

Procedural Safeguards Manual for Parents December 2008 compared to Procedural Safeguards Manual for Parents October 2005

Introduction:

- Under *Where can I find further assistance?* (p.1)
2008 Manual lists AEA's Resolution Facilitator coordinator as another person to contact for further assistance with verbal explanation of parent rights. 2005 Manual only listed the Director of Special Education and the AEA Parent-Educator Connection program.
- Under *When should I get a copy of the procedural safeguards?* (p.2)
2008 Manual includes the statement that you will receive a copy of the procedural safeguards whenever a decision is made to take a disciplinary action that constitutes a change of placement, in addition to what the 2005 Manual lists: 1) upon initial referral or your request for evaluation for your child; 2) Upon your request for due process hearing under IDEA in that school year; and 3) Upon request by you for the rights information.
- Under *Are there other sources of information for me to find out more about IDEA 2004, the Iowa Administrative Rules of Special Education and other rules and regulations that are important for me to know?* (p.2)
There are different links listed for websites to the Iowa Administrative Rules of Special Education and Individuals with Disabilities Education Improvement Act (IDEA) 2004, as well as the PACER center and the Iowa Department of Education website for Conflict Resolution.
- Under *What notice must the Iowa Department of Education give me about the procedural safeguards?* (p.2)
The 2008 Manual states that the Parental Safeguard notices will be available in English, Spanish, Bosnian, Croatian, Vietnamese, Arabic, and Laotian. Croatian and Arabic are new additions to the 2008 Manual version.

Confidentiality of Information and Educational Records

- Previously two sections – "Educational Records" and "Confidentiality of Information"

Parental Consent (pp 5-6)

New section. Includes:

- What does consent mean
- Is my consent required for an initial evaluation of my child?
- What happens if I refuse to provide consent for an initial evaluation of my child?
- Are there special rules for initial evaluations of children who are wards of the State?
- Do I need to provide my consent to start special education and related services?
- What happens if I refuse to give my consent to start special education and related services?
- May I revoke my consent for continued special education and related services?
- Is my consent required for reevaluations?
- What documentation of reasonable efforts to obtain parental consent must the AEA or district maintain?
- Are there other specific instances where my consent is required?
- What other information do I need to know about consent?

Participation in meetings

- *"How will the school help that happen?"* (p.7)
Longer response in 2008 Manual. The following was added: *"The notice will be provided to you early enough for you to have an opportunity to attend and will provide the following information: the purpose, time, and location of the meeting, and who will be in attendance (name and position). The meeting will be scheduled at a mutually agreeable time and place. There are additional notice requirements for certain meetings about children transitioning from Early ACCESS and for children who are considering postsecondary goals and transition services."*

Provisions for surrogate parents

- Moved toward the back (p.24 in 2008 manual, p. 4 in 2005 manual)
- Responsibility for assigning a surrogate is defined as an AEA responsibility in the 2008 manual. In 2005 manual it was stated as district responsibility.

Independent Educational Evaluations

- *"What other things do I need to know about an IEE?"* (p.8)
A new point is added in 2008 Manual: *"You are entitled to only one IEE of your child at public expense each time your district or AEA conducts an evaluation of your child with which you disagree."*

Prior notice

- The 2008 Manual has added the following (p.9):
The notice must be written in language understandable to the general public; and provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so.

If your native language or other mode of communication is not a written language, your public agency must ensure that:

- 1. The notice is translated for you orally by other means in your native language or other mode of communication;*
- 2. You understand the content of the notice; and*
- 3. There is written evidence that 1 and 2 have been met.*

If your public agency offers the parents the choice of receiving documents by email, you may choose to receive prior written notice by email.

Dispute Resolution Options

- Previously entitled "Legal Process Options"
- There is a new explanation of "Difference Between Due Process Hearing Complaint and State Complaint Procedures" (p.9)
- Question and answer added in 2008 Manual - *"What happens if an LEA, AEA, or other public agency fails to comply with a due process hearing decision? Response - If you believe the school, the AEA, or another public agency is not complying with a due process decision, you may file a state complaint. If the Department confirms your allegation, it will order appropriate relief."* (p.11)
- Under "Due Process Complaint" – there is a question added in 2008 Manual - *"What happens if I do not send the notice to all parties and to the Iowa Department of Education?" Response: The IDEA requires that you provide the notice to the district, the AEA, and other parties named, and the Department of Education. All timelines associated with a due process complaint start only when all required copies have been received by all parties."* (p. 12)
- Under "Resolution Meeting" – questions *"What is the "resolution period"?" and "How important is the resolution meeting?"* are added to the 2008 Manual (p. 13). Timeframes and the purpose and importance of the resolution meeting are detailed.
- Rule of Construction (added to 2008 Manual)
States: Nothing in Part B of the IDEA restricts or limits the rights, procedures and remedies available under the US Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other Federal laws protecting the right of children with disabilities, except that before the filing of civil action under these laws seeking relief that is also available under Part B of the IDEA, the due

Dispute Resolution Options continued

process procedures described above must be exhausted to the same extent as would be required if the party filed the action under Part B of the IDEA. This means that you may have remedies available under other laws that overlap with those available under the IDEA, but in general, to obtain relief under those other laws, you first use the available administrative remedies under the IDEA (i.e., the due process hearing request, resolution meeting and impartial due process hearing procedures) before going directly into court. (p.17)

Behavior and Discipline Procedures

- Different location in 2008 Manual, begins on page 19
- Broken down into subtitles:
 - General
 - Additional Authority
 - Services
 - Manifestation Determination
 - Special Circumstances
 - Change of Placement Because of Disciplinary Removals
 - Determination of Setting
 - Appeal
 - Placement During Appeals
 - Protections for Children Not Yet Eligible for Special Education and Related Services
 - Referral To and Action By Law Enforcement and Judicial Authorities
- 2008 Manual (p.20) asks, *""What happens if my child's removal is a change in my child's placement?"* Response: *If the removal is a change of placement, the child's IEP Team determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.*
- 2008 Manual (p.21) asks, *"Who determines whether there has been a change of placement?"* Response: *Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by the district and, if challenged, is subject to review through due process and judicial proceedings.*

Unilateral Placement of Children by Parents in Private Schools When a Free Appropriate Public Education (FAPE) is an Issue

- Added to the 2008 Manual: *Please note there may be some right created by state and federal law to receive special education and related services for children with disabilities who are enrolled by their parents in accredited nonpublic schools. Such special education and related services to these children will be provided by public agencies.* (p. 25)

Transfer of Rights to a Child

- Previously entitled *Child's Rights* (p. 25)

Appendix

- 2008 Manual removed the definition of Educational Service agencies and other public institutions or agencies (p.27).
- Model forms were updated, including request for a preappeal conference, filing a due process complaint/hearing, and filing a complaint.

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