Family Matters
Michigan Department of Education, Office of Special Education

Fact Sheet

Procedural Safeguards

The *Individuals with Disabilities Education Act* (IDEA) is a federal law that makes available a free appropriate public education and ensures special education and related services for eligible students with disabilities. The IDEA includes protections for parents and students. These protections are called procedural safeguards. Schools must provide parents a copy of the procedural safeguards, at least one time per year.

How do the Procedural Safeguards protect parents?

The school must keep parents informed.

Schools must provide prior written notice to parents before taking many different actions. Some of these actions also require parent consent.

Parents have options if they disagree with a school decision.

Parents may request facilitation, mediation, file a state complaint, or request a due process hearing to resolve a disagreement. Parents may also request an independent educational evaluation (IEE) if they do not agree with the results of a school evaluation.

Personal information is kept confidential.

Only people who need your information and child's records have access to it, unless you provide consent to share the information with others. Public reporting on special education never includes personally identifiable information.

Procedural Safeguards Notice

If you have questions regarding the Procedural Safeguards, ask your IEP Team for additional information.

Parents must receive the Procedural Safeguards Notice:

- At least once a year.
- Following a parent request for an evaluation.
- When a parent files his or her first state complaint and first due process complaint in a school year.
- When a student has a change of placement due to a violation of a student code of conduct.
- When requested by a parent.

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MICHIGAN Department of Education

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Family Matters fact sheets are intended to enhance public understanding of Michigan's special education system and are not a substitute for official laws and regulations.

Key Information in the Procedural Safeguards Notice

Independent Educational Evaluation (IEE)

You are entitled to one IEE at public expense each time you disagree with the results of an evaluation completed by the school. The district must file a due process complaint request for hearing when they refuse to pay for an IEE.

Prior Written Notice and Parental Consent

Schools must give you written notice before many different actions, such as changing your child's eligibility, conducting evaluations, changing educational placement, or changing the special education and services. The notice must include the reason the school is taking the action or refusing the action.

Some school actions, such as conducting an evaluation or the initial provision of special education and services, require your consent. You are also able to withdraw consent for special education services by doing so in writing.

Access to Education Records

Only certain individuals have access to your child's educational records. Contact the district to review your child's records.

Resolving Disagreements With the School

If you expect to or disagree with a school decision, you may request facilitation or mediation with the school to try to resolve the dispute. Other options include filing a state complaint (investigated by the Michigan Department of Education with involvement by the intermediate school district) or filing a due process complaint (resolved by an administrative law judge). You may bring civil action if you disagree with the result of a due process hearing.

Child's Educational Placement

Generally, your child's placement is determined by the individualized education program (IEP) team (of which you are a member).

A school may choose to move your child into an interim alternative setting for disciplinary or safety reasons. The decision to move the child is a school decision and must follow certain procedures. However, the assigned alternative setting is an IEP Team decision.

If you disagree with your child's placement and file a due process complaint request for hearing, your child's placement may not have to change until after the due process hearing is complete. An administrative law judge will determine whether a student will stay put in their previous placement.

Private Schools

When you enroll your child in a private school, your resident district is not required to pay for the cost of your child's private school education. However, the district where the private school is located may provide special education services under a nonpublic services plan.

If your child had an IEP at a public school and you choose to enroll your child in a private school because you felt your child was not receiving FAPE, you may file a due process complaint request for hearing.

If you file a due process complaint, and the hearing officer agrees that the private school placement is appropriate, then the district may be required to pay the private school tuition.

Resources

- Center for Parent Information and Resources (CPIR):
  - Parental Rights Under IDEA
  - Parent Procedural Safeguards and Notice
- *Individuals with Disabilities Education Act* (IDEA) Sec. 300.504
- Michigan Department of Education:
  - Procedural Safeguards Notice
- Special Education Mediation Services (SEMS)
  Michigan mediation program for dispute resolution

Michigan Alliance for Families
information, support, and education

Michigan Alliance for Families: Procedural Safeguards