Special Education - Procedural Safeguards**

Procedural Safeguards – General

A district ensures that students with disabilities and their families are afforded their procedural safeguards related to:

1. Access to students' educational records;
2. Parent and adult student participation in special education decisions;
3. Transfer of rights to students who have reached the age of majority;
4. Prior written notice of proposed district actions;
5. Consent for evaluation and for initial placement in special education[1];
6. Independent educational evaluation;
7. Dispute resolution through mediation, state complaint investigation, resolution sessions and due process hearings;
8. Discipline procedures and protections for students with disabilities, including placements related to discipline;
9. Placement of students during the pendency of due process hearings;
10. Placement of students by their parents in private schools;
11. Civil actions; and
12. Attorney's fees.

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[1]If, at any time subsequent to the initial provision of special and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the district: 1) may not continue to provide special education and related services to the child, but must provide prior written notice before ceasing the provision of special education and related services; 2) may not use mediation or due process procedures to obtain an agreement or ruling that the services may be provided to the child; 3) the district will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and 4) the district is not required to convene an IEP team meeting or develop an IEP for the child for further provision of special education or related services.

Procedural Safeguards Notice

1. The district provides to parents a copy of the Procedural Safeguards Notice, published by the Oregon Department of Education, at least once per year and upon initial referral or parent request for special education evaluation and when the parent requests a copy. The district also gives a copy to the student at least a year before the student's 18th birthday or upon learning that the student is considered emancipated.

2. The district provides the Procedural Safeguards Notice in the parent's native language or other mode of communication unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the district takes steps to ensure that the notice is translated orally or by other means understandable to the parent and that the parent understands the content of the notice. The district maintains written evidence that it meets these requirements.

Parent or Adult Student Meeting Participation

1. The district provides parents or adult students an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the student, and the provision of a free appropriate public education to the student.

2. The district provides parents or adult students written notice of any meeting sufficiently in advance to ensure an opportunity to attend. The written notice:

    a. States the purpose, time and place of the meeting and who is invited to attend;
    b. Advises that parents or adult students may invite other individuals who they believe have knowledge or special expertise regarding the student;
    c. Advises that the team may proceed with the meeting even if the parents are not in attendance;
    d. Advises the parents or adult students who to contact before the meeting to provide information if they are unable to attend; and
    e. Indicates if one of the meeting's purposes is to consider transition services or transition services needs. If so:

        (1) Indicates that the student will be invited; and
        (2) If considering transition services, identifies any agencies invited to send a representative (with parent or adult student consent).

3. The district takes steps to ensure that one or both parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate, including:

    a. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
    b. Scheduling the meeting at a mutually agreed upon time and place.

4. If neither parent can attend, the district will use other methods to ensure an opportunity to participate, including, but not limited to, individual or conference phone calls or home visits.

5. The district may conduct an evaluation planning or eligibility meeting without the parent or adult student if the district provided meeting notice to the parent or adult student sufficiently in advance to ensure an opportunity to attend.

END OF POLICY

Legal Reference(s):

ORS 343.155
ORS 343.165
ORS 343.177
ORS 343.181

OAR 581-015-2000
OAR 581-015-2030
OAR 581-015-2090
OAR 581-015-2095
OAR 581-015-2190
OAR 581-015-2195
OAR 581-015-2305
OAR 581-015-2310
OAR 581-015-2325
OAR 581-015-2330
OAR 581-015-2345
OAR 581-015-2360
OAR 581-015-2385

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.500 - 300.505, 300.515, 300.517 (2006).
Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.300 (2008).

Cross Reference(s):

JGDA/JGEA - Discipline of Students with Disabilities