



# PROCEDURAL SAFEGUARDS

# Our Mission

The mission of the PEAL Center is to educate and empower families to ensure that children, youth and young adults with disabilities and special health care needs lead rich, active lives as full members of their schools and communities.



# Participants will be able to:



- Describe their rights and Procedural Safeguards under IDEA
- Increase awareness of dispute resolution processes and alternative dispute resolution
- Know where to find information about rights regarding school discipline, especially suspension and expulsion of students with disabilities

# Kahoot

- Do you know your Acronyms?



# Rights Done Right Videos

<b>Video 1</b> – Right to Give Consent or Refuse Consent	<b>Video 2</b> – Right to Participate
<b>Video 3</b> – Right to Receive an Independent Educational Evaluation	<b>Video 4</b> – Right to Confidentiality
<b>Video 5</b> – Right to File a Complaint	<b>Video 6</b> – Right to be Informed of School Discipline Policy
<b>Video 7</b> – Right to be Informed of Policies Regarding Children in Private Schools	<b>Video 8</b> – Right to Mediation and to Stay in Current Program
<b>Video 9</b> – Right to Receive Prior Written Notice	<b>Video 10</b> – Right to Amend Student Records
<b>Video 11</b> – Right to Receive a Non-Discriminatory Assessment	<b>Video 12</b> – Right to Request a Due Process Hearing

# 1. You have a right... To Participate



Parents must be given opportunities to:

- Refer their child for special education services
- Have the right to participate in any decision-making meeting including individualized education program (IEP) meetings about the special education eligibility, assessment, educational placement of their child and other matters relating to their child's free appropriate public education (FAPE).
- Be informed of all program options and alternatives, both public and nonpublic.

(Section I of Procedural Safeguards)

## 2. You have a right...

### To Receive Prior Written Notice

Parents have a right to receive Prior Written Notice, in their native language, when the school district:

- Initiates a change in their child's identification
- Assessment, or
- Change of educational placement in special education

# 3. You have a right...

## To Consent

Parents must provide informed, written consent before their child is:

- Evaluated or provided with any special education services
- Or before any change in special education services may occur.
- The district must ensure that parents understand what is happening at the IEP meeting, this includes arranging for an interpreter for parents with deafness or those whose primary language is other than English.

(Section I of Procedural Safeguards)

# 4. You have a right...

## To Refuse to Consent

Parents may refuse to consent to:

- An assessment or
- The placement of their child in special education.



(Section I of PA Procedural Safeguards)

## 5. You have a right...

### To Be Given a Nondiscriminatory Assessment

Children must be assessed for special education through the use of methods that are not culturally biased or discriminatory.



(Section I of PA Procedural Safeguards)

## 6. You have a right... To Receive Independent Educational Assessments

- If parents disagree with the results of the assessment conducted by the school district, they have the right to ask for and obtain an independent educational evaluation (IEE) at public expense.
- The parent is only allowed to have one IEE at public expense each time the school district conducts an evaluation with which the parent disagrees.

(Section I of Procedural Safeguards)

# ...To Receive Independent Educational Assessments

- When a parent requests an IEE at public expense, the school district must, without unnecessary delay, either ensure that an IEE is provided at public expense, or request a due process hearing if the district believes their assessment was appropriate and disagrees that an IEE is necessary. The school district also has the right to tell you how much it costs and provide a list of providers.

# 7. You have a right...

## To Confidentiality

- Parents have a right to inspect, review, and obtain copies of their child's educational records without delay and no less than 45 days after you have requested the records.
- If another person/agency requested and reviewed your child's records, the school district must collect their names, dates and the purpose for their record review.



(Section II of PA Procedural Safeguards)

# 8. You have a right...

## Amend Student Records

- If you disagree with information in your child's records you can request the information to be taken out or changed.
- The district must within a reasonable time decide whether or not to change the information.
- If the district doesn't want to make the changes the parent asked, then the parents can request a "Records Hearing".

# 9. You have a right...

## To File a Complaint

The PA Department of Education must investigate complaints alleging violations of noncompliance with IDEA, state special education laws, or regulations, and issue a written report of findings within 60 days of receiving the complaint.



(Section III of PA Procedural Safeguards)

# 10. You have a right...

## To Mediation

Parents can request Mediation:

- Mediation is a voluntary process that is attended by an impartial mediator.
- The mediator tries to help the parent and district come to agreement. This is free to the parent and no attorneys are involved in this process.



(Section VI of PA Procedural Safeguards)

# 1 1. You have a right....

## To a Resolution Session

- The Parent can file a Due Process Complaint by describing the nature of the problem relating to what the district proposed or refused to do as well as describe what they want the outcome to be for their child.
- Once the District receives the Complaint they must set up a Resolution Session with all relevant members of the IEP team to see if the parents and district can come to an agreement. This process is put into place to try and resolve issues before they go to a hearing.

# 12. You have a right...

## To a Due Process Hearing

If the Resolution Session is not successful:

- Impartial Hearing Officer
- Two year timeline when the parent or district knew or should have known about the issue
- Parent can bring an attorney, expert witness anyone who knows of the situation
- Receive a copy of transcripts of hearing
- Forty-Five day timeline to hold hearing once resolution session is complete
- If parent prevails may be rewarded attorney fees

(Section V of PA Procedural Safeguards)

# 13. You have a right...

## To Stay in the Current Program

### If There is a Disagreement About Placement

If the parent disagrees with the district regarding their child's special education placement or a proposed change in placement, and requests mediation and or due process the student is able to “stay put” in the current program until the dispute is resolved.



(Section VII of PA Procedural Safeguards)

## 14. You have a right...

### To Be Informed of School Discipline and Alternative Placement

- There are specific rules regarding the suspension and expulsion of students with IEP's. Generally, a student with a disability may be suspended or placed in an alternative educational setting to the same extent that these options apply to students without disabilities.
- If the student with a disability is in such a placement for more than ten consecutive days, an IEP meeting must be held to consider the appropriateness of the child's current placement and the extent to which the disability is the cause of the misconduct. Regardless of the child's placement, the district must provide FAPE.

## 15. You have a right...

### To Be Informed of Policies Regarding Children Who Attend Private Schools

School districts are responsible for identifying, locating and assessing students with disabilities enrolled in private schools by their parents. However, school districts are not required to provide special education or related services to these students. There is no entitlement for services, though some private schools and students attending private schools may receive some services from the school district.

# Thank you!



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Serving families across PA  
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