

# Know Your Rights!



**A Brief Guide to the Notice of Procedural Safeguards**

# What is the Notice of Procedural Safeguards?

**Explains** parents' rights and responsibilities under the Individuals with Disabilities Education Act (IDEA).



Today's presentation will provide a brief overview of each section of the Procedural Safeguards.

**The full version of this document is available in over 24 languages at**  
<https://www.spedtex.org/resources/notice-procedural-safeguards>



# When Should I Receive a Copy of the Procedural Safeguards?



IDEA requires that school districts and charter schools provide the Procedural Safeguards to parents once a year and on the following occasions:

Upon initial referral  
or request for  
evaluation

First occurrence of filing a  
due process hearing  
complaint or special  
education complaint during  
a school year

Disciplinary change of  
placement

Request by a parent



# Language Requirements



Schools must provide a copy in the parents' native language or other mode of communication unless it is clearly not feasible to do so.

SPEDTex has translated the Procedural Safeguards and ARD Guide into over 24 languages. Both documents are available on the SPEDTex Website.



# Foster Parent

(Page 1)



**A foster parent for a child with a disability may serve as the parent if they agree to:**

- Participate in making special education decisions.
- Complete the [required training](#) before the child's next ARD meeting, but not later than 90 days after they begin acting as the parent.



# Surrogate Parent

(Page 1)



**If, after reasonable efforts,**

- the school cannot identify or find the parent of the child, or
- the foster parent is unwilling or unable to serve as a parent, or
- the child does not reside in a foster home setting, or
- the child is a ward of the state or an unaccompanied homeless youth,

The school must appoint a surrogate parent to act in place of the child's parent, unless the child is a ward of the state and a court has appointed a surrogate parent.

Surrogate parents must complete the [required training](#) before the child's next ARD meeting but not later than 90 days after the initial appointment as a surrogate parent.



# Child Find

(Page 2)



**Child Find:** All children with disabilities living in the state who need special education services **must be**....



This includes children with disabilities who attend private schools or are homeschooled.



# Prior Written Notice

(Page 2)



The public school must provide you with certain written information. This is called prior written notice.

- **Prior written notice must be provided by the school** before it proposes or refuses to start or change the identification, evaluation, educational placement, or special education services provided a child.
- **The school must provide prior written notice** even if you agreed to the change or requested the change.
- **The school must give you prior written notice** at least 5 school days before it proposes or refuses the action unless you agree to a shorter time frame.





# Parental Consent

(Page 3)



## Informed Consent

Informed consent means that you have been given all the information related to what the school is asking permission to do.

## Voluntary

Granting of your consent is voluntary and can be revoked at any time, but it must be done in writing. Revoking consent is not retroactive.



# Parental Consent

(Page 3)



Parental consent is required...

- **Before** conducting an initial evaluation for special education
- **To provide** special education services for a child for the first time
- **To reevaluate** a child unless the school can demonstrate that it took reasonable measures to obtain your consent and you failed to respond



# Independent Education Evaluation (IEE)

(Page 4)



- If you disagree with an evaluation provided by your child's school, you have the right to request that your child be evaluated, at the school district's expense by someone who does not work for the school.
- When you ask for an IEE, the school must give you information about its evaluation criteria and where to get an IEE.



# Discipline Procedures

(Pages 5 - 8)



If your child violates the school's code of conduct, the school must follow certain procedures if it removes your child from their current placement and that removal constitutes a change of placement.

## **Up to 10 school days:**

- Your child can be suspended for up to 10 days in the school year without creating a change of placement.

## **More than 10 days:**

- If your child is suspended for more than 10 days, then a change of placement has occurred and an Admission Review Dismissal (ARD) meeting must be held to conduct a Manifestation Determination Review (MDR).



# Discipline Procedures

## (Pages 5 - 8)



A Manifestation Determination  
ARD Committee will:

- Review all relevant information,
- Determine if the misconduct is a manifestation of the child's disability,
- Or the result of the school not implementing the student's Individualized Education Program (IEP).

**Is the misconduct a  
manifestation of the  
child's disability?**

**Yes**

If no Behavior Intervention Plan (BIP), the school will conduct a Functional Behavior Assessment (FBA), implement BIP.

If there is already a BIP,  
review and modify the BIP.

**No**

Your child can be disciplined  
in the same manner and for  
the same duration as non-  
disabled children.

Your child must continue to  
receive free appropriate  
public education (FAPE).

# Discipline Procedures

(Page 5-8)



- If your child's conduct was the direct result of the school's failure to implement the IEP, the school must take immediate steps to remedy those deficiencies.
- Your child must be returned to the placement from which they were removed, unless the misconduct involves a weapon, illegal drugs, or serious bodily injury to another person.



# Discipline Procedures

(Page 5-8)



There are protections for children who have not yet been determined to be eligible for special education if the school had knowledge that the child had a disability before the behavior that resulted in disciplinary action.





# Education Records

(Page 9)



Upon your request to review your child's records, the school must make them available without unnecessary delay and before any ARD meeting, due process hearing, or resolution session, and no later than 45 calendar days after the date of the request.

## Is there a fee?

If you request copies of your child's records, the school may charge a fee for copying if the fee does not keep you from being able to inspect and review the records.

## Consent

Your consent or the consent of the adult child must be obtained before education records can be released to people or organizations outside of the Texas public school system.



# Private School Placement by Parents

(Page 10)



Parents have the right to voluntarily place their child in a private school, but federal regulations do not require a public school to pay for the cost of education, including special education and related services, for a child with a disability at a private school or facility if the public school made free appropriate public education (FAPE) available to the child.



# Transfer of Parental Rights

(Page 11)



All parental rights under federal regulations transfer to a child when the child reaches the age of 18 in Texas.

At the age of 18, a child has the right to make their own educational decisions.

The school must still provide parents with notices of ARD committee meetings and prior written notices, but they may not attend the ARD meeting unless the adult child specifically invites them to the meeting or the adult child gives them that right in a supported decision-making agreement.



# Transfer of Parental Rights

(Page 11)



On or before the student's 17<sup>th</sup> birthday, the school must provide you written notice about the transfer of parental rights to your adult child unless you have obtained guardianship, or the student signs a valid power of attorney or a supported decision-making agreement.



# Resolving Disagreements

(Page 12-20)




There may be times when you disagree with the actions taken by the school related to your child's special education and related services. Families are strongly encouraged to work with school personnel to resolve differences when they occur.



# Texas Education Agency's (TEA) Options for Resolving Special Education Disagreements

(Pages 12 – 20)

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- **STATE IEP FACILITATION (Page 12)** : The disagreement must relate to an ARD committee meeting where mutual agreement was not reached on at least one of the required areas of the IEP, and the ARD committee agreed to recess and reconvene.
  - **MEDIATION SERVICES (Page 12)**: Goal of mediation is to assist the parent and the school in reaching agreement.
  - **SPECIAL EDUCATION COMPLAINT RESOLUTION (Page 13)**: Written complaint must describe the special education violation, facts on which complaint is based, parent's signature and contact information.
  - **DUE PROCESS HEARING PROGRAM (Page 14-20)**: A parent can request a due process hearing from TEA on any matter relating to the identification, evaluation, or educational placement of their child, or the provision of FAPE to their child.



# Additional Resources from SPEDTex



- [What is the Individuals with Disabilities Education Act \(IDEA\)?](#)
- [Parents' Rights: An Overview of Special Education Evaluations](#)
- [What is an IEP?](#)
- [Special Education Complaints Process](#)
- [Resolving Issues with Your Child's School](#)
- [Dispute Resolution in Special Education \(Recorded Webinar\)](#)





**SPEDTEX**  
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# Create a My SPEDTex Account

## Create a My SPEDTex Account

**With a My SPEDTex account, families can:**

- Receive customized reminders
- Volunteer to participate in focus groups – share feedback
- Locate resources tailored to your needs
- Access trainings





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