

Special Education - Procedural Safeguards**

The ESD ensures that students with disabilities and their families are afforded their procedural safeguards related to:

1. Access to students' educational records;
2. Parent and adult student participation in special education decisions;
3. Transfer of rights to students who have reached the age of majority;
4. Prior written notice of proposed district actions;
5. Consent for evaluation and for initial placement in special education¹;
6. Independent educational evaluation;
7. Dispute resolution through mediation, state complaint investigation, resolution sessions and due process hearings;
8. Discipline procedures and protections for students with disabilities, including placements related to discipline;
9. Placement of students during the pendency of due process hearings;
10. Placement of students by their parents in private schools;
11. Civil actions; and
12. Attorney's fees.

¹If, at any time subsequent to the initial provision of special and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the district: 1) may not continue to provide special education and related services to the child, but must provide prior written notice before ceasing the provision of special education and related services; 2) may not use mediation or due process procedures to obtain an agreement or ruling that the services may be provided to the child; 3) the district will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and 4) the district is not required to convene an IEP team meeting or develop an IEP for the child for further provision of special education or related services.

Procedural Safeguards Notice

13. The ESD provides to parents a copy of the Procedural Safeguards Notice, published by the Oregon Department of Education, at least once per year and upon initial referral or parent request for special education evaluation and when the parent requests a copy. The ESD also gives a copy to the student at least a year before the student's 18th birthday or upon learning that the student is considered emancipated.
14. The ESD provides the Procedural Safeguards Notice in the parent's native language or other mode of communication unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the ESD takes steps to ensure that the notice is translated orally or by other means understandable to the parent and that the parent understands the content of the notice. The ESD maintains written evidence that it meets these requirements.

END OF POLICY

Legal Reference(s):

[ORS 343.041\(3\)](#)
[ORS 343.155](#)
[ORS 343.165](#)
[ORS 343.177](#)
[ORS 343.181](#)

[OAR 581-001-0005](#)
[OAR 581-015-2000](#)
[OAR 581-015-2030](#)
[OAR 581-015-2090](#)
[OAR 581-015-2095](#)
[OAR 581-015-2195](#)
[OAR 581-015-2305](#)
[OAR 581-015-2310](#)

[OAR 581-001-0005](#)
[OAR 581-015-2325](#)
[OAR 581-015-2330](#)
[OAR 581-015-2345](#)
[OAR 581-015-2360](#)
[OAR 581-015-2385](#)

Assistance to States for the Education of Children with Disabilities, 34 CFR Sections 300.500 - 300.505, 300.515 and 300.517 (2006).

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.300 (2008).

"As used in this policy, the term parent includes legal guardian or person in a parental relationship. The status and duties of a legal guardian are defined in ORS 125.005 (4) and 125.300 - 125.325. The determination of whether an individual is acting in a parental relationship, for purposes of determining residency, depends on the evaluation of the factors listed in ORS 419B.373. The determination for other purposes depends on evaluation of those factors and a power of attorney executed pursuant to ORS 109.056. For special education students, parent also includes a surrogate parent, an adult student to whom rights have transferred and foster parent as defined in OAR 581-015-2000."