

IDEA Guaranteed Rights of Parents

The Individuals With Disabilities Education Act (IDEA) passed by the federal government in '97 has built-in safeguards that guarantee certain rights of parents on behalf of their children who have a qualifying disability. Some of these include:

- ✓ *Written Prior Notice* – Is meant to keep parents informed about the school's action or inaction with respect to their child's identification as a special education student, evaluation, placement, or provision of a Free Appropriate Public Education (FAPE). The written prior notice must contain a description of what the education agency proposes or refuses to do, an explanation of its position, and a description of the options available.
- ✓ *Consent* – IDEA requires that districts seek written consent from parents at three points in time:
 1. Prior to an initial evaluation for eligibility
 2. Prior to initial provision of special education and related services
 3. Prior to reevaluation
- ✓ *Access to Records* – Parents have the right to access their child's educational records. Except for the IEP, however, this does not include the right to receive copies of them.
- ✓ *Independent Educational Evaluation (IEE)* – If the parents obtain an IEE at their own expense and follow agency criteria, the educational agenda must consider the independent evaluation in making decisions about the provision of FAPE to the child.
- ✓ *Parental Participation at Meetings* – Although not required, parent input is consistent with the concept of due process and gives the parents an important chance to be heard at critical stages in the development of their child's special education program. Parents have a right to provide input into the evaluation process and to participate in meetings at which eligibility is determined, the IEP is developed, and placement is determined.
- ✓ *Initiating a Due Process Hearing* – If the safeguards fail to satisfy the parents that the school is acting in the student's interests, and if the parents believe that their child's rights are being denied, they have the right to request an administration hearing (the so-called due process hearing). Issues subject to the hearing process include identification, evaluation, placement, and the provision of FAPE. Requesting a hearing prevents the school district from acting unilaterally despite objection of the parent.

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- ✓ *Mediation* – A mediation option available prior to a due process hearing. The mediator must be impartial and trained. If an agreement is reached, it must be set forth in writing, but “discussions” during the mediation process are confidential and cannot be used in subsequent hearings or court cases.
- ✓ *Due Process Hearing* – This is a formal hearing, and both parties have the right to examine, cross-examine, and subpoena witnesses; to use the services of an attorney and others with special knowledge or training with respect to the problems of children with disabilities; to obtain a verbatim transcript of the hearing; and to obtain a written decision, including findings of fact. In addition, each party has the right to know of the other’s evidence, including evaluations and recommendations based on those evaluations, at least 5 business days before the hearing. The regulations add that the parent has the right to decide whether to open the hearing to the public and whether to have the child present at the hearing. Unlike a mediator, the hearing officer has the right to impose a solution on the parties.

