

Parent Rights – Main Points

IDEA 2004

Parent Participation

Parents have the right to:

- ◆ refer your child for special education services
- ◆ participate in the development of the Individualized Educational Plan (IEP)
- ◆ be given the opportunity to participate in any meeting in which decisions are made regarding your child's special education program. These include meetings about the identification, assessment, educational placement and other matters relating to your child's education
- ◆ be notified early enough to ensure you the opportunity to attend

Surrogate Parents

- ◆ Under certain circumstances, a surrogate parent may be assigned to represent a child with a disability when a parent cannot be identified or located, or when the parent's educational rights have been removed by a court of law
- ◆ A surrogate parent the same rights regarding educational records and decision-making as would a biological or adoptive parent

Written Notice

Parents have the right to:

- ◆ Receive written notice, in your native language, when the school district proposes to initiate or change the identification, assessment or educational placement of your child. Also, when the school district refuses to initiate a change in identification, assessment or educational placement of your child.

Parent Consent

- ◆ A school district may only evaluate your child the first time with your informed written consent.
- ◆ A school district may only provide special education services to your child the first time with your informed written consent.
- ◆ A school district must ask you for your consent to reevaluate your child. The district may reevaluate your child if you give informed written consent or if you do not respond to the district's efforts to get your consent.

Rights of Refusal

- ◆ You can refuse to allow your child to be assessed.
- ◆ You can refuse that your child be placed in special education for a first placement.

Nondiscriminatory Assessment

- ◆ Your child must be assessed for special education using methods that are not biased or discriminatory on a racial or cultural basis.
- ◆ Tests will be administered in your child's native language or mode of communication, unless it is clearly not feasible to do so
- ◆ No single assessment procedure will be used as the sole criteria for determining eligibility and program for your child

Independent Educational Evaluations

- ◆ If you disagree with the assessment conducted by the school district you may request an Independent Educational Evaluation (IEE) for your child at the public expense.
- ◆ If the district disagreed that an Independent Educational Evaluation is necessary, it may request a hearing to prove that the district assessment is appropriate
- ◆ Any Independent Evaluation (regardless of who pays) must be considered by the school district if it meets the district's criteria, in any decision made with respect to the provision of a Free Appropriate Public Education (FAPE) to the child and may be presented as evidence as a due process hearing (OAR 581-015-2305. The IEP team must consider the results of the initial or most recent evaluation of the child (OAR 581-015-2205(1))©. Also, the IEP team must meet annually to revise the IEP, as appropriate, to address...information about the child provided to, or by the parents (OAR 581-015-2225).

Stay Put

- ◆ If you disagree with the district regarding any change to your child's special education program, the law requires the student to "stay put" in the current program until the dispute is resolved except for the following:
 - the child may be removed to an interim alternative educational setting for up to 45 school days for weapons or drug violations or for inflicting serious bodily injury on another person.
 - if a student violates a code of conduct and the IEP team determines that the conduct is not a manifestation of the student's disability, the student's "stay put" placement would be the interim alternative educational setting, not the current program from before the student was suspended or expelled.

Access to Education Records and Other Rights Related to Records

- ◆ You have the right to inspect, review, and obtain copies of your child's education records.
- ◆ Records must be provided within 45 days of the request or before any IEP meeting or due process hearing.
- ◆ The district may charge you the cost for the copies.

School Discipline and Alternative Placement for Students with Disabilities

- ◆ A student with a disability may be suspended or placed in an alternative educational setting in the same way that students without disabilities are but only up to ten school days in a school year.
- ◆ If your child is in an alternative placement for more than 10 days, an IEP meeting must be held to consider: (1) if the current placement is appropriate, and (2) to what extent the disability is the cause of the misconduct or misbehavior
- ◆ The district must continue to provide a free and appropriate educational program regardless of your child's placement.
- ◆ If drugs or weapons or serious bodily injury are involved, the school district may place a student in an Alternative Educational Setting for 45 days while decisions are being made.
- ◆ While in an Alternative Educational Setting, the student must be allowed to continue to participate in the general education curriculum and receive the special education services specified in the IEP.

Mediation

- ◆ You are encouraged to settle disagreements about your child's special education program through voluntary mediation.
- ◆ Mediation is a process where both the parents and the districts try to come to an agreeable solution for both sides with the help of an impartial mediator.
- ◆ You can seek mediation only, separate from due process, or in preparation for a due process hearing.
- ◆ Mediation cannot be used to delay your right to a due process hearing.

Due Process Hearing

- ◆ You have the right to a due process hearing in order to resolve disagreements about a free appropriate public education for your child.
- ◆ You have the right to an attorney, advocate, and/or the student present at the due process hearing and you can make the hearing public.
- ◆ To request a due process hearing contact the Oregon Department of Education.

Children Attending Private Schools

- ◆ Children who attend private schools may be referred to the district in which the private school is located for assessment for special education at no cost.
- ◆ If the student is found eligible, the district where the private school is located may offer a special education services plan to the child.
- ◆ If you choose to continue your child in a nonpublic school, your rights will be extremely limited.
- ◆ Sometimes very limited services will be offered or in other cases, no services will be offered

- ◆ If the district where the private school is located is also the district where you live, that district will offer a free appropriate public education to the child.
- ◆ Parents would be entitled for reimbursement of the private school costs only if a hearing officer or court determined that the district had not made a free appropriate public education available.

Parent Placement in Non-Public School

- ◆ If you decide to place your child in a nonpublic school and you want the district to cover the cost, the school district must be given the opportunity to observe the proposed placement and your child in that placement.
- ◆ The school district may not observe or assess your child at the nonpublic school without your permission.

Complaints

- ◆ If you believe that your child's school district has violated the law, you may file a complaint with your local school district
- ◆ If you are not satisfied, or choose not to file with the school district, you may file a complaint with the Oregon Department of Education (ODE).