

**Special Education Rights of Parents and Children**  
**Under the Individuals with Disabilities Education Act, Part B, and the**  
**California *Education Code***

**Notice of Procedural Safeguards**

**Revised October 2016**

Note: The term school district is used throughout this document to describe any public education agency responsible for providing your child's special education program. The term

the IEP team meetings. At least 24 hours prior to the meeting, the parent or guardian shall notify the members of the IEP team of their intent to record a meeting. 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.

Your rights include information about the availability of FAPE, including all program options, and all available alternative programs, both public and nonpublic. (20 USC

provision of a free appropriate public education. (20 *USC* 1415[b][3] and (4), 1415[c][1], 1414[b][1]; 34 *CFR* 300.503; *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; *EC* 56321)

### **What will the notice tell me?**

The Prior Written Notice must include the following:

1. A description of the actions proposed or refused by the school district
2. An explanation of why the action was proposed or refused
3. A description of each assessment procedure, record, or report the agency used as a basis for the action proposed or refused
4. A statement that parents of a child with a disability have protection under the procedural safeguards
5. Sources for parents to contact to obtain assistance in understanding the provisions of this part
6. A description of other options that the IEP team considered and the reasons those options were rejected; and
7. A description of any other factors relevant to the action proposed or refused. (20 *USC* 1415[b][3] and [4], 1415[c][1], 1414[b][1]; 34 *CFR* 300.503)

### **Parental Consent**

#### **When is my approval required for assessment?**

You have the right to refer your child for special education services. You must give informed, written consent before your child's first special education assessment can proceed. 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 with

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 f



If the school district proposes a new school setting for your child and an independent educational assessment is being conducted, the independent assessor must be allowed to first observe the proposed new setting. (20 *USC* 1415[b][1] and [d][2][A]; 34 *CFR* 300.502; *EC* 56329[b] and [c])

## Access to Educational Records

### May I examine my child's educational records?

You have a right to inspect and review all of your child's education records without unnecessary delay, including prior to a meeting about your child's IEP or before a due process hearing. The school district must provide you access to records and copies, if requested, within five (5)

**business days after the request is received in writing.** PAC 4960, 5604, 509.009, 9912, 106127

following the conference. However, requesting or participating in a prehearing mediation conference is not a prerequisite to requesting a due process hearing.

All requests for a prehearing mediation conference shall be filed with the Superintendent. The party initiating a prehearing mediation conference by filing a written request with the Superintendent shall provide the other party to the mediation with a copy of the request at the same time the request is filed.

The prehearing mediation conference shall be scheduled within fifteen (15) days of receipt by the Superintendent of the request for mediation and shall be completed within thirty (30) days after receipt of the request for mediation unless both parties agree to extend the time. If a resolution is reached, the parties shall execute a legally binding written agreement that sets forth the resolution. All discussions during the mediation process shall be confidential. All prehearing mediation conferences shall be scheduled in a timely manner and held at a time and place reasonably convenient to the parties. If the issues fail to be resolved to the satisfaction of all parties, the party who requested the mediation conference has the option of filing for a due process hearing. (*EC* 56500.3 and 56503)

## Due Process Rights

### What are my due process rights?

You have a right to:

1. Have a fair and impartial administrative hearing at the state level before a person who is knowledgeable of the laws governing special education and administrative hearings (20 *USC* 1415[f][1][A], 1415[f][3][A]-[D]; 34 *CFR* 300.511; *EC* 56501[b][4])
2. Be accompanied and advised by an attorney and/or individuals who have knowledge about children with disabilities (*EC*



## **Filing a Written Due Process Complaint**

### **How do I request a due process hearing?**

You need to file a written request for a due process hearing. You or your representative needs to submit the following information in your request:

1. Name of the child
2. Address of the residence of the child
3. Name of the school the child is attending
4. In the case of a homeless child, available contact information for the child and the name of the school the child is attending, and
5. A description of the nature of the problem, including facts relating to the problem(s) and a proposed resolution of the problem(s)

Federal and state laws require that either party filing for a due process hearing must provide a copy of the written request to the other party. (20 USC 1415[b][7], 1415[c][2]; 34 CFR 300.508; EC 56502[c][1])

Prior to filing for a due process hearing, the school district shall be provided the opportunity to resolve the matter by convening a resolution session, which is a meeting between the parents and the relevant members of the IEP team who have specific knowledge of the facts identified in the due process hearing request. (20 USC 1415[f][1][B]; 34 CFR 300.510)

### **What does a resolution session include?**

Resolution sessions shall be convened within q00000912 13(r)-3pTf1s1 72.00000reWdoe792 re230e4 Tf1 0 0





curriculum and ensure continuation of services and modifications detailed in the IEP. (34 *CFR* 300.530; *EC* 48915.5[b])

## **Children Attending Private School**

### **May students who are parentally placed in private schools participate in publicly funded special education programs?**

Children who are enrolled by their parents in private schools 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 with disabilities, those children, when placed by their parent in private schools, do not have the right to receive some or all of the special education and related services necessary to provide FAPE. (20 *USC* 1415[a][10][A]; 34 *CFR* 300.137 and 300.138; *EC* 56173)

A court or hearing officer must not reduce or deny reimbursement to you if you failed to provide written notice to the school district for any of the following reasons:

The school prevented you from providing notice

You had not received a copy of this Notice of Procedural Safeguards or otherwise been informed of the requirement to notify the district

Providing notice would likely have resulted in physical harm to your child

Illiteracy and inability to write in English prevented you from providing notice, or

Providing notice would likely have resulted in serious emotional harm to your child

(20 USC

## **Glossary of Abbreviations Used in This Notification**

ADR	Alternative Dispute Resolution
<i>CFR:</i>	<i>Code of Federal Regulations</i>
<i>EC</i>	<i>California Education Code</i>
FAPE	Free Appropriate Public Education
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
OAH:	Office of Administrative Hearings
SELPA:	Special Education Local Plan Area
<i>USC:</i>	<i>United States Code</i>