

PROCEDURAL SAFEGUARDS

(34 CFR 300.9, 300.342, 300.345, 300.500-529, 300.530, 300.560-300.577; 19 TAC 89.1015, 89.1020, 89.1025, 89.1045, 89.1110, 89.1050)

I. NOTICE AND CONSENT

- A. An Explanation of Rights and Procedural Safeguards is the document provided to parents, guardians or adult students (in their primary language) at a minimum in any instance where consent or notice is given. Those instances are:

1. Referral to special education for the first time for an individual comprehensive assessment
2. Re-evaluation (every three years or earlier if requested or needed)
3. Notification of an ARD/IEP meeting
4. Receipt of a request for due process

This document has been developed by the Texas Education Agency and includes a full explanation of all procedural safeguards that meet the requirements of 34CFR 300.504(b). The administrative designee at the local campus shall be responsible for explaining the document, providing answers to any questions and insuring that the parent, guardian or adult student have an understanding of their rights under FERPA.

- B. Consent is obtained in writing from parents, guardians or adult students (in their primary language) a reasonable time (5 school days) before the following instances:

1. any pre-placement evaluation or testing
2. the release of any personally identifiable information
3. initial special education placement
4. use of individual family service plan (IFSP) instead of individual education plan (IEP)

The consent form:

1. includes an explanation of the activities needing consent
2. is kept in the eligibility folder
3. is voluntarily signed by the parent, guardian or adult student
4. states that even if signed, consent may be revoked at any time

C. Notice is sent to the parents, guardians or adult students (in their primary language) a reasonable time (5 school days) before proposing or refusing to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education (FAPE) to a student.

1. All notices include:

- a. a description of the action proposed or refused
- b. an explanation of why the action is proposed or refused
- c. a description of all procedures, tests, records, or reports used as a basis for proposal or refusal
- d. a list of all other options explored and why they were refused
- e. a description of any other factors relevant to proposal or refusal
- f. administration designee contact information for any further explanation needed
- g. the statement of protection under the procedural safeguards and the means to a copy of the procedural safeguards

2. In addition, the notice of admission review and dismissal meeting includes:

- a. date, time, place of meeting
- b. who will be in attendance at the meeting
- c. the opportunity for the parent to reschedule the meeting
- d. a statement that any educational or related service not proposed may be discussed at the parents request
- e. indicate the purpose is the consideration of transition services
- f. indicate that the student (of any age) is invited

II. SURROGATE PARENTS

A. Need - A child's need for a surrogate parent is recognized if:

1. no parent can be identified or
2. the whereabouts of a parent are unknown (after reasonable efforts) or
3. the student is a ward of the state
4. a foster parent may meet the qualification as a parent or be appointed as a surrogate parent, if the foster parent has no other conflicts of interest; when acting as a surrogate parent, they must complete training as any other candidate for surrogate parent would