

## Kern County Consortium SELPA

# PARENTAL RIGHTS/PROCEDURAL SAFEGUARDS FOR SPECIAL EDUCATION STUDENTS WITH DISABILITIES

**INTRODUCTION:** This document gives parents of children disabilities from 3 years of age through age 21 an overview of their educational rights, sometimes called **procedural safeguards**. **This information is your Notice of Procedural Safeguards**. This notice is also intended for individuals serving as surrogate parents and for students who assume these rights at age 18.

There are many people in your child's district and Special Education Local Planning Area (SELPA) who can answer questions about your child's education and questions you may have regarding your rights as a parent. When you have a concern, it is important that you contact your child's teachers or administrators to talk about your child and any problems you see. This informal conversation often solves the problem and helps maintain open communication.

**Parent Participation:** You must be given opportunities to participate in any meeting making decisions regarding your child's special education program. This includes your right to participate in meetings about the identification, assessment, educational placement and other matters relating your child's education.

**Surrogate Parents:** Under certain conditions, a surrogate parent may be assigned to represent a child with a disability when a parent cannot be identified or located.

**Your basic right to participate:** You have the right to refer your child for special education services, participate in the development of the Individualized Educational Plan (IEP), and to be informed of all program options and alternatives, both public and nonpublic.

**Prior Written Notice:** You have a right to receive prior written notice, in your native language, when the school district initiates a change in the identification, assessment or educational placement in special education.

**Parent Consent:** You must provide informed, written consent before a child is assessed or provided with any special education services. Parental consent must also be provided before any change in special education services can occur.

**Rights of Refusal:** You can refuse consent for an assessment or the placement of your child in special education.

**Nondiscriminatory Assessment:** Your child must be assessed for special education using methods that are not culturally biased or discriminatory.

**Independent Educational Assessments:** You may obtain an independent educational assessment for your child, at public expense, if you disagree with the assessment conducted by the school district. The school district must help you obtain a second opinion if asked to do so.

**Stay Put:** If you disagree with the district regarding your child's special education placement or a proposed change in placement, the law requires the student to "stay put" in the current program until the dispute is resolved.

**Access to Education Records and other Rights related to Records:** You have a right to inspect, review, and obtain copies of your child's educational records.

**School Discipline and Alternative Placement for Students with Disabilities:** There are specific rules regarding the suspension and expulsion of students with IEPs. Generally, a student with a disability may be suspended or placed in an alternative educational setting to the same extent that these options would be used for students without disabilities. If your child is in such a placement for more than 10 days, an IEP meeting must be held to consider the appropriateness of your child's current placement and the extent to which the disability is the cause of the misconduct. Regardless of your child's placement, the district must continue to provide a free and appropriate educational program for your child.

**Opportunity to Present Complaints:** You have the right to present a complaint relating to the provision of a free appropriate public education for their child. You also have the right to have an attorney, advocate, and the student present at the due process hearing and to make the hearing public. Under certain conditions, the hearing officer may award the reimbursement of attorneys' fees and/or fees paid to nonpublic institutions by parents in the settlement of a case. Under certain other conditions, the hearing officer may reduce or completely deny reimbursement to parents for attorney fees and/or nonpublic institutions. To request a due process hearing or to receive a complete notice of procedural safeguards related to fair hearing, you may contact the Special Education Hearing Office at the address noted below.

**Mediation:** You are also encouraged to consider settling disagreements regarding your child's special education program through voluntary mediation. Mediation is a process where parties seek mutually agreeable solutions to disputes with the help of an impartial mediator. You can seek mediation alone, separate from due process, or participate in mediation pending a due process hearing. Mediation cannot be used to delay your right to a due process hearing. For more information contact one of the addresses noted below.

**Children Attending Private Schools:** Children who are enrolled by their parents in private schools may participate in publicly funded special education programs. While school districts have the clear responsibility to offer a free and appropriate public education to students with disabilities, recent changes to federal law have significantly limited the school district's responsibility to provide service to students whose parents have chosen to attend private schools. (Please consult the complete version of the Parent's Rights document for further information.)

**Compliance Complaints:** If you believe that your child's school district has violated the law, you may file a complaint with the California Department of Education (CDE). The CDE must investigate the complaint and issue a written report of the finding within 60 days.

**To obtain more information about parental rights or dispute resolution, including how to file a complaint, contact:** California Department of Education, Special Education Division, Procedural Safeguards Referral Service, 515 L Street, Suite 270, Sacramento, CA 95814 Telephone: 800/926-327-3704

**To obtain more information or file for mediation or due process hearing contact:** McGeorge School of Law, Special Education Hearing Office, 3200 Fifth Avenue, Sacramento, CA 95817 Telephone: 916/739-7053

<b>Local Resources:</b>	<b>Kern County Consortium SELPA</b> <b>1300 17<sup>th</sup> Street - CITY CENTRE</b> <b>Bakersfield, CA 93301-4533</b>  <b>Phone: 661/636-4801 Fax: 661/636-4020</b>
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