

EXPLANATION OF CHANGES

NOTICE OF PROCEDURAL SAFEGUARDS FOR PARENTS/GUARDIANS OF STUDENTS WITH DISABILITIES (OCTOBER 2009)

(CHANGES MADE July 2017)

Language added to this document are indicated in **red**. Language deleted in the document are indicated by “~~a strike through~~”.

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- **Parental Consent**

Your informed consent indicates that you were given all the relevant information in your native language or other mode of communication. It also indicates that you understand and agree in writing to the activity. The local district must obtain your informed **written** consent (using state-mandated forms) in the following instances: (226.110)

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- **Initial Evaluations**

Either you or the school district may initiate a request for an initial evaluation of your child. If it is determined that an evaluation is necessary, the district must complete the evaluation ~~within 60 school days of receiving your written consent~~ **no later than 60 school days following the date you sign the written consent to perform the needed assessments. If fewer than 60 school days remain in a school year after the date you have provided consent, the eligibility determination shall be made and the IEP meeting shall be completed prior to the first day of the following school year.** (226.110 d)

If a district fails to conduct the evaluation, you may appeal this failure in an impartial due process hearing, request consideration of this failure using the State complaint procedures, or request mediation. (226.110 k)

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- **Independent Educational Evaluation**

Within 10 days after receiving a report of an independent evaluation conducted at either public or private expense, the district shall provide written notice stating the date upon which the IEP team will meet to consider the results. (226.180 d)

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- If your child’s behavior impedes his/her learning or the learning of others, strategies including positive behavioral interventions and supports, must be considered in the development of your

child's IEP. If your child violates the student code of conduct, school personnel may remove him/her from the current placement.

- **Short Term Removals (~~10 Days or Less at a Time~~) (Less than 10 School Days Over the Course of a School Year)**
- **Long Term Removals (For a Total of 10 Days or More Within A School Year)**

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- **Complaint Resolution**

You may file a signed, written complaint with the ISBE, alleging that the rights of your child or several children with disabilities have been violated. The following information must be included in a formal complaint:

- A statement alleging ~~the~~ **that a responsible public entity has committed a violation of a special education requirement; violation(s) and the**
- **The** facts on which the statement is based;
- The names and addresses of the involved students and schools of attendance;
- The signature and contact information for the complainant;
- **A description of the nature of the problem of the child, including the facts relating to the problem; and**
- A proposed resolution for the problem **to the extent known.**

The complaint must allege that the violation occurred not more than one year prior to the date on which the complaint is received. ~~Upon receipt of a valid complaint, the ISBE will~~ **Within 60 days after receiving a complaint that meets the requirements listed above, ISBE shall:**

- **Carry out an independent on-site investigation, if deemed necessary by ISBE.**
- Give you an opportunity to submit additional information regarding the allegations.
- **Require that the public entity that is the subject of the complaint submit a written response to the complaint. The public entity shall submit its response and all other documentation to ISBE and the parent, individual, or organization filing the complaint no later than 45 days from the date our agency receives the complaint.**
- Provide the ~~district~~ **public entity, during the complaint process,** with the opportunity to offer a proposal to resolve the complaint **and/or** offer to engage the parent in mediation or alternative means of dispute resolution.
- Review all relevant information and make a determination as to whether the ~~district~~ **public entity** violated a special education requirement.
- Issue a written decision which addresses each allegation and includes findings of fact and conclusions, the reasons for ~~the~~ ISBE's decisions and orders for any correction actions. (226.570 c)

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- **Mediation**

The agreement of the parties to enter mediation shall allow the child to remain, or “stay put”, in his or her current placement during the pendency of the mediation. The placement shall be the last placement to which the parties agreed. If mediation fails to resolve the dispute between the parties, the parent (or student if 18 years of age or older or emancipated) shall have 10 days after the mediation concludes to file a request for a due process hearing in order to continue to invoke the “stay-put” provisions. (226.560 b)

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- **Due Process Hearing**

In addition to the use of mediation and the state complaint procedures, you also have the right to request an impartial due process hearing. A due process hearing is a legal process in which a hearing officer gathers evidence and hears testimony from both you and the school district in order to make a legally binding decision. : “Either [Y]ou or the school district may initiate a due process hearing regarding the district’s proposal or refusal to initiate or change the identification, evaluation, or educational placement of a student or the district’s provision of a free, appropriate public education. Your request for a due process hearing must discuss matters that have occurred within the past two years or within two years of the date you reasonably should have known about the district’s actions concerning your child’s placement of services.

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- **Educational Surrogate Parents**

Upon enrollment of a student, a local the resident school district must make reasonable attempts to contact the parent of a child who has been referred for, or is in need of, special education and related services. If the parent cannot be identified or located or the child is a ward of the state residing in a residential facility and the residential facility has not done so already, a representative of that facility shall submit to ISBE a request for an appointment of a an educational surrogate parent must be appointed by ISBE to ensure the education rights of the child are protected. (226.550 a)