

## Special Education A Parent's Guide to Understanding Rights and Responsibilities

This guide is designed to help you understand your rights and responsibilities regarding special education. It should not be used as a substitute for the full version of the Parent's Rights outlined in the Individuals with Disabilities Education Act (IDEA). To view the full version of the Oklahoma State Department of Education Parent's Rights in Special Education and Procedural safeguards, please go to [Special Education | Oklahoma State Department of Education](#). The full version of these rights is available in multiple languages.

This resource tool addresses the following:

- Notice / Parent Participation
- Records
- Confidentiality of Information
- Consent
- Evaluation Procedures
- Independent Education Evaluation
- Discipline Procedures and Rights
- Surrogate Parents
- Dispute Resolution Options
- Private School Placement

### Notice / Parent Participation

#### **Receiving a copy of your "Parents Rights in Special Education: Notice of Procedural Safeguards"**

- You must be provided with a copy of your Parents Rights one time a school year.
- Exceptions include:
  1. Upon an initial referral
  2. Upon your request for an evaluation
  3. Upon receipt of the first formal written State Complaint
  4. Upon receipt of the first Due Process in a school year
  5. Upon discipline procedures that constitutes a change of placement which is beyond ten school days
  6. Upon your request at any time
- Copies can be in your native language, Braille, or explained verbally by an oral interpreter, or if needed in sign language. If an interpreter is needed, then the school district will provide a translator or interpreter at not cost to the parent.

#### **Participating in IEP Meetings**

- You must be invited to attend meetings about your child, and the invitation for the meeting will identify what the school district would like to discuss with you. Topics include, but are not limited to initial eligibility, developing the Individualized Education Program (IEP), or three-year reevaluation.
- You must be given the opportunity to participate in the meeting regarding your child's special education (i.e., in-person, by phone conference, virtual platform, or other means).
- The IEP Team meetings must be held at a time and place mutually agreed upon between you and the school district personnel or other members of the IEP Team.
- The required members of an IEP meeting are:
  1. You, the parent
  2. An administrator
  3. At least one certified general education teacher
  4. At least one certified special education teacher.
- You have the right to excuse or not to excuse a member of your child's IEP Team from attending an IEP Team meeting. The school district cannot excuse a required member without your permission.
- After the meetings, you are to receive copies of all documents discussed, such as your child's eligibility, as well as, if your child is eligible, a copy of the IEP document that describes your child's special education and related services.

## Special Education A Parent's Guide to Understanding Rights and Responsibilities

### Records

#### Reviewing the Records

- You have a right to inspect and review your child's educational records.
- You have the right to add information, comments, data, or any other relevant written material to your child's record.
- You may request to have something in the record changed or removed if you feel it should not be in your child's record. However, the school district has the right to review the portion of the record you want deleted and make a determination to delete it as requested or to maintain the record. If the school district maintains the record, then you have a right to write a summary to add to the record as to why you think that portion is inaccurate, misleading, or violates the privacy or other rights of your child.
- With your written permission, you may have a person acting on your behalf inspect and review the records.

#### Receiving Copies

- You may ask for and receive copies of the Individualized Education Plan (IEP) and/or any of your child's records.
- You may also have the records interpreted or explained to you, if needed.
- The school district may charge a fee for the copies but may not charge a fee for searching for and retrieving documents.

### Confidentiality of Information

- Your child's educational records are private.
- School employees involved with your child may see your child's records and do not require your permission or written consent because it is based on a need to know.
- No one else may see the results of your child's records without your permission.

### Consent

#### The school district cannot

- The school cannot initially test / evaluate your child for special education without your permission / written consent.
- The school cannot initially place your child in special education without your permission / written consent.
- The school district cannot release your child's records without your permission / written consent except to certain individuals identified in law such as:
  1. Another public school district your child has transferred to; or
  2. Upon moving to another public school district to enroll your child.

#### You have the right

- You have the right to not give your permission / consent.
- You have the right to take away your consent (i.e., revoke consent) to ALL special education and related services but you must do so in writing.

**Revoking consent means your child will no longer receive any special education services, which means your child will now be considered non-disabled.**

## Special Education

### A Parent's Guide to Understanding Rights and Responsibilities

#### Evaluation Procedures

**Overview**

- Your child has the right to a full and complete initial evaluation to determine if they have a disability and whether your child is in need of special education and / or related services.
- You have the right to have your child assessed in all areas required by the Oklahoma Eligibility Standards based on the suspected disability category or categories.

**The School District**

- The school district must text your child according to procedures outlined in the IDEA and the Oklahoma Special Education Policies and Procedures.
- The school district must provide an interpretation of the test results so you can be fully informed of the key eligibility indicators that would lead the team to determine your child is or is not eligible for special education and related services.

**Evaluation Criteria**

- Evaluations must consist of more than one test, and those tests must be given in the language that the child normally uses, unless the parent and school agree otherwise. Once eligible, the team will meet once every three years to review existing data to determine if new information or testing is necessary.

#### Independent Education Evaluation

**Disagreeing with the School District's Evaluation**

- If you disagree with the school district's evaluation, you may have your child tested by a "qualified professional" not employed by the school district, at public or private expense. Contact the school district to find out the procedures for accessing this right for an Independent Education Evaluation (IEE).
- Upon request, the school district must provide you a list of independent qualified evaluators so that you may choose one to test your child.
- The school district must consider the results from the independent qualified evaluator.
- The IEP Team uses the results of the test to include as part of the evaluation process to determine if your child has a disability and needs special education.

#### Discipline Procedures and Rights

When removing your child more than 10 school days the school district must conduct a Manifestation Determination Review (MDR) to determine if the conduct in question was or was not:

1. Caused by, or had a direct and substantial relationship to your child's disability; or
2. The direct result of the school district's failure to implement your child's IEP.

**Procedures**

- The school district must follow certain procedures when students with disabilities exhibit behaviors that cause the IEP Team to remove them from their current placement and to find other settings and / or ways to educate the child during the removal.
- Following certain procedures, the school district may remove your child to an interim alternative educational setting when your child is a potential danger to themselves, other students, school personnel, or other individuals.
- Special circumstances occur for violations involving drugs, weapons, and / or serious bodily injury with the removal of your child up to 45 school days or possibly more, depending on a hearing officer's decision.

## Special Education A Parent's Guide to Understanding Rights and Responsibilities

### Discipline Procedures and Rights

#### **Educational Setting**

- Regardless of the setting, the school district must continue to provide a free appropriate public education (FAPE) for your child.
- The setting must enable your child to continue to receive services that will allow them to:
  1. Meet their goals and objectives written on the IEP
  2. Progress in the general education curriculum / assignments
  3. Offer services to help prevent the behaviors from reoccurring

### Surrogate Parents

- When the school district cannot find the child's parents or the child is a ward of the State, the school district will assign a surrogate (substitute) parent who is **not** an employee of the district; and therefore, will represent the child regarding the child's rights and interests for any evaluation, meeting, or educational decisions for special education services.
- Surrogate parents will receive special training and represent the student's rights. The surrogate parent will act as the parent by giving consent and participating in IEP / other meetings.
- The surrogate parent has the same rights and responsibilities as a parent in special education in matters pertaining to a student.

### Dispute Resolution Options

#### **IEP Facilitation, Mediation, State Complaints, and Due Process Complaints**

- You have the right to ask for an IEP Facilitation, formal Mediation, file a State Complaint, or file a Due Process Complaint requesting a hearing if you disagree with what the school has planned for your child.
- The school district can also ask for an IEP Facilitation, Mediation, or file a Due Process Complaint.

#### **Mediation**

- Both the parent and the school district must agree to Mediation before the meeting will be scheduled.

#### **State Complaint**

- You may file a formal written State Complaint with the Oklahoma State Department of Education – Office of Special Education Services (OSDE-SES) who will conduct an investigation regarding your allegations regarding the actions taken by the district you believe are wrong or in other words are in violation of IDEA Federal regulations and / or the Oklahoma Special Education Policies and Procedures.
- If you need assistance with filing a State Complaint, contact the OSDE-SES.

#### **Due Process Complaint**

- When you file a Due Process Complaint, you have the right to participate in a resolution session prior to the hearing, which provides an opportunity for the parents and school districts to resolve any issues in a Due Process Complaint. If the resolution session is successful, then the parents and the school district can avoid a Due Process Hearing and provide immediate benefit to the child.
- When you request a Due Process Hearing, you have the right to an impartial Due Process Hearing conducted by a hearing officer.

You may contact the OSDE-SES by various means such as by phone at 405-521-3351; by mail at OSDE-SES Attn: Dispute Resolution 2500 N. Lincoln Boulevard, Suite 412, Oklahoma City, OK 73105; or you may email at [sesdisputeresolution@sde.ok.gov](mailto:sesdisputeresolution@sde.ok.gov) placing in writing the alleged issues for consideration in determining if there is a violation of the IDEA Part B.

**Special Education**  
**A Parent's Guide to Understanding Rights and Responsibilities**

**Private School Placement**

- If you decide to place your child in a private school, you must inform school officials at the last IEP Team meeting you attend of your intent and explain your concerns about your child's special education program provided by the public school district.
- The school district is not required to pay for the private school if the school district offered a FAPE to meet your child's unique educational needs that have been identified through the educational evaluation and are included in the IEP.
- Once you as the parent choose to parentally place your child in private school, then your child no longer has the right to receive some or all of the special education and related services they would normally receive if enrolled in a public school ([34 CFR § 300.137](#) Equitable services determined).
- The school district will meet with representatives from the private schools to consult and then determine what services would be agreed upon with the proportionate share funds to possibly provide Individual Service Plans (ISPs) for students with disabilities attending a private school. Not all students with disabilities attending private schools will receive services under an ISP, but it is contingent upon the consultation of the services offered by the public school district.
- The public school district must provide a free evaluation for your child to determine if the student is a child with a disability or continues to be a child with a disability.

**Resources**

- When you have concerns about your child's education, it is important to tell the school principal or the special education director in your district.
- If you need further help, the Oklahoma Parents Center may be a resource for you: [oklahomaparentscenter.org](http://oklahomaparentscenter.org) or call 877-553-4332.
- You may also contact the OSDE-SES at 405-521-3351. Or visit the website at [Special Education | Oklahoma State Department of Education](#) to find other helpful resources.

**Contact Information**

Name of Special Education Director \_\_\_\_\_

Special Education Director Email Address \_\_\_\_\_

School Address \_\_\_\_\_

School Phone Number \_\_\_\_\_