:

- x a description of the actions proposed or refused by the school district;
- x an explanation of why the action was proposed or refused;
- x a description of other options considered and the reasons those options were rejected;
- x a description of each assessment procedure, test, record or report used as a basis for the action proposed or refused;
- x a description of any other factors relevant to the action proposed or refused; and
- x a statement that parents of a child with a disability are protected by the procedural safeguards; and,
- x sources for parents to contact to obtain assistance in understanding the provisions of this subchapter. [20USC 1415(b)(3) and (4), 1415(c)(1), 1414(b)(1); 34 CFR 300.503]

Parent Consent

Parents' written approval is required for:

- ¾ First (Initial) Evaluation : The school district must have your informed written consent before it can evaluate your child. You will be informed about the evaluations to be used with your child. The parent has at least fifteen (15) days from the receipt of the proposed assessment plan to arrive at a decision. The assessment may begin immediately upon receipt of the consent and must be completed and an IEP developed within sixty (60) days of your consent not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays. The school district may seek to evaluate your child in special education through a due process hearing, if it believes that is necessary for your child's education. You and the school district may agree to first try mediation to resolve your disagreements. [20 USC 1414(a)(1)(D) and (c); EC 56321(c)(d), 56346, 56506(e)]
- ¾ Re-evaluation: The school district must have your informed written consent before reevaluating your child. However, the school district may reevaluate your child without your written consent if the school district has taken reasonable measures to get your consent and you have not responded. [34 CFR 300.300(c)(1)(ii)] The assessment may begin immediately upon receipt of the consent and must be completed and an IEP developed within sixty (60) days of your consent, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays.
- ¾ Initial Placement in Special Education: You must give informed written consent before the school district can place your child in a special education program. You can refuse consent for an evaluation, a reevaluation, or the initial placement of your child in special education. To avoid confusion, you should inform the school in writing if you want to refuse consent to a reevaluation. If you refuse to consent to the initiation of services, the school district must not provide special education and related services and shall not seek to provide services through due process procedures. If you consent in writing to the special education and related services for your child but do not consent to all of the components of the IEP, those components of the program to which you have consented must be implemented without delay.
- ¾ Revocation of Consent:

California Medi-Cal to pay for health related special education and/or related services, the school district and/or COE is still responsible to ensure that all required special education and related services are provided at no cost to you. As a parent you need to know that:

- x You may refuse to sign consent.
- x Information about your family and child is strictly confidential.
- x Your rights are protected under Title 34, Code of Federal Regulations 300.154; Family Education Rights Privacy Act of 1974 (FERPA); Title 20, United States Code Section 1232(g); Title 34 Code of Federal Regulations Section 99.
- x Your consent is good for one year unless you withdraw your consent before that time. Your consent can be renewed annually at the IEP team meeting. Furthermore, as a public agency, the school district may access your public benefits or insurance to pay for related services required under Part B of the IDEA, for a free appropriate public education (FAPE). For related services required to provide FAPE to an eligible student, the school district:
 - o May not require you to sign up for or enroll in public benefits or Insurance programs (Medi-Cal) in order for your child to receive FAPE under Part B of the IDEA (34 CFR 300.154(d)(2)(i)).
 - o May not require you to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services and reimbursement through Medi-Cal (34 CFR 300.154(d)(2)(ii)).
 - o May not use your child's benefits under Medi-Cal if that use would:
 - x Decrease available lifetime coverage or any other insured benefit.
 - x Result in the family paying for services that would otherwise be covered by the public benefits or insurance programs (Medi-Cal) and are required for your child outside of the time your child is in school.
 - x Increase premiums or lead to the discontinuation of public

When the IEP has been completed and appropriate parental consent has been provided, it is implemented as soon as possible following the IEP team meeting. A copy of the IEP is provided to the parents at no cost and if necessary, a copy of the IEP will be provided in the primary language of the parent(s), at the request of the parent(s). An individualized family service plan (IFSP) for a child aged three through five may serve as the IEP after a full explanation of the difference and written parent consent. The IEP team must consider the concerns of the parents for enhancing their child's education.

IEP Team Members and Responsibilities

The IEP team includes:

- x An administrator or a representative designated by administration who is knowledgeable about program options appropriate for the child and who is qualified to provide, or supervise the provision of special education;
- x At least one general education teacher of the child, if the child is, or may be participating, in the general education environment;
- x At least one special education teacher of the child, or if appropriate, at least one special education provider of the child; and,
- x One or both of the child's parents, individuals selected by the parent, or both.

When appropriate, the IEP team will also include:

x

Facilitation of Collaborative IEPs or Resolution Session:

2. The hourly attorneys' fees exceed the prevailing rate in the community for similar services by attorneys of reasonable comparable skill, reputation and experience;
3. The time spent and legal services provided were excessive; or
4. Your attorney did not provide to the school district the appropriate information in the due process request.

Attorneys' fees will not be reduced, however, if the court finds that the state or the school district unreasonably delayed the final resolution of the action or proceeding or there was a procedural safeguards violation. (20 USC 1415[i])

Attorneys' fees may not be awarded relating to any meeting of the IEP team unless an IEP meeting is convened as a result of a due process hearing proceeding or judicial action. Attorney fees may also be denied if you reject a reasonable settlement offer made by the district/public agency ten days before the hearing begins and the hearing decision is not

^{3/4} In writing to the school district at least ten business days (including holidays) before removing your child from the public school. [20 USC 1412(a)(10)(C)(iii); 34 CFR 300.148(d)(1); EC 56176]

Children who are enrolled by their parents in private school may participate in publicly funded special education programs. The school district must consult with private schools and with parents to determine the services that will be offered to private school students. Although school districts have a clear responsibility to offer FAPE to students wi1.1 (u)-12.7 (20)-14.1

