



MAKING SENSE OF

PROCEDURAL SAFEGUARDS

Special education law places an emphasis on the importance of parental participation in developing an Individualized Education Program ("IEP"). To ensure parents are properly informed of their rights and opportunities a Local Educational Agency ("LEA") is required to provide written notice of the procedural protections once a year or on certain triggering events. The notice is referred to as Procedural Safeguards ("PSG") and must be provided in a parent's native language. Federal law requires a full explanation of rights relating to:

- Access to Educational Records
- Independent Educational Evaluations ("IEE")
- Parental Consent
- Prior Written Notice ("PWN")
- Certain Placement Issues
- Private School Placements
- Filing Complaints & Appeals
- Attorney Fees

LAW OFFICES OF
**SCHWARTZ
& STOREY**

MAKING SENSE OF PROCEDURAL SAFEGUARDS

● Access to Educational Records

A Parent has a right to review and inspect their child's educational records and receive an explanation and interpretation if necessary. In California, if a Parent makes a written or oral request the LEA has 5 business days to provide copies.

● Independent Educational Evaluations

Parents may make a written request for a publically funded Independent Educational Evaluation ("IEE") if they disagree with an assessment conducted by the LEA. The LEA can fund the evaluation or request a hearing to prove their assessment was appropriate.

● Parental Consent

A LEA must obtain informed written consent before evaluating or changing services or placement. A parent may consent in full or part and consent is revocable. Under certain circumstances a LEA may seek a hearing to override parent's refusal to consent.

● Prior Written Notice ("PWN")

A LEA must provide PWN when proposing or refusing to assess, provide or change services or placement, or exit a child from special education. PWN must include a description of the action proposed or refused and an explanation of why.

● Certain Placement Issues

After a Parent files an administrative complaint the LEA must maintain the existing placement, often referred to as a stay-put placement. However, at any time, a LEA may remove a student to an interim alternative educational setting for up to 45 school days when weapons, drugs, or serious bodily injury was involved.

● Private School Placement

If a Parent places their child in a non-public school because of a disagreement over public school program offered they may seek reimbursement for educationally related expenses. Before unilaterally placing a child in a non-public school a Parent must put the LEA on notice of their concerns and intent to seek reimbursement. Failure to place a LEA on notice may result in the reduction or denial of reimbursement at a hearing.

Before you unilaterally enroll your child in a private school you should always consult with an attorney and get more information about giving notice.

● Filing Complaints and Appeals

When there is a disagreement about special education services or placement, both past and present, a Parent may file a complaint. An administrative complaint may request a mediation, hearing, or both. Or, a Parent may file a complaint with the Department of Education. Both types of complaints are appealable.

You should never wait to file a complaint or consult with an attorney if you have questions, concerns, or there are disagreements, about your child's educational program. Most special education attorneys provide free consultation and representation. However, waiting may legally limit your ability to pursue your claim.

● Attorney Fees

Special education law provides for the recovery of reasonable attorney fees to a Parent who prevails in their case. As a result, many special education attorneys can take a case contingent on a successful outcome and at no direct cost to the family. This aspect of the law ensures that an educational rights holder can pursue their rights and the rights of the child.

You Should Know!

"Making Sense Of" informationals are only a starting point, a broad overview, and not intended as legal advice. Every child and situation is different. If you have questions or concerns please call and schedule a free consultation.

Additionally, we offer free quarterly workshops and seminars on special education and related topics, just email us at info@dorightlaw.com for more information.



Special Education Attorneys

2247 San Diego Ave. Suite 237

San Diego, CA 92110

Tel: 858-430-8166

Fax: 858-430-8167

Email: info@dorightlaw.com

www.dorightlaw.com