



## Special Education Basics: Procedural Safeguards

The Individuals with Disabilities Education Act (IDEA) gives certain rights to children with disabilities and their families through procedural safeguards (34 CFR §§300.504–518), which ensure that certain things happen at specific times in a child's schooling: when the child is assessed for a disability; when the child's eligibility for special education services is determined; when the child's educational placements, supports, and services for special education are decided; and when disputes occur.

### The Letter of the Law

Parents of students with disabilities (and students with disabilities over the age of 18) have the following rights:

- ☐ To **access, review, and obtain copies** of their child's educational records (34 CFR §300.613).
- ☐ To **participate** in the development of the IEP and to be informed of all program options and alternatives (34 CFR §300.322).
- ☐ To receive "**prior written notice**" (34 CFR §300.503[a]) whenever a school proposes to initiate or change, or refuses a request to initiate or change, the identification, evaluation, or educational placement or the provision of FAPE.
- ☐ To **consent** (34 CFR §300.300). Parents must provide informed, written consent before their child is assessed or provided with any special education services and before any change in special education services may occur.
- ☐ To **refuse** to consent (34 CFR §300.300 & EC §56346). Parents may refuse to consent to an assessment or to the placement of their child in special education.
- ☐ To be given a **nondiscriminatory assessment** using methods that are not culturally biased (34 CFR §303.304).
- ☐ To receive an **Independent Educational Evaluation** (IEE; 34 CFR §300.502) at public expense if they disagree with the results of the assessment conducted by the local educational agency (LEA).
- ☐ To **maintain the child's current program** if there is a disagreement about placement (also referred to as IDEA's "stay put" or "pendency" provision: 34 CFR §300.518).
- ☐ To be given a **hearing to address disagreements** about an IEP (34 CFR §300.507 & §300.511).
- ☐ To receive **mediation** that would allow them to settle disagreements about their child's special education program (34 CFR §§300.506–508).
- ☐ To **file a complaint** against their child's LEA (34 CFR §300.153).
- ☐ To **be informed** of any school disciplinary actions and alternative placement (34 CFR §300.530[h]).

### The Spirit of the Law

Understanding and navigating a child's disability often requires a family to complete numerous sets of tasks, understand a great deal of information, and address challenges for which family members may have no experience—all of which can be difficult to manage. **Knowing whom to talk with first** as soon as questions or problems arise can be extremely helpful for family members. State- and federally funded family centers serve as important sources of information, support, and community for families (see #7 in "A Closer Look" on the next page).

When differences do arise, most families and district staff find it more helpful—and certainly less expensive and less stressful—to **build relationships** and work out differences as a team rather than file a complaint. The most helpful focus in any effort to resolve conflict is the student. By keeping the welfare of the child as the primary interest, everyone involved should be able to resolve even the most contentious differences.

The ability to resolve conflict requires knowledge and skill. Some family centers offer IEP trainings and communication workshops for both parents and educators; and some Special Education Local Plan Areas (SELPA) provide workshops on such resolution techniques as facilitated IEPs and mediation.

### Resources

The California Department of Education lists a **summary of the rights of parents** at <https://www.cde.ca.gov/sp/se/qa/pssummary.asp>

**Special Education Rights and Responsibilities**, by Disability Rights California, is at <https://www.disabilityrightscalifornia.org/system/files/file-attachments/504001Ch01.pdf>