

**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL  
EDUCATION**

**Due Process Hearing Procedures**

A parent or eligible student or the district may initiate due process hearing procedures whenever:

There is a proposal to initiate or change the identification, evaluation or educational placement of the student or the provision of a free, appropriate public education to the student

1. There is a refusal to initiate or change the identification, evaluation or educational placement of the student or the provision of a free, appropriate public education to the student.
2. The parent refuses to consent to an evaluation or assessment of his/her child.
3. There is a refusal to honor the request of a parent to amend a record under 4 AAC 52.550.

A parent shall make a request for a due process hearing not later than 12 months after the date the district provides the parents with written notice of the decision with which the parent disagrees. Upon requesting a due process hearing, the parent or attorney representing the child shall provide notice, which shall remain confidential, to the district specifying: (20 USC 1415 (b); 34 CFR 300.507)

1. The child's name
2. The child's address
3. The name of the school the child attends
4. A description of the nature of the child's problem relating to the proposed or refused initiation or change, including facts relating to the problem
5. A proposed resolution to the problem to the extent known and available to the parents at the time.

Parties requesting a due process hearing shall file their request with the Superintendent or Special Education Director. The district shall then contact the Department of Education and Early Development and request the appointment of a hearing officer. Both the district and the parent have the right to reject one hearing officer; no reason for rejection is required.

At least five business days prior to a due process hearing, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. (20 USC 1415(f))

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**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL  
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**Due Process Rights**

A parent or eligible student's due process rights include:

1. The right to request a mediation conference when a dispute arises concerning the identification, evaluation, or placement of a student or the provision of a free and appropriate public education (FAPE) to the student.
2. The right to examine student records and receive copies, including evaluation tests and procedures.
3. The right to be informed of the results of evaluation.
4. The right to a fair and impartial administrative hearing before a qualified hearing officer appointed by the Department, and the right to exercise a single objection to the proposed hearing officer.
5. The right to have the student who is the subject of the hearing present at the hearing.
6. The right to open the hearing to the public.
7. The right to initiate referral of a child for special education.
8. The right to obtain an independent educational evaluation.
9. The right to participate in the development of the student's individualized education program (IEP) and to be informed of the availability under state and federal law of a free and appropriate public education (FAPE).
10. The right to obtain written parental consent before any assessment of the student is conducted unless the district prevails in a due process hearing relating to such assessment.
11. The right to consent before the student is placed in a special education program.

The parties shall also have the following hearing rights: (4 AAC 52.550; 34 CFR 300.509)

1. The right to call witnesses, including adverse witnesses, and to cross-examine witnesses.
  2. The right to compel the attendance of witnesses.
  3. The right of parents/eligible students to determine whether the due process hearing will be open or closed to the public.
  4. The right to object to the introduction of any evidence at the hearing that has not been disclosed to the other party at least five business days before the hearing.
  5. The right to be accompanied and advised by counsel and/or other individuals with special knowledge or training with respect to the problems of children with disabilities.
  6. The parent/eligible student shall have the right to obtain a written or, at his/her option, electronic verbatim recording of the hearing. In addition, the parent/eligible student shall have the right to obtain written findings of facts and decisions.
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**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL  
EDUCATION (continued)**

**Prior Written Notice**

The Superintendent or designee shall send parents/eligible students a prior written notice whenever there is a proposal or refusal to initiate or change the identification, evaluation or educational placement of the student or the provision of a free and appropriate public education. The notice shall include: (20 USC 1415 (c); 34 CFR 300.503)

1. A description of the action proposed or refused by the district.
2. An explanation as to why the district proposes or refuses to take the action.
3. A description of any other options that the district considered and why those options were rejected.
4. A description of each evaluation procedure, test, record or report the district uses as a basis for the proposed or refused action.
5. A description of any other factors that are relevant to the district's proposal or refusal.
6. A statement that the parent/eligible student's rights are protected by procedural safeguards and the means by which a copy of the description of procedural safeguards can be obtained.
7. Sources for parents/eligible students to obtain assistance in understanding these provisions.

Students with disabilities and their parents shall be provided written notice of their rights in language that is easily understood by the general public and in the primary language of the parent and student or other mode of communication used by the parent and student, unless to do so is clearly not feasible.

**Procedural Safeguard Notice**

A procedural safeguards notice shall be made available to parents/eligible students of students with disabilities upon:

1. Initial referral for evaluation
  2. Each notification of an IEP meeting
  3. Reevaluation of the student
  4. Registration of a complaint.
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**PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL  
EDUCATION (continued)**

This notice shall include information on the procedures for requesting an informal meeting, pre-hearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; the type of representative who may be invited to participate; and the right of the parent/eligible student and/or the district to electronically record the proceedings of IEP meetings.

In addition, this notice shall include a full explanation of the procedural safeguards relating to: independent educational evaluation; prior written notice, parental consent; access to educational records; opportunity to present complaints, the student's placement while due process proceedings are pending; procedures for students who are subject to placement in an interim alternative educational setting; requirements for unilateral placement by parents of students in private schools at public expense; mediation; due process hearing; state-level appeals; civil action; and attorney's fees. (20 USC 1415(d); 34 CFR 300.504).