



**ALASKA DEPARTMENT OF EDUCATION &  
EARLY DEVELOPMENT**



**Notice of  
Procedural Safeguards**

**PARENTAL RIGHTS FOR  
SPECIAL EDUCATION**

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## **Children with Disabilities Under Section 504**

Some children may have a disability that affects a major life activity but does not fit into one of the categories of disability under the Individuals with Disabilities Education Improvement Act (IDEA 2004). These children may be protected by a different federal law; Section 504 of the Rehabilitation Act of 1973. The rights of “504 only” children and their parents are in some ways similar and in some ways different from the procedural safeguards described in this booklet. For more information about Section 504, contact your school district’s Section 504 coordinator.

## **INTRODUCTION**

This booklet provides parents <sup>1</sup> of children with disabilities from age 3 through age 21 an overview of their educational rights, sometimes called **procedural safeguards**. This booklet is your **Notice of Procedural Safeguards**.

The District will provide a copy of this booklet once a year.

This Notice of Procedural Safeguards must be given to you when you ask for a copy and:

- the first time your child is referred for a special education evaluation;
- each time you request an evaluation or re-evaluation of your child;
- if you request a due process hearing;

The Individuals with Disabilities Education Improvement Act (IDEA) Amendments of 2004 (hereafter referred to as IDEA 04) is a federal special education law that requires school districts to provide a free appropriate public education to eligible children with disabilities. A free appropriate public education (FAPE) means special education and related services, described in an IEP, and provided to children in the least restrictive environment. IDEA 04 also includes the procedural safeguards in this booklet.

## **FOR MORE INFORMATION**

Your local school district is the first stop for more information. There are a number of people in the school district who can answer questions about your child's education. You may contact your child's general or special education teacher or the school principal. You can also contact the special education administrator for your school district. Other resources are listed at the end of this booklet.

## **PARENT PARTICIPATION**

Your participation is valuable. You will be given opportunities to participate in meetings about identification, evaluation, eligibility, educational placement of your child, and other matters relating to your child's free appropriate public education (FAPE). This includes the right to participate in meetings to develop your child's IEP.

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<sup>1</sup> The term parent means a parent, a guardian, a person acting as a parent, or a person appointed as a surrogate parent.

## PARENT CONSENT

**The First Evaluation.** The school district must have your informed written consent before it can evaluate your child. The school district must inform you about the evaluations to be used with your child. The evaluation must include a variety of tools and strategies, including information you provide.

**Re-evaluation.** The school district must have your informed written consent before re-evaluating your child. However, the school district may re-evaluate your child without your written consent if the school district can demonstrate that it has taken reasonable measures to get your consent and you have not responded. If you refuse consent you must clearly inform appropriate school staff of your refusal, preferably in writing.

**Initial Placement in Special Education.** You must give your informed written consent before the school district can initially place your child in a special education program.

**Exchange of Information.** Your informed consent is required before the district releases any personally identifiable information about your child to any person or agency not otherwise entitled by law to see it.

**Invitation of Transition Providers.** With the consent of the parent or the child who has reached the age of majority, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

**Refusal or Revoking Consent.** You can refuse consent for an evaluation, a re-evaluation, or the initial placement of your child in special education. Your consent may be revoked if the action for which consent was given has not already taken place. You and the school district may agree to first try mediation to resolve your disagreements. You may also revoke your consent for special education services at any time.

**Note:** Refusal to consent or revocation of consent for services means that the district shall not be required to make available a Free and Appropriate Public Education (FAPE) and shall not be required to convene IEP meetings about your child.

## PRIOR WRITTEN NOTICE

In addition to being a participant in decision-making, you have the right to prior written notice from the school district after important decisions are made that affect your child's special education but before those decisions are put into place. These include decisions to:

- identify your child as a child with a disability, or change your child's eligibility from one disability to another;

- evaluate or re-evaluate your child;
- develop an IEP for your child, or change your child's IEP; or,
- place your child in a special education program, or change your child's special education placement;
- change or destroy information in district files that personally identifies your child;
- determine whether your child's disability was the reason for misbehavior that requires disciplinary action resulting in a change of placement; or
- cease all special education programming (including graduation).

You also have the right to prior written notice from the school district when the district refuses your request to:

- identify your child as a child with a disability, or change your child's eligibility from one disability to another;
- evaluate or re-evaluate your child;
- develop an IEP for your child, or change your child's IEP; or,
- place your child in a special education program, or change your child's special education placement.

Prior written notice must include:

- a description of the action proposed or refused by the school district;
- an explanation of why the district proposes or refuses to take action;
- a description of any other options the district considered and the reasons why those options were rejected;
- a description of each evaluation procedure, test, record or report used as a basis for the action proposed or refused;
- a description of any other factors relevant to the action proposed or refused;
- a statement that parents of a child with a disability are protected by the procedural safeguards described in this booklet and if the notice is not for an initial referral, a statement of how to get a copy of this *Notice of Procedural Safeguards* booklet; and
- sources for you to contact to get help in understanding these procedural safeguards.

The notice must be written in language understandable to the general public. If you have trouble understanding this or any other document, please ask your local school personnel to explain any terms or procedures that remain unclear.

Prior written notice must be provided in your native language unless it is clearly not feasible to do so, in which case, the district must communicate the information to you in some other way.

An interpreter may be provided for parents with limited English proficiency who speak another language. If a parent is deaf, blind or has no written language, the district must assure that the content of the notice is provided in the mode normally used (such as sign language, Braille or oral communication).

If you disagree with a proposed action after receiving notice, you should call your child's principal or the district special education administrator to discuss the matter. If you are unable to come to an agreement, you have the right to a due process hearing by an impartial third party. (Due process hearings are discussed in more detail later in this document.) If, within 10 days of receiving the written notice, you file a written objection to the proposed action, the change cannot occur, pending the results of the due process hearing.

### **RE-EVALUATION**

Your child must be re-tested (re-evaluated) when conditions warrant, if you or your child's teacher requests a re-evaluation, but at least once every three years. If the IEP team determines that no additional data are needed to determine whether your child continues to have a disability or continues to need special education, the school district must notify you of that decision and the reasons for it. Under these circumstances, the school district is not required to do an assessment of your child. However, you still have the right to request that the district conduct an assessment to determine whether your child continues to be eligible for special education.

### **ACCESS TO EDUCATIONAL RECORDS**

IDEA 2004 and the Family Education Rights and Privacy Act (FERPA) contain provisions that protect the confidentiality of student records. These laws also provide parents the right to review and inspect records. The district will assume that each parent has the right to inspect and review their child's educational records unless the district has received legal documents limiting parent access to those records.

The district maintains a list of the types and locations of educational records used by the school district. Documentation is maintained in your child's record of persons, other than yourself and authorized school district personnel, who have examined the records, the date access was given and the purpose for which the person was authorized to use the records.

You have the right to inspect and review all of your child's education records:

- without unnecessary delay;
- before any meeting about your child's IEP;
- before any due process hearing related to your child; and, in any case,
- within 45 days of your request.

The right of inspection includes:

- an explanation and interpretation of the records by school district personnel;
- the right of the district to charge a fee for copies of records that are made for you if the fee does not effectively prevent you from exercising your rights to inspect and review those records; and
- the right to have your child's records inspected and reviewed by a representative of your choosing.

Requests to look at your child's records should typically be made to the building principal or to the special education administrator for your school district.

**Changing Information in a Record.** After reviewing your child's educational records, you may ask the school district to change any information you believe is inaccurate or misleading or violates your child's privacy or other rights. The district will make those changes or reject your request within a reasonable period of time. If your request is rejected, the district must inform you of the rejection and that you have a right to a hearing under the Family Educational Rights and Privacy Act (FERPA).

After the hearing, the following steps will be taken:

- If the hearing decision is that the record is incorrect, misleading, or violates your child's privacy or other rights, the district will amend the record accordingly, and will inform you in writing.
- If the hearing decision is to not amend the record, you may place a statement in the records stating why you do not agree with the district's record. The district, as part of your child's records, will maintain this statement. Any time your child's records are released, this statement will be part of the records.

**Disclosure of Records.** Your consent must be obtained before allowing information to be used for a purpose other than which it was collected or before disclosing personally identifiable information about your child to anyone not entitled to see it. You can see the names and positions of school district employees entitled to see personally identifiable information about your child at the location where the files are maintained.

**Destruction of Records.** The school district must maintain educational records until no longer needed to provide educational services, but not fewer than 5 years.

If personally identifiable information collected, maintained, or used is no longer needed by the district, that information may be destroyed. The district will make reasonable efforts to notify you and offer a copy of the record to be destroyed. A reasonable effort would be written correspondence to the last known address of the parent.

## **INDEPENDENT EDUCATIONAL EVALUATIONS**

An independent educational evaluation is an evaluation by a qualified examiner who is not an employee of the school district responsible for your child. You may ask for an independent educational evaluation at school district expense if you disagree with an evaluation completed by the school district.

The school district must respond to your request within a reasonable time. If the school district believes that its evaluation is appropriate, it may request a due process hearing. If the school district shows at a hearing that its evaluation is appropriate, the school district will not have to pay for an independent educational evaluation. You may still get an independent educational evaluation at your own expense.

School districts must maintain a list of public and private agencies qualified to conduct independent educational evaluations. This list is available on request. Typically, requests for this list should be made to your school district's special education administrator. Independent evaluators must have the same qualifications, use the same criteria for evaluations, and conduct the evaluation in a similar setting as district evaluators.

The results of independent educational evaluations (whether conducted at district or parent expense) must be considered by the school district when taking further action regarding your child with respect to the provision of a free appropriate public education. These evaluations may be considered as evidence in a due process hearing.

A hearing officer may also order an independent educational evaluation of your child at school district expense during due process hearing proceedings.

## **OPPORTUNITY TO PRESENT COMPLAINTS**

If you have concerns about your child's special education services, the first step is to talk to your child's regular or special education teacher, the building principal or the school district's special education administrator. It helps to deal with concerns when they first arise so steps can be taken as soon as possible to support the working relationship among parents, staff, and children. If the concerns are not resolved, you can take further steps to address them, including a written complaint to the Alaska Department of Education & Early Development (DEPARTMENT OF EDUCATION), mediation, and/or requesting a due process hearing.

**Mediation.** Mediation is a voluntary process that brings together an impartial mediator and the parties to a dispute in an attempt to resolve the disagreement through a structured, yet informal meeting. Qualified mediators are trained in mediation techniques and are knowledgeable about special education laws and regulations. If a mediator is not selected on a random basis from the list of qualified mediators, both parties must be involved in selecting the mediator and agree with the selection of the individual who will mediate. Sessions are scheduled at times and in places convenient to the parties. Any agreement reached through mediation will be set forth in a written agreement. Discussions that occur during the mediation process are confidential and may not be used as evidence in subsequent due process hearings or in court proceedings. The parties may be required to sign a confidentiality pledge prior to beginning the mediation process.

You are encouraged to request mediation whenever a dispute arises in the IEP process. Mediation is an alternative, but not a prerequisite to a due process hearing or the filing of a written complaint. If you request a due process hearing, the district must offer mediation. However, mediation cannot be used to delay the right to a due process hearing or the 45-day timeline established for hearings, although both parties may request the hearing officer to postpone the hearing, pending mediation efforts.

A telephone or written request for mediation should be made to:

Alaska Special Education Mediation Services

C/O Dave Thomas

P.O. Box 4750

Whitefish, Montana 59937

Phone Toll Free: 1-800-580-2209

Fax: 1-406-863-9229

**Administrative Complaint.** If you believe the school district has violated IDEA 04 or state regulations, you may file a written complaint with DEPARTMENT OF EDUCATION. Complaints must allege violations that occurred not more than one year prior to the filing of the complaint.

Use the “Notice Of Administrative Complaint Form”.

This complaint must describe the problem(s), include your name and contact information, and give specific facts about the problem(s). Your **signed** complaint should be sent to:

Special Education Dispute Resolution  
Alaska Department of Education & Early Development  
Teacher and Learning Support, Special Education  
801 West 10<sup>th</sup> Street, Suite 200  
P.O. Box 110500  
Juneau, Alaska 99811-0500

**Or fax to:** (907) 465-2806  
Attention: Special Education Dispute Resolution

If you file a written complaint of this type, the department will assign a complaint investigator who must complete the investigation within 60 days. You will be given the opportunity to submit additional information, either orally or in writing about the allegations in the complaint. A written report will be issued to you and the district that addresses each allegation in the complaint and will contain findings of fact, conclusions of law and the reasons for the final decision. As appropriate, technical assistance activities or corrective actions may be assigned in order to achieve compliance with IDEA or state regulations.

**Due Process Hearing.** To resolve disputes between parents and school districts, both parties have the right to an impartial due process hearing. A due process hearing may be requested by you or by a student who is at least 18 years old but less than 22 years old. A hearing can be sought because of a disagreement concerning certain aspects of the student’s educational program – that is, if the district proposes or refuses to initiate or change the identification, evaluation or educational placement of your child or the provision of a free appropriate public education. Complaints must allege violations that occurred not more than one year prior to the filing of the complaint.

The request for a due process hearing must be made in writing and **signed**. Use the “Notice Of Request For A Due Process Hearing”. Send your request to the district special education administrator or superintendent and forward a copy to:

Special Education Dispute Resolution  
Alaska Department of Education & Early Development  
Teacher and Learning Support, Special Education  
801 West 10<sup>th</sup> Street, Suite 200  
P.O. Box 110500  
Juneau, Alaska 99811-0500

**Or fax to:** (907) 465-2806  
Attention: Special Education Dispute Resolution

A model form is included in this booklet. The form is also available from the district special education administrator or from the Department of Education.

Your hearing request must include:

- your child’s name and address and the name of the school that your child is attending;
- a description of the problem, including specific facts about the problem;
- any suggestions you have for solving the problem, to the extent known at the time; and
- your request must be signed.

**Note:** The party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed unless the other party agrees.

Following are some of the reasons you might seek a hearing:

1. The district refuses to identify, evaluate or appropriately serve your child.
2. You disagree with a proposed IEP.
3. You object to termination of your child's special education program.
4. You believe the district's proposed placement will not meet your child's needs as set forth in the IEP.
5. You believe a placement is not in the least restrictive environment necessary to meet your child's needs.
6. You disagree with a proposed change of placement.
7. You disagree with the decision about the relationship between your child's disability and the behavior that resulted in disciplinary action.
8. You disagree with the intent to graduate your child.

If the due process notice is found to be insufficient by any party, the following procedures must be followed:

- The receiving party should notify the hearing officer and the complainant, within 15 days of the receipt, that the notice does not meet the required content requirements.
- The agency must provide prior written notice within 10 days if the agency has not provided prior written notice about the issues in the due process hearing notice.
- The non-complaining party must respond within 10 days specifically addressing the issues in the due process hearing notice.
- The hearing officer will make a determination about the sufficiency of the due process hearing notice within 5 days.
- The due process hearing notice may be amended with the written consent of the other party or through a resolution meeting.
- The hearing officer can grant permission to amend a due process hearing notice, but not within 5 days of the due process hearing.
- The due process hearing timelines will recommence upon the filing of an amended notice.

A person known as an impartial hearing officer conducts the hearing. This person has knowledge of the law pertaining to children with disabilities and has received training on conducting a due process hearing. The hearing officer will be appointed from a list maintained by the Department of Education. In Alaska, the district will contact the department to request appointment of a hearing officer. The department will select a hearing officer through a random selection process, from a list maintained by the department. Within 5 business days after receipt of the request, the department will provide you and the district a notice of appointment, including

the name and a statement of the qualifications of the hearing officer the department has determined eligible to conduct the hearing.

You and the district each have the right to reject, without stating a reason, one hearing officer appointed by the department. You or the district must send written notice of the rejection to the department within 5 days after receiving the department's notice of appointment. The department will, within 5 business days after receipt of the written rejection, provide a notice of appointment of another hearing officer to conduct the hearing. Each appointment is subject to a right of rejection by a party who has not previously rejected an appointment.

Immediately following his/her appointment, the hearing officer shall inform the parties of the availability of mediation and encourage use of that process to attempt to resolve the disagreement between the parent and the school district. However, the hearing officer may not act as a mediator to the dispute.

A hearing officer cannot be an employee of the Alaska Department of Education & Early Development (EED) or the school district involved in the education or care of your child. The due process hearing and any oral argument will be conducted at a time and place that is convenient to you and your child, who may be present. The hearing officer will open the hearing to the public at your request; otherwise the hearing is closed to the public.

A party to a hearing has certain rights, including:

- the right to be accompanied and advised by an attorney;
- the right to bring one or more individuals who have knowledge or training about children with disabilities;
- the right to present evidence and confront, cross-examine, and require witnesses to be present;
- the right to prohibit the introduction of any evidence that was not disclosed at least 5 days prior to the hearing;
- the right to a written, or, at the option of the parents, an electronic verbatim record of the hearing; and,
- the right to written, or, at the option of the parents, electronic findings of fact and decisions.

The hearing must be conducted and a copy of the hearing officer's decision must be mailed to both parties no more than 45 days after the hearing was requested. However, this date may be delayed if the hearing officer has granted a specific extension of time following the request of either party. The hearing officer must reach a decision and provide a copy of a written, or at your option, electronic findings of fact and decisions to each of the parties. A copy of the final order will be submitted to the ***Department of Education***. The state department, after removing any personally identifiable information, will transmit the findings and decision to the Governor's Council on Disabilities and Special Education. The decision is a public record. The due process

hearing decision is final unless either party appeals the decision to state or federal court for review.

**School District Resolution Sessions.** Prior to a due process hearing, the district shall convene a meeting with the parents and the relevant member or members of the Individualized Education Program (IEP) Team who have specific knowledge of the facts identified in the due process hearing request. The resolution meeting must:

- Occur within 15 days of receiving notice of the parent's due process hearing request;
- Include a representative of the agency who has decision-making authority on behalf of such agency;
- Not include an attorney of the district unless the parents are accompanied by an attorney;
- Discuss the due process hearing request, and the facts that form the basis of the due process hearing request;
- Provide the district the opportunity to resolve the due process hearing request.

The preceding 5 resolution meeting elements apply unless the parents and the district agree in writing to waive such meeting, or agree to use the mediation process described.

If the district has not resolved the issues that are the subject of the request for the due process hearing to the satisfaction of the parents within 30 days of the receipt of the request, the due process hearing may occur, and all of the applicable timelines for a due process hearing shall commence.

In the case that a resolution is reached to resolve the issues that are the subject of the request for the due process hearing at a meeting described above, the parties shall execute a legally binding agreement that is:

- Signed by both the parent and a representative of the agency who has the authority;
- Enforceable in any state court of competent jurisdiction or in a district court of the U.S.

If the parties execute an agreement, a party may void such agreement within 3 business days of the agreement's execution.

**Disclosure of Evidence before Hearing.** At least 5 business days before the hearing, each party is required to disclose to the other any evidence it intends to introduce at the hearing; either party can prohibit the use of any evidence that is not so disclosed. At least 5 business days before a hearing, school districts and parents must disclose to each other all evaluations of the

student completed by that date and recommendations based on those evaluations that are intended to be used at the hearing. A hearing officer may bar any party that fails to comply with this rule from introducing the undisclosed evaluations or recommendations at the hearing without the consent of the other party.

**Child's Placement During Proceedings.** During the process of hearing or judicial review, your child remains in his or her current educational placement. This "stay put" rule applies unless:

- You and the school district agree to another placement;
- Your child is applying for initial admission to a public school and you consent to your child's placement in the public school program; or
- School personnel or a hearing officer removes your child to an interim alternative educational setting. (See information regarding alternative educational settings under the School Discipline section of this document.)

**Appeal for Judicial Review.** The decision by the impartial hearing officer is final unless you or the district appeals the decision to the appropriate state or federal court. Appellate Rule 602 requires that the appeal be made within 30 days of the final order. If you file a civil action, the court must:

- receive the record of the hearing;
- hear additional evidence at the request of a party;
- base its decision on the preponderance of the evidence; and,
- grant such relief as the court determines is appropriate.

**Attorney Fees.** If you are represented by an attorney and you substantially prevail in any hearings or lawsuit, you may be entitled to recover your attorney's fees from the school district. You can substantially prevail without obtaining all the relief that you wanted from the district. However, whether you are entitled to attorney's fees can be a difficult determination and must be made by a court; not by the hearing officer.

Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding for services performed subsequent to the time of a written offer of settlement to you by the district if:

- the offer is made at least 10 days before an administrative or civil proceeding begins; and
- you do not accept the offer within 10 days after it was made; and
- a court or administrative hearing officer finds that the relief you finally obtained from the hearing officer or court action was not more favorable to you than the offer of settlement.

Attorneys' fees may not be awarded:

- to you for legal representation at an IEP meeting unless such a meeting is convened as a result of an order by a hearing officer or by judicial action; or
- for a mediation that is conducted prior to a request for a due process hearing.

A court may reduce an award for attorneys' fees if:

- you, during the course of the action or proceeding, unreasonably extended the final resolution of the controversy;
- the amount of the request unreasonably exceeds the prevailing rate in the community for similar services by attorneys of reasonably comparable skills, reputation and experience;
- the time spent and legal services rendered were excessive considering the nature of the action; or
- the attorney representing you did not provide all of the information required in a due process hearing request.

When the district or Department of Education is a prevailing party, the court, in its discretion, may award reasonable attorney's fees as part of the costs. The court may rule and award fees:

- Against the attorney of a parent who files a request for a due process hearing or subsequent cause of action that is frivolous, unreasonable, or without foundation; or
- Against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable or without foundation; or
- Against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for an improper purpose such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

### **SCHOOL DISCIPLINE AND PLACEMENT IN INTERIM ALTERNATIVE EDUCATIONAL SETTING**

**Short Term.** Short-term removals are removals of up to 10 school days -- at one time or combined in a school year. School personnel may use short-term removals, including suspension, moving your child to an appropriate interim alternative educational setting or putting your child in another setting, to the same extent these options would be used with children without disabilities.

**Longer Removals.** Longer removals include suspensions and expulsions that add up to more than 10 days in a school year. These removals are called a change of placement. You must be

notified of the disciplinary action and be given a copy of this *Notice of Procedural Safeguards* not later than the date on which the disciplinary action that constitutes a change of placement is made.

School districts cannot take this kind of action for misconduct that is a manifestation of the child's disability. If school staff is considering a longer removal, the district must convene the IEP team, of which you are a member, to conduct a review of the relationship between your child's disability and the behavior that resulted in the disciplinary action. This is called a "manifestation determination." This meeting must take place immediately, if possible, or within 10 days of the school district's decision to take this type of disciplinary action.

**Manifestation Determination.** A manifestation determination meeting must occur within 10 school days of any decision to change placement. The district, parent, and relevant members of the IEP team (as determined by parent and district), shall review all relevant information, including the IEP, any teacher observations and any relevant information provided by the parent(s) to determine:

- if conduct was caused by or had a direct and substantial relationship to the child's disability,
- If the conduct was a direct result of the District's failure to implement the IEP.

If behavior was a manifestation of the child's disability, the IEP team must conduct a Functional Behavior Analysis and implement a Behavior Plan or review an existing plan and modify it, as necessary, to address the behavior.

The child will return to the placement from which he or she was removed for discipline, unless the parent and District agree to a change of placement as part of the modification of the behavioral intervention plan.

If the IEP team concludes that the misconduct was **not** a manifestation of your child's disability:

- The school district may take disciplinary action, such as suspension or expulsion, in the same manner and for the same duration as it would for children without disabilities;
- If an expulsion hearing is required, the school district must make sure that the special education and disciplinary records of your child are provided to the expulsion hearing officer; and,
- The school district must continue to provide a free appropriate public education to your child consistent with the child's individual needs.

If you disagree with the IEP team's decision, you can request an expedited due process hearing.

If you request a hearing regarding a disciplinary action to challenge the interim alternative educational setting or the manifestation determination, your child shall remain in the interim alternative educational setting pending the decision of the hearing officer, or until the expiration of the interim alternative educational placement time line, unless you and the district agree otherwise.

If the time line for the interim alternative educational placement expires during the hearing, your child shall return to his or her placement prior to the interim alternative educational setting. However, if school personnel maintain that it is dangerous for your child to return to that placement, the school district may request an expedited hearing to ask a hearing officer to order your child to continue in an alternative educational setting.

**Behavior Intervention Plan (BIP).** Either before or within 10 days of taking a disciplinary action that results in removal of your child from the current educational placement, the school district must take certain actions. If, before the behavior that resulted in the suspension, the district had not conducted a functional behavioral assessment and implemented a behavior intervention plan, the district must convene an IEP meeting to develop an assessment plan to address the misconduct. If the student already had a behavior intervention plan, an IEP team must review and modify the plan, as necessary, to address the behavior.

**Misconduct in the Areas of Weapons, Drug-Related, or Serious Bodily Injuries.** School personnel may move a child to an interim alternative educational setting for 45 school days if:

- the child carries a weapon to school or to a school function; or,
- the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function; or
- the child has inflicted serious bodily injury upon another person at school; or
- the student is determined dangerous in an expedited due process hearing; or
- the interim alternative educational setting meets the requirements listed below.

**Removal by a Hearing Officer.** A hearing officer may move a child to an interim alternative educational setting if:

- the district demonstrates by substantial evidence that maintaining the child in the current educational placement would be substantially likely to cause injury to the child or others;
- the public agency has made reasonable efforts to minimize the risk of harm in the current placement;
- the hearing officer considers the appropriateness of the current educational placement; and
- the hearing officer determines that the interim alternative educational setting meets the requirements listed below.

**Interim Alternative Educational Setting (IAES).** If school personnel place your child in an interim alternative educational setting for violation of school rules, you must be notified of the disciplinary action to be taken, and receive a copy of this *Notice of Procedural Safeguards* no later than the date on which the decision to take disciplinary action is made or a placement change is implemented, whichever comes first.

Any interim alternative educational setting must:

- Allow your child to continue to participate in the general curriculum, although in a different setting;
- Allow your child to continue to receive services and modifications, including those described in your child's IEP, to enable your child to meet IEP goals; and,
- Include services and modifications designed to address the child's behavior that resulted in the disciplinary action so that it does not recur.

The specific interim alternative educational setting must be determined by the child's IEP team, including parents. The IEP meeting must occur either before, or within 10 days after, any disciplinary placement change is made. The purpose of the meeting is to consider the problem behavior that led to the disciplinary placement change and do the following:

- Review and modify your child's behavioral intervention plan as needed to address the problem behavior; or
- Develop an assessment plan to address the problem behavior, if the district has not previously conducted a functional behavioral assessment and implemented a behavioral intervention plan; and
- Review the relationship between your child's disability and the behavior subject to the disciplinary action.

### **CHILDREN ATTENDING PRIVATE SCHOOLS**

Children who are enrolled by their parents in private schools may participate in publicly funded special education and related services. Federal law permits special education and related services to be provided at the private school to the extent consistent with state law.

**When Reimbursement is Not Required.** Some children with disabilities are enrolled in private schools by their parents. School districts are not required to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if the school district made a free appropriate public education available to the child and the parents chose to place the child in a private school or facility.

**When Reimbursement May Be Required.** A court or hearing officer may require a school district to reimburse parents for the cost of private school placement made without the consent of or referral by the school district only if:

- the child received special education and related services under the authority of a public agency before enrolling in the private school; and,
- the court or hearing officer finds that, at that time, the school district did not make a free appropriate public education available to the child in a timely manner.

**When Reimbursement May Be Reduced or Denied.** Under the following three conditions, reimbursement for services may be reduced or denied:

1. Notice before removing child from public school.

The court or hearing officer may reduce or deny reimbursement if you do not inform the school district that you are rejecting the placement proposed by the school district and state your concerns and intent to enroll their child in a private school at public expense.

This notice must be given either:

- at the most recent IEP meeting that you attended before removing your child from public school; or
- in writing to the school district at least (10) ten business days (including holidays that occur on a business day) before removing your child from public school.

A court or hearing officer may **not** reduce or deny reimbursement if a parent does not give this notice because:

- the parent is illiterate and cannot write in English;
- the reduction or denial of payment would likely result in physical or serious emotional harm to the child;
- the school prevented the parent from giving notice; or,
- the parent had not received a copy of this *Notice of Procedural Safeguards* or otherwise been informed of this notice requirement.

2. Evaluation by school district.

The court or hearing officer also may reduce or deny reimbursement if you do not make your child available for an evaluation by the school district, providing:

- the school district gave prior written notice of its intent to evaluate or re-evaluate your child;

- the purpose of the evaluation as described in the prior written notice was appropriate and reasonable; and,
- the prior written notice was given before your child was removed from the public school.

3. Unreasonableness.

Reimbursement may also be reduced or denied upon a judicial finding that you were unreasonable in your actions.

### **OTHER RESOURCES**

The publicly funded organizations listed here may be able to assist you in understanding the procedural safeguards and other provisions of IDEA 2004.

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• <b>Your Local School District</b> <ul style="list-style-type: none"> <li>- Special Education Teacher</li> <li>- Regular Education Teacher</li> <li>- School Principal</li> <li>- District Special Ed. Coordinator/Director</li> <li>- District Superintendent</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• <b>Alaska Dept. of Education &amp; Early Development</b><br/>Office of Special Education Programs<br/>Juneau: (907) 465-8693<br/><i>(ask to speak with a program manager)</i><br/>Juneau TTY/TTD: (907) 465-2815<br/><i>(ask for the Special Education Office)</i><br/>Website: <a href="http://www.eed.state.ak.us/tls/sped/">http://www.eed.state.ak.us/tls/sped/</a></li> </ul> |
| <ul style="list-style-type: none"> <li>• <b>Stone Soup Group</b><br/>Toll Free: (877) 786-7327<br/>Fax: (907) 561-3701<br/>Website: <a href="http://www.stonesoupgroup.org">http://www.stonesoupgroup.org</a></li> </ul>  | <ul style="list-style-type: none"> <li>• <b>Disability Law Center</b><br/>Toll Free: (800) 478-1234 Phone/TTY<br/>Fax: (907) 565-1000<br/>Website: <a href="http://www.dlcak.org/">http://www.dlcak.org/</a></li> </ul>   |
| <ul style="list-style-type: none"> <li>• <b>LINKS - Mat-Su Parent Resource Ctr</b><br/>Palmer: (907) 373-3632<br/>Fax: (907) 373-3620<br/>Website: <a href="http://www.linksprc.org/">http://www.linksprc.org/</a></li> </ul>   | <ul style="list-style-type: none"> <li>• <b>The Governor's Council on Disabilities and Special Education</b> serves as Alaska's State Advisory Panel. The Council meets several times each school year in different locations around the state. Each meeting includes a time for public comment.<br/><br/>For more information call: (907) 269-8990</li> </ul>  |

## NOTICE OF ADMINISTRATIVE COMPLAINT

Information that is requested in all shaded boxes must be provided. This form may be completed by the parent of the child with a disability or, if appropriate, the attorney representing the child. In the case of a homeless child or youth, provide available contact information and the name of the school the child is attending.

I. CHILD	CHILD'S ADDRESS	CHILD'S DATE OF BIRTH
CHILD'S NAME		MM/DD/YY
FIRST NAME: _____ LAST NAME: _____ MIDDLE INITIAL: _____	ADDRESS LINE 1: _____ ADDRESS LINE 2: _____ CITY: _____ ZIP CODE: _____ STATE: _____	
SCHOOL OR PROGRAM ATTENDED	SCHOOL / PROGRAM ADDRESS	SCHOOL CONTACT NAME & NUMBER
SCHOOL NAME: _____ CURRENT GRADE LEVEL: _____	ADDRESS LINE 1: _____ ADDRESS LINE 2: _____ CITY: _____ ZIP CODE: _____ STATE: _____	NAME: _____ TITLE: _____ CONTACT NUMBER: _____
PARENT OR GUARDIAN	PARENT / GUARDIAN ADDRESS (IF DIFFERENT)	PARENT / GUARDIAN PHONE
NAME: _____ AFFILIATION: <input type="checkbox"/> PARENT <input type="checkbox"/> GUARDIAN	ADDRESS LINE 1: _____ ADDRESS LINE 2: _____ CITY: _____ ZIP CODE: _____ STATE: _____	PRIMARY PHONE: _____ SECONDARY PHONE: _____ EMAIL: _____
ATTORNEY OR LEGAL REPRESENTATIVE	DISTRICT ADDRESS	PHONE / FAX
NAME: _____ ADDRESS LINE 1: _____ ADDRESS LINE 2: _____ CITY: _____ ZIP CODE: _____ STATE: _____	DISTRICT NAME: _____ ADDRESS LINE 1: _____ ADDRESS LINE 2: _____ CITY: _____ ZIP CODE: _____ STATE: _____	NAME: _____ TITLE: _____ CONTACT NUMBER: _____ FAX NUMBER: _____

Parent/Guardian Signature (required): \_\_\_\_\_ Date: \_\_\_\_\_

**2. PROBLEM**

*PARENTS MAY MAKE A COMPLAINT IF THEY DISAGREE WITH THE IDENTIFICATION, EVALUATION, EDUCATIONAL PLACEMENT, PROVISION(S) OF A FREE APPROPRIATE PUBLIC EDUCATION (FAPE) TO THEIR CHILD OR OTHER SPECIAL EDUCATION RELATED ISSUE(S).*

*DESCRIBE THE PROBLEM WITH YOUR CHILD'S SPECIAL EDUCATION PROGRAM, AND THE SPECIFIC ACTIONS THAT THE SCHOOL DISTRICT HAS TAKEN OR REFUSED TO TAKE. INCLUDE FACTS ABOUT THE PROBLEM.*

**3. PROPOSED SOLUTION**

DESCRIBE WHAT YOU THINK NEEDS TO BE DONE TO SOLVE THE PROBLEM, IF YOU KNOW OR HAVE ANY SPECIFIC IDEAS AT THIS TIME.

[Empty response area for proposed solution]

## NOTICE OF REQUEST FOR DUE PROCESS HEARING

Information that is requested in all shaded boxes must be provided. This form may be completed by the parent of the child with a disability or, if appropriate, the attorney representing the child. In the case of a homeless child or youth, provide available contact information and the name of the school the child is attending.

1. CHILD	CHILD'S ADDRESS	CHILD'S DATE OF BIRTH
<b>CHILD'S NAME</b> FIRST NAME: _____ LAST NAME: _____ MIDDLE INITIAL: _____	ADDRESS LINE 1: _____ ADDRESS LINE 2: _____ CITY: _____ STATE: _____ ZIP CODE: _____	_____ MM/DD/YY
<b>SCHOOL OR PROGRAM ATTENDED</b>	SCHOOL / PROGRAM ADDRESS	SCHOOL CONTACT NAME & NUMBER
<b>SCHOOL NAME:</b> _____ <b>CURRENT GRADE LEVEL:</b> _____	ADDRESS LINE 1: _____ ADDRESS LINE 2: _____ CITY: _____ STATE: _____ ZIP CODE: _____	NAME: _____ TITLE: _____ CONTACT NUMBER: _____
<b>PARENT OR GUARDIAN</b>	<b>PARENT / GUARDIAN ADDRESS (IF DIFFERENT)</b>	<b>PARENT / GUARDIAN PHONE</b>
NAME: _____ AFFILIATION: <input type="checkbox"/> PARENT <input type="checkbox"/> GUARDIAN	ADDRESS LINE 1: _____ ADDRESS LINE 2: _____ CITY: _____ STATE: _____ ZIP CODE: _____	PRIMARY PHONE: _____ SECONDARY PHONE: _____ EMAIL: _____
<b>ATTORNEY OR LEGAL REPRESENTATIVE</b>	<b>DISTRICT ADDRESS</b>	<b>PHONE / FAX</b>
NAME: _____ ADDRESS LINE 1: _____ ADDRESS LINE 2: _____ CITY: _____ STATE: _____ ZIP CODE: _____	DISTRICT NAME: _____ ADDRESS LINE 1: _____ ADDRESS LINE 2: _____ CITY: _____ STATE: _____ ZIP CODE: _____	NAME: _____ TITLE: _____ CONTACT NUMBER: _____ FAX NUMBER: _____

Parent/Guardian Signature (required): \_\_\_\_\_ Date: \_\_\_\_\_

**2.  
PROBLEM**

*PARENTS CAN REQUEST A HEARING IF THEY DISAGREE WITH THE IDENTIFICATION, EVALUATION, EDUCATIONAL PLACEMENT OR PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION (FAPE) TO THEIR CHILD.*

*DESCRIBE THE PROBLEM WITH YOUR CHILD'S SPECIAL EDUCATION PROGRAM, AND THE SPECIFIC ACTIONS THAT THE SCHOOL DISTRICT HAS TAKEN OR REFUSED TO TAKE. INCLUDE FACTS ABOUT THE PROBLEM.*

**3. PROPOSED SOLUTION**

DESCRIBE WHAT YOU THINK NEEDS TO BE DONE TO SOLVE THE PROBLEM, IF YOU KNOW OR HAVE ANY SPECIFIC IDEAS AT THIS TIME.

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