

Sec. 1. PROCEDURAL SAFEGUARDS

The Superintendent or designee shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (“FAPE”). *20 U.S.C. 1415(a)–(b)*.

These procedures shall include:

1. An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. *34 CFR 300.501*.
2. An opportunity for the parents to obtain an independent educational evaluation of the child. *34 CFR 300.502*.
3. Assignment of an individual to act as a surrogate for the parent when no parent can be identified, Compass Rose Public Schools cannot locate the parents, or the child is a ward of the state. *34 CFR 300.519*.
4. Prior written notice to the parents whenever Compass Rose Public Schools proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.503*.
5. Procedures to allow parties to resolve disputes through a mediation process. *34 CFR 300.506*.
6. An opportunity for any party to file a due process complaint on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.507*.
7. Procedures that require either party, or the attorney representing a party, to provide the other party a due process complaint (which shall remain confidential). *34 CFR 300.508*.

Sec. 2. CONSENT

Consent means that:

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
2. The parent understands and agrees in writing to the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. A revocation of consent is not retroactive.

If the parent revokes consent in writing for his or her child’s receipt of services after the child is initially provided special education and related services, Compass Rose Public Schools is not required to amend the child’s education records to remove any references to the child’s receipt of services because of the revocation of consent.

34 CFR 300.9.

Sec. 3. LANGUAGE OF NOTICES

The procedural safeguards and prior notices described below must be written in a language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. 34 CFR 300.503(c), 300.504(d).

a) *Electronic Delivery of Notices*

A parent who has a child with a disability may elect to receive required notices required by 34 CFR 300.503, 300.504 and 300.508 by electronic mail, if Compass Rose Public Schools makes that option available. 34 CFR 300.505.

b) *Notice of Procedural Safeguards*

Compass Rose Public Schools shall provide a copy of the procedural safeguards to parents only once per year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

Compass Rose Public Schools may also place a current copy of the procedural safeguards notice on its Internet Web site.

c) *Contents of Notice*

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
 - a. The time period in which to file a complaint,
 - b. The opportunity for Compass Rose Public Schools to resolve the complaint; and

- c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
6. The availability of mediation;
7. The child’s placement during pendency of any due process proceedings;
8. Procedures for children who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents of children in private schools at public expense;
10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys’ fees.

20 U.S.C. 1415(a)–(b), (d); 34 CFR 300.504(c).

Sec. 4. PRIOR NOTICE AND CONSENT

Compass Rose Public Schools shall provide prior written notice to the parents within a reasonable time before the school proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of a child or the provision of a FAPE to the child. *34 CFR 300.503(a).*

Notice must be provided to the parent in the parent’s native language or other mode of communication at least five school days before Compass Rose Public Schools proposes or refuses the action, unless the parent agrees to a shorter time frame. *19 TAC 89.1050(h).*

a) *Contents of Notice*

The notice must include:

1. A description of the action proposed or refused by Compass Rose Public Schools;
2. An explanation of why Compass Rose Public Schools proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report Compass Rose Public Schools used as a basis for the proposed or refused action;
4. A statement that the parents have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained;
5. Sources for parents to contact to obtain assistance in understanding the Individuals with Disabilities Education Act (“IDEA”) rules;
6. A description of other options the admission, review and dismissal (“ARD”) committee considered and the reasons why those options were rejected; and

7. A description of other factors relevant to Compass Rose Public Schools' proposal or refusal.

34 CFR 300.503(b).

b) *Consent to Initial Evaluation*

Before Compass Rose Public Schools conducts an initial evaluation, it shall provide prior written notice, including a description of any evaluation Compass Rose Public Schools proposes to conduct, and obtain informed consent for the evaluation from the parents. *20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.304(a).*

c) *Consent to Services*

Compass Rose Public Schools shall seek informed consent from the parent before providing special education and related services to a child. *20 U.S.C. 1414(a)(1)(D).*

d) *Consent to Reevaluation*

Compass Rose Public Schools shall obtain informed parental consent before conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if Compass Rose Public Schools can demonstrate that it has taken reasonable measures to obtain such consent and the parent has failed to respond. *20 U.S.C. 1414(c)(3).*

e) *Psychological Examinations and Tests*

On request of a child's parent, before obtaining the parent's consent under 20 U.S.C. Section 1414 for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, Compass Rose Public Schools shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate Individualized Education Program ("IEP") for the child.

If Compass Rose Public Schools determines that an additional examination or test is required for the evaluation of a child's need for special education after obtaining consent from the child's parent, Compass Rose Public Schools shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test. *Education Code 29.0041(a), (b).*

Sec. 5. DISPUTE RESOLUTION

The possible options for resolving disputes that arise between a parent and Compass Rose Public Schools relating to the identification, evaluation, or educational placement of or the provision of FAPE to a student with a disability include, but are not limited to:

1. ARD committee meetings, including IEP facilitation if offered by Compass Rose Public Schools, under 19 TAC 89.1196;
2. Meetings or conferences with the student’s teachers;
3. Meetings or conferences, subject to Compass Rose Public Schools policies, with the principal, special education director, Superintendent, or Board;
4. Requesting state IEP facilitation in accordance with 19 TAC 89.1197 (relating to State Individualized Education Program Facilitation);
5. Requesting mediation through the Texas Education Agency (“TEA”) in accordance with 34 CFR 300.506;
6. Filing a complaint with TEA in accordance with 34 CFR 300.153; or
7. Requesting a due process hearing through TEA in accordance with 34 CFR 300.507-300.514.

19 TAC 89.1150.

Sec. 6. DUE PROCESS COMPLAINT

Whenever a due process complaint has been received by Compass Rose Public Schools, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by TEA.

a) *Time Limit*

A due process complaint must set forth an alleged violation that occurred not more than one year before the date the parent or Compass Rose Public Schools knew or should have known about the alleged action that forms the basis of the complaint. *20 U.S.C. 1415(f)(1)(A); 19 TAC 89.1151(c).*

b) *Exception*

This timeline shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by Compass Rose Public Schools that it had resolved the problem forming the basis of the complaint; or
2. Compass Rose Public Schools’ withholding of information from the parent that Compass Rose Public Schools was required by the IDEA to provide.

20 U.S.C. 1415(f)(3)(D); 34 CFR 300.511(f).

c) ***“Stay Put”***

During the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing, the child shall remain in the then-current educational placement unless Compass Rose Public Schools and the parent agree otherwise. If the child is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed. *20 U.S.C. 1415(j); 34 CFR 300.518, 300.533.*

d) ***Exception***

When a due process hearing has been requested by a parent or Compass Rose Public Schools concerning a disciplinary change of placement or manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the child’s assignment to the alternative setting, or the 45-day timeline, if applicable, whichever occurs first, unless the parent and Compass Rose Public Schools agree otherwise. *20 U.S.C. 1415(k)(3)(A), 1415(k)(4)(A); 34 CFR 300.533.*

e) ***Resolution Process***

Within 15 days of receiving notice of a parent’s due process complaint, and before initiating a due process hearing under 34 CFR 300.511, Compass Rose Public Schools shall convene a meeting with the parent and the relevant member or members of the ARD committee. The purpose of the meeting is for the parent to discuss the due process complaint and the facts that form the basis of the due process complaint, so that Compass Rose Public Schools has the opportunity to resolve the dispute.

The meeting need not be held if the parent and Compass Rose Public Schools agree in writing to waive the meeting, or the parent and Compass Rose Public Schools agree to use the mediation process.

If Compass Rose Public Schools has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the complaint, the due process hearing may occur. If Compass Rose Public Schools is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, Compass Rose Public Schools may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent’s due process complaint. *34 CFR 300.510.*

Sec. 7. TRANSFER OF RIGHTS TO ADULT STUDENTS

When a student reaches the age of 18, Compass Rose Public Schools shall notify the student and the parents of the transfer of parental rights. This notice is separate and distinct from the

requirement that, beginning at least one year before the student reaches the age of 18, the student's IEP include a statement regarding transfer of parental rights.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student. *34 CFR 300.520; Education Code 29.017(a)–(b); 19 TAC 89.1049(c).*