



South Lyon Community Schools
Special Education Department

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South Lyon Community Schools

Special Education Department

Special Education Office · 62500-B West Nine Mile Rd. · South Lyon, MI 48178 · (248) 573-8220 · Fax (248) 437-8438
Susan Toth, Director of Special Education

A Letter From the Director of Special Education

Hello,

I wish to introduce myself to you today so that you can get to know the person behind the title. My name is Sue Toth and I am the Director of Special Education for South Lyon Community Schools. I have been an employee of South Lyon Community Schools since the fall of 1992. My interest in serving students began at an early age when I was a student assistant in sixth grade. Back then I enjoyed working with young children and actually thought that grading papers was fun!

When I began my career in South Lyon, I was the teacher in the elementary level program for the Emotionally Impaired. I enjoyed the challenges of finding ways to teach students in ways they didn't quite realize that they were learning. For the first ten years of my teaching career, I taught at the elementary level in both general and special education classrooms..

In 2007, I transitioned to South Lyon East High School for the grand opening of the building. I never expected that I would love teaching children at the secondary level, but I did! I loved being able to learn alongside of my students and thoroughly enjoyed watching them grow and mature into adults.

I entered into my current position in 2011. At that point in my life, I was ready to share my love of learning and excitement for teaching in a larger way. I wanted to lead our district into an even more inclusive and supportive place to learn and grow.

Today, you could be faced with the challenge of learning that your child may have a disability. My message to you is that you couldn't be in a better school district. You will find that you and your child are surrounded by people who care. The people who work in our district are here because they have a passion and purpose in their lives - educating and serving children. I expect that you will face challenges in raising your family - we all do, but I hope that you find that you are supported and that your school and community are ready to assist.

I wish you and your family well, and if I can assist you in any way, please let me know.



Sue Toth, Director of Special Education

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Susan Toth, Director of Special Education

A Letter From the Coordinator of Special Education

I would like to take this opportunity to introduce myself to you. My name is Amy Atwell, and I am the Coordinator of Special Education for South Lyon Community Schools. I have been an employee of South Lyon Community Schools since the fall of 2002. From a young age, I knew I wanted to work with children. However, it wasn't until high school, after being a nanny for a little girl with Williams Syndrome, that I decided to pursue a career in working with individuals with disabilities.

I received my bachelor's degree in the area of mental impairment from Central Michigan University. During my time at Central, I was a member of the Student Council for Exceptional Children and volunteered with Special Olympics. Being a part of these organizations helped reinforce my career path and my belief that all individuals have the right and ability to learn.

When I started my career in South Lyon, I taught at the elementary level in a self-contained special education program. I always had high expectations for all my students and enjoyed finding different ways and experiences to teach new concepts. The accomplishments of my students, no matter how big or small, brought me joy in the classroom, even if it took them the whole school year to achieve the goal. For the next 10 years, I continued my teaching career in the self-contained special education classroom and as a teacher consultant/resource room teacher.

In November 2013, I started my current position as Coordinator of Special Education. At that point in my life, I was ready to expand my career and help make a bigger impact within the special education department. I wanted to help our district grow into a more inclusive and supportive environment.

Back in 2002, I found something special in South Lyon Community Schools and the staff that works within the district. The staff members who work here have a passion and purpose in their lives by educating and serving your children.

-Amy Atwell



Amanda Fitch is a proud to continue to serve as one of the SLCS Parent Advisory Committee (PAC) representatives for Oakland Schools. Amanda has two sons attending SLCS. Her eldest has an intellectual disability and attends CMS. Her youngest, is a general education elementary student. Amanda is passionate about serving her community, especially the special education population. She has been involved with SLCS since her eldest began pre-school. She has been a guest teacher, a para educator, and is currently teaching a special education classroom. Amanda hopes that parents know that she is available for questions, to listen to concerns, and ideas with the intent of helping SLCS commitment to continuous improvement with the assurance that our special educations population is considered and represented in all facets.



Hello,

My name is Loni Pryor and I am one of Oakland County's Special Education Parent Advisory Committee Reps for South Lyon Community Schools.

As a PAC rep, I work to be a voice for special education students and families in the district. I also attend meetings and bring back important resources and information that the district can utilize and implement.

Being a PAC member is important to me as I have a son and a daughter both in the district. My daughter is on the Autism Spectrum and utilizes the special education programming that South Lyon Community Schools offers. I feel strongly that all children deserve a positive and inclusive school experience no matter their differences. I also feel it's important to educate students and staff in the district about disabilities and help them to recognize that kids with differences are a normal part of life.

I'm thankful for the opportunity to be one of the PAC reps selected. I'm excited to be working directly with the district and Special Education Director to come up with new ideas and strategies for special education students and families to have the best school experience possible.

Sincerely,
Loni Pryor

SOUTH LYON SCHOOLS DISTRICT PAC

PARENT ADVISORY COMMITTEE

JOIN US!

THE PAC IS MADE UP OF PARENTS WHO'S CHILDREN
RECEIVE SPECIAL EDUCATION SERVICES
THROUGH THE DISTRICT.

OUR GOAL IS BE A VOICE FOR SPECIAL EDUCATION
STUDENTS AND FAMILIES. WE WORK TO PROVIDE
FEEDBACK AND RECOMMENDATIONS TO THE ISD
(INTERMEDIATE SCHOOL DISTRICT).



SCAN
ME!



For more information or to
get involved, contact us:

Loni Pryor or Amanda Fitch
loco84@gmail.com // fitcha@slcs.us



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

GRETCHEN WHITMER
GOVERNOR

MICHAEL F. RICE, Ph.D.
STATE SUPERINTENDENT

August 24, 2023

Dear Parent or Guardian,

Your child will start receiving or is receiving special education services. I want to assure you that the Michigan Department of Education (MDE) Office of Special Education (OSE), along with a network of local educators, are working hard to help your child receive the best possible education.

As director of MDE OSE, I am happy to share the [Family Matters webpage](#) that houses a series of fact sheets available to support families. These two-page *Family Matters* Fact Sheets offer you a concise overview of special education laws, practices, and procedural safeguards, and include links to more in-depth special education system resources. The fact sheets are made available to help you understand the special education system. New fact sheets are added on an ongoing basis.

If you are interested in receiving *Family Matters* updates, please visit the [Family Matters webpage](#) to sign up to receive notifications when new information is available.

Additionally, the [Michigan Alliance for Families](#) provides information on special education topics and have trained parent mentors who can talk with you directly.

Your intermediate and/or local school district provide the main support for special education services for your child. Our goal is that the information shared in the *Family Matters* Fact Sheets will further support you and your child in understanding the special education process and requirements.

If you would like to speak with a staff member from MDE OSE regarding the information shared on the *Family Matters* webpage or other special education concerns, please call our toll-free number at 888-320-8384.

Sincerely,

Teri L. Rink, Ed.S., Director
Office of Special Education

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Family Matters

Learn about special education topics. Find resources to help you and your child.

What is *Family Matters*?

Family Matters is an outreach effort from the Michigan Department of Education, Office of Special Education (MDE OSE).

Family Matters provides parents with information about special education and other resources.

Visit our web page

michigan.gov/specialeducation-familymatters

What you'll find at

michigan.gov/specialeducation-familymatters

Fact Sheets

Our fact sheets explain special education laws, rules, and practices. The documents are easy to read and give links to more in-depth resources.

Updates

Sign up to receive updates that matter to families from the Office of Special Education (OSE).

Additional Resources

We list other organizations and state agencies that help parents and students who are receiving, or may be eligible for, special education services.

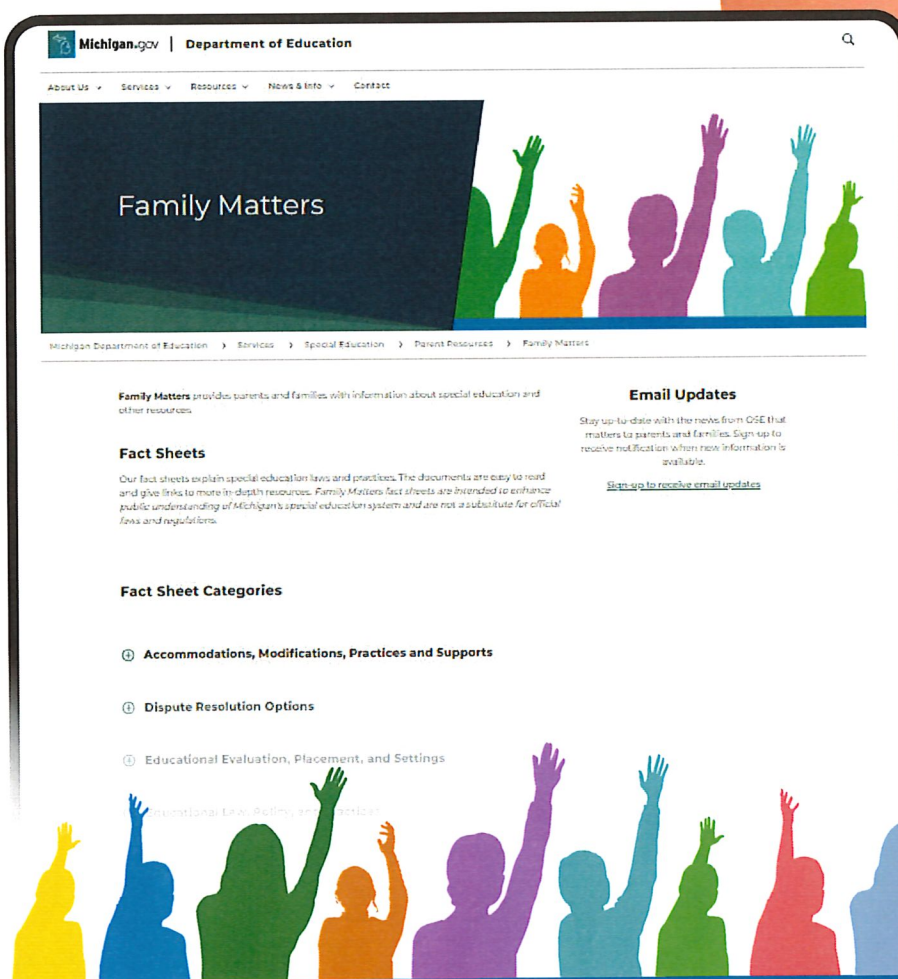
A Statewide Resource for Families

Michigan Alliance for Families offers workshops and can connect you with a parent mentor. Parent mentors can assist you in understanding how to navigate the educational system and are knowledgeable about state and local resources.

www.michiganallianceforfamilies.org

info@michiganallianceforfamilies.org

1-800-552-4821





Procedural Safeguards

The *Individuals with Disabilities Education Act* (IDEA) is a federal law for special education. The IDEA includes protections for parents and students. These protections are called the procedural safeguards. Schools must provide a document explaining all of the procedural safeguards to parents.

How do the Procedural Safeguards protect parents?

The school must keep parents informed.

Schools must provide prior written notice to parents before taking many different actions. [Some of these actions also require parent consent.](#)

Parents have options if they disagree with a school decision.

Parents may request mediation, file a state complaint, or request a due process hearing to resolve a disagreement. Parents may also request an independent educational evaluation (IEE) if they do not agree with the results of a school evaluation.

Personal information is kept confidential.

Only people who need your information and child's records have access to it, unless you provide consent to share the information with others. Public reporting on special education never includes personally identifiable information.

Procedural Safeguards Notice

If you have questions regarding the Procedural Safeguards, ask your IEP team for additional information.

Parents must receive the Procedural Safeguards Notice:

- At least once a year.
- Upon a parent written request for evaluation.
- When a parent files his or her first state complaint and first due process complaint in a school year.
- When a student has a change of placement due to a violation of a student code of conduct.
- When requested by a parent.

November 2020



Key Information in the Procedural Safeguards Notice

Independent Educational Evaluation (IEE)

If you disagree with the school's evaluation, you can request an evaluation to be done by a non-school professional. The district may have to pay for the evaluation in some cases.

Prior Written Notice and Parental Consent

Schools must give you written notice before many different actions, such as changing your child's identification, conducting evaluations, and changing educational placement. The notice must include the reason the school is taking the action or refusing the action.

Some school actions, such as conducting an evaluation, require your consent. You are also able to withdraw consent by doing so in writing.

Access to Education Records

Only certain individuals have access to your child's educational records. You may review your child's records.

Resolving Disagreements With the School

If you expect to or disagree with a school decision, you may request mediation with the school to try to resolve the dispute. Other options include filing a state complaint (investigated by the Michigan Department of Education with involvement by the intermediate school district) or filing a due process complaint (resolved by an administrative law judge). You may bring civil action if you disagree with the result of a due process hearing.

Child's Educational Placement

Generally, your child's placement is determined by the individualized education program (IEP) team (of which you are a member).

A school may choose to move your child into an interim alternative setting for disciplinary or safety reasons. The decision to move the child is a school decision and must follow certain procedures. However, the assigned alternative setting is an IEP team decision.

If your child's placement is the cause of a due process complaint, your child's placement will not change (if at all) until after the proceedings in most cases.

Private Schools

If your school district fails to provide your child with a free appropriate public education, you might be able to enroll your child in a private school at the school district's expense.

If you file a due process complaint, and the hearing officer agrees that the private school placement is appropriate, the district may be required to pay the private school tuition.

Resources

- Center for Parent Information and Resources (CPIR):
 - [Parental Rights Under IDEA](#)
 - [Parent Procedural Safeguards and Notice](#)
- Michigan Department of Education:
 - [Procedural Safeguards Notice](#)
 - [Special Education Mediation Services \(SEMS\)](#)
- Michigan mediation program for dispute resolution



[Michigan Alliance for Families:
Procedural Safeguards](#)

Procedural Safeguards Notice

Last updated: 10/16/18

Note: This document was updated to comply with Michigan Department of Education standards for accessibility. No other content changes were made.



Michigan Department of Education
Office of Special Education

The Individuals with Disabilities Education Act (IDEA), the Federal law concerning the education of students with disabilities, requires schools to provide parents of a child with a disability with a notice containing a full explanation of the procedural safeguards available under the IDEA and U.S. Department of Education regulations. A copy of this notice must be given to parents only one time a school year, except that a copy must be given to the parents: (1) upon initial referral or parent request for evaluation; (2) upon receipt of the first State complaint under 34 CFR §§300.151 through 300.153 and upon receipt of the first due process complaint under §300.507 in a school year; (3) when a decision is made to take a disciplinary action that constitutes a change of placement; and (4) upon parent request. [34 CFR §300.504(a)]

This procedural safeguards notice must include a full explanation of all of the procedural safeguards available under §300.148 (unilateral placement at private school at public expense), §§300.151 through 300.153 (State complaint procedures), §300.300 (consent), §§300.502 through 300.503, §§300.505 through 300.518, and §§300.530 through 300.536 (procedural safeguards in Subpart E of the Part B regulations), and §§300.610 through 300.625 (confidentiality of information provisions in Subpart F).

The following acronyms are used throughout this document:

ALJ	Administrative Law Judge
BIP	Behavioral Intervention Plan
FAPE	Free Appropriate Public Education
FERPA	Family Educational Rights and Privacy Act
FBA	Functional Behavioral Assessment
IDEA	Individuals with Disabilities Education Act
IEE	Independent Educational Evaluation
IEP	Individualized Education Program
MDE	Michigan Department of Education
OSE	Office of Special Education
SOAHR	State Office of Administrative Hearings and Rules

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Procedural Safeguards Notice

General Information

Prior Written Notice

34 CFR §300.503

Notice

Your school district (the term "school district," as used in this Notice, includes a public school academy) must give you written notice (provide you certain information in writing), whenever it:

1. Proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; or
2. Refuses to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of FAPE to your child.

Content of notice

The written notice must:

1. Describe the action that your school district proposes or refuses to take;
2. Explain why your school district is proposing or refusing to take the action;
3. Describe each evaluation procedure, assessment, record, or report your school district used in deciding to propose or refuse the action;
4. Include a statement that you have protections under the procedural safeguards provisions in Part B of the IDEA;
5. Tell you how you can obtain a description of the procedural safeguards if the action that your school district is proposing or refusing is not an initial referral for evaluation;
6. Include resources for you to contact for help in understanding Part B of the IDEA;
7. Describe any other choices that your child's individualized education program (IEP) Team considered and the reasons why those choices were rejected; and
8. Provide a description of other reasons why your school district proposed or refused the action.

Parental Consent - Definition

34 CFR §300.9

Consent

Consent means:

1. You have been fully informed in your native language or other mode of communication (such as sign language, Braille, or oral communication) of all information about the action for which you are giving consent.
2. You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; and
3. You understand that the consent is voluntary on your part and you may withdraw your consent at any time.

Your withdrawal of consent does not negate (undo) an action that has occurred after you gave your consent and before you withdrew it.

Parental Consent

34 CFR §300.300

Consent for initial evaluation

Your school district cannot conduct an initial evaluation of your child to determine whether your child is eligible under Part B of the IDEA to receive special education and related services without first providing you with prior written notice of the proposed action and without obtaining your consent as described under the heading, **Parental Consent — Definition**.

Your school district must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability.

Your consent for initial evaluation does *not* mean that you have also given your consent for the school district to start providing special education and related services to your child.

If your child is enrolled in public school or you are seeking to enroll your child in a public school and you have refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, your school district may, but is not required to, seek to conduct an initial evaluation of your child by utilizing the Act's mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. Your school district will not violate its obligations to locate, identify, and evaluate your child if it does not pursue an evaluation of your child in these circumstances.

2. Is not required to have an IEP meeting or develop an IEP for your child for the special education and related services for which your consent was requested.

Revocation of parental consent

If you inform the school district in writing that you revoke (take back) your consent for your school district to provide special education and related services to your child, your school district:

1. May not continue to provide special education and related services to your child;
2. Must provide you with timely prior written notice, consistent with §300.503 of the IDEA regulations, of their proposal to discontinue special education and related services based on receipt of your written revocation of consent;
3. May not use due process procedures (i.e., mediation, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the services may be provided to your child;
4. Is not in violation of the requirement to make FAPE available to your child for its failure to provide further special education and related services to your child;
5. Is not required to have an IEP meeting or develop an IEP for your child for the further provision of special education and related services; and
6. Is not required to amend your child's education records to remove any reference to your child's receipt of special education and related services because of the revocation of consent.

Parental consent for reevaluations

Your school district must obtain your informed consent before it reevaluates your child, unless your school district can demonstrate that:

1. It took reasonable steps to obtain your consent for your child's reevaluation; and
2. You did not respond.

If you refuse to consent to your child's reevaluation, the school district may, but is not required to, pursue your child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your school district does not violate its obligations under Part B of the IDEA if it declines to pursue the reevaluation in this manner.

Documentation of reasonable efforts to obtain parental consent

Your school must maintain documentation of reasonable efforts to obtain parental consent for initial evaluations, to provide special education and related services for

Definitions

IEE means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your child.

Public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you, consistent with the provisions of Part B of the IDEA, which allow each state to use whatever state, local, federal, and private sources of support are available in the state to meet the requirements of Part B of the Act.

Parent right to evaluation at public expense

You have the right to an IEE of your child at public expense if you disagree with an evaluation of your child obtained by your school district, subject to the following conditions:

1. If you submit a written request for an IEE of your child at public expense, your school district must respond, in writing, to the request within seven calendar days of the receipt of the request, indicating the district's intent to either: (a) provide the IEE at public expense; or (b) file a due process complaint to request a hearing to show that it's evaluation of your child is appropriate.
2. If your school district requests a hearing and the final decision is that your school district's evaluation of your child is appropriate, you still have the right to an IEE, but not at public expense.
3. If you request an IEE of your child, the school district may ask why you object to the evaluation of your child obtained by your school district. However, your school district may not require an explanation and may not unreasonably delay either providing the IEE of your child at public expense or filing a due process complaint to request a due process hearing to defend the school district's evaluation of your child.
4. If an IEE that you obtain does not meet the school district's criteria, the school district may file a due process complaint. If the final decision in the hearing is that the evaluation did not meet the school district's criteria, public reimbursement of the expense of your IEE may be denied.

You are entitled to only one IEE of your child at public expense each time your school district conducts an evaluation of your child with which you disagree.

Parent-initiated evaluations

If you obtain an IEE of your child at public expense or you share with the school district an evaluation of your child that you obtained at private expense:

- a. Your child's name, your name as the parent, or the name of another family member;
- b. Your child's address;
- c. A personal identifier, such as your child's social security number or student number; or
- d. A list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.

Notice to Parents

34 CFR §300.612

The Michigan Department of Education (MDE) must give notice to parents that the MDE has procedures and policies that are adequate to fully inform parents about confidentiality of personally identifiable information, including:

1. A description of the extent to which the notice is given in the native languages of the various population groups in the State;
2. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
3. A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
4. A description of all of the rights of parents and children regarding this information, including the rights under the FERPA and its implementing regulations in 34 CFR Part 99.

Before any major identification, location, or evaluation activity (also known as "child find"), the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity to locate, identify, and evaluate children in need of special education and related services.

Access Rights

34 CFR §300.613

The participating agency must permit you to inspect and review any education records relating to your child that are collected, maintained, or used by the participating agency under Part B of the IDEA. The participating agency must comply with your request to inspect and review any education records on your child without unnecessary delay and before any meeting regarding an IEP, or any impartial due process hearing (including a resolution meeting or a hearing

A participating agency may not charge a fee to search for or to retrieve information under Part B of the IDEA.

Amendment of Records at Parent's Request

34 CFR §300.618

If you believe that information in the education records regarding your child collected, maintained, or used under Part B of the IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the participating agency that maintains the information to change the information.

The participating agency must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.

If the participating agency refuses to change the information in accordance with your request, it must inform you of the refusal and advise you of the right to a hearing as described under the heading, Opportunity For a Hearing.

Opportunity for a Hearing

34 CFR §300.619

The participating agency must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.

Hearing Procedures

34 CFR §300.621

A hearing to challenge information in education records must be conducted according to the procedures for such hearings under the FERPA.

Result of Hearing

34 CFR §300.620

If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must change the information accordingly and inform you in writing.

If, as a result of the hearing, the participating agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must inform you of your right to place in the records that it maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the participating agency.

Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

Destruction of Information

34 CFR §300.624

Your school district must inform you when personally identifiable information collected, maintained, or used under Part B of the IDEA is no longer needed to provide educational services to your child.

The information must be destroyed at your request. However, a permanent record of your child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Student Rights

34 CFR §300.625

Under the regulations for FERPA, the rights of parents regarding education records are transferred to the student at age 18.

The rights of parents under Part B of the IDEA regarding education records are also transferred to the student at age 18. However, a participating agency must provide any notice required under Part B of the IDEA to both the student and the parents.

Mediation

Mediation

34 CFR §300.506

General

The MDE has established procedures to make mediation available to allow you and the school district to resolve disagreements involving any matter under Part B or Part C of the IDEA, including matters arising prior to the filing of a state complaint or a due process complaint. Thus, mediation is available to resolve disputes under Part B or Part C of the IDEA, whether or not you have filed a due process complaint to request a due process hearing as described under the heading, **Filing a Due Process Complaint**.

Requirements

The procedures ensure that the mediation process:

any federal court or state court of a state receiving assistance under Part B or Part C of the IDEA.

Impartiality of mediator

The mediator:

1. May not be an employee of the MDE or the school district that is involved in the education or care of your child; and
2. Must not have a personal or professional interest which conflicts with the mediator's objectivity.

A person who otherwise qualifies as a mediator is not an employee of a school district or State agency solely because he or she is paid by the agency or school district to serve as a mediator.

Minimum State Complaint Procedures

34 CFR §300.152

Time limit; minimum procedures

The MDE, through the Office of Special Education (OSE), will include in its State complaint procedures a time limit of 60 calendar days after a complaint is filed to:

1. Carry out an independent on-site investigation, if the MDE determines that an investigation is necessary;
2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. Provide the school district or other public agency with the opportunity to respond to the complaint, including, at a minimum: (a) at the option of the agency, a proposal to resolve the complaint; and (b) an opportunity for a parent who has filed a complaint and the agency to agree voluntarily to engage in mediation;
4. Review all relevant information and make an independent determination as to whether the school district or other public agency is violating a requirement of Part B of the IDEA; and
5. Issue a written decision to the complainant that addresses each allegation in the complaint and contains: (a) findings of fact and conclusions; and (b) the reasons for the MDE's final decision.

Time extension; final decision; implementation

The MDE's procedures described above also must:

1. Permit an extension of the 60-calendar day time limit only if: (a) exceptional circumstances exist with respect to a particular State complaint; or (b) the parent and the school district or other public agency involved voluntarily agree to extend the time to resolve the matter through mediation.
2. Include procedures for effective implementation of the MDE's final decision, if needed, including: (a) technical assistance activities; (b) negotiations; and (c) corrective actions to achieve compliance.

State complaints and due process hearings

If a written State complaint is received that is also the subject of a due process hearing as described below under the heading, **Filing a Due Process Complaint**, or the State complaint contains multiple issues of which one or more are part of such a hearing, the State must set aside the State complaint, or any part of the State complaint that is being addressed in the due process hearing until the hearing is over. Any issue in the State complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described above.

The party filing the State complaint must forward a copy of the complaint to the school district or other public agency serving the child at the same time the party files the complaint with the OSE.

The MDE has developed a model form to aid in the filing of a State complaint. The model form is available on the OSE website (www.michigan.gov/specialeducation). You are not required to use the model form. However, the complaint must contain the required information for filing a State complaint (See 1-4 above).

4. If the child is a homeless child or youth, the child's contact information and the name of the child's school;
5. A description of the nature of the problem of the child relating to the proposed or refused action, including facts relating to the problem; and
6. A proposed resolution of the problem to the extent known and available to you or the school district at the time.

Notice required before a hearing on a due process complaint

You or the school district may not have a due process hearing until you or the school district (or your attorney or the school district's attorney), properly files a due process complaint that includes the information listed above. A due process complaint is properly filed when it has been received by the MDE and the other party.

Sufficiency of complaint

In order for a due process complaint to go forward, it must be considered sufficient. The due process complaint will be considered sufficient (to have met the content requirements above) unless the party receiving the due process complaint (you or the school district) notifies the ALJ and the other party in writing, within 15 calendar days of receiving the complaint, that the receiving party believes that the due process complaint does not meet the requirements listed above.

Within five calendar days of receiving the notification the receiving party (you or the school district) considers a due process complaint insufficient, the ALJ must decide if the due process complaint meets the requirements listed above, and notify you and the school district in writing immediately.

Complaint amendment

You or the school district may make changes to the complaint only if:

1. The other party approves of the changes in writing and is given the chance to resolve the due process complaint through a resolution meeting, described below; or
2. The ALJ grants permission for the changes, not later than five days before the due process hearing begins.

If the complaining party (you or the school district) makes changes to the due process complaint, the timelines for the resolution meeting (within 15 calendar days of receiving the complaint) and the time period for resolution (within 30 calendar days of receiving the complaint) start again on the date the amended complaint is filed.

for the decision of any impartial due process hearing or court proceeding, unless you and the State or school district agree otherwise.

If the due process complaint involves an application for initial admission to public school, your child, with your consent, must be placed in the regular public school program until the completion of all such proceedings.

If the due process complaint involves an application for initial services under Part B of the IDEA for a child who is transitioning from being served under Part C of the IDEA to Part B of the IDEA and who is no longer eligible for Part C services because the child has turned three, the school district is not required to provide the Part C services that the child has been receiving. If the child is found eligible under Part B of the IDEA and you consent for the child to receive special education and related services for the first time, then, pending the outcome of the proceedings, the school district must provide those special education and related services that are not in dispute (those which you and the school district both agree upon).

Resolution Process

34 CFR §300.510

Resolution meeting

The school district must convene a resolution meeting with you and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in your due process complaint. The resolution meeting must be convened within 15 calendar days after the due process complaint is filed with the MDE, and received by the school district. The due process hearing cannot begin until the resolution meeting is conducted. The meeting:

1. Must include a representative of the school district who has decision-making authority on behalf of the school district; and
2. May not include an attorney of the school district unless you are accompanied by an attorney.

You and the school district determine the relevant members of the IEP Team to attend the meeting.

The purpose of the meeting is for you to discuss your due process complaint, and the facts that form the basis of the complaint, so that the school district has the opportunity to resolve the dispute.

The resolution meeting is not required if:

1. You and the school district agree in writing to waive the meeting; or

If you and the school district agree to use the mediation process, at the end of the 30-calendar-day resolution period, both parties can agree in writing to continue the mediation until an agreement is reached. However, if either you or the school district later withdraws from the mediation process, the 45-calendar-day timeline for the due process hearing starts the next day.

Written settlement agreement

If a resolution to the dispute is reached at the resolution meeting, you and the school district must enter into a legally binding agreement that is:

1. Signed by you and a representative of the school district who has the authority to bind the school district; and
2. Enforceable in any state court of competent jurisdiction (a state court that has authority to hear this type of case) or in a district court of the United States.

Agreement review period

If you and the school district enter into an agreement as a result of a resolution meeting, either party (you or the school district) may void the agreement within 3 business days of the time that both you and the school district signed the agreement.

1. The school district specifically misrepresented that it had resolved the problem or issue that you are raising in your complaint; or
2. The school district withheld information from you that it was required to provide to you under Part B or Part C of the IDEA.

Hearing Rights

34 CFR §300.512

General

Any party to a due process hearing (including a hearing relating to disciplinary procedures) has the right to:

1. Be accompanied and advised by a lawyer and/or persons with special knowledge or training regarding the problems of children with disabilities;
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses;
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;
4. Obtain a written, or, at your option, electronic, word-for-word record of the hearing; and
5. Obtain written, or, at your option, electronic findings of fact and decisions.

Additional disclosure of information

At least five business days prior to a due process hearing, you and the school district must disclose to each other all evaluations completed by that date and recommendations based on those evaluations that you or the school district intend to use at the hearing.

An ALJ may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

Parental rights at hearings

You must be given the right to:

1. Have your child present;
2. Open the hearing to the public; and
3. Have the record of the hearing, the findings of fact and decisions provided to you at no cost.

Appeals

Finality of Decision; Appeal; Impartial Review

34 CFR §300.514

Finality of hearing decision

A decision made in a due process hearing (including a hearing relating to disciplinary procedures) is final, except that any party involved in the hearing (you or the school district) may appeal the decision by bringing a civil action, as described below.

Timelines and Convenience of Hearings

34 CFR §300.515

The MDE must ensure that not later than 45 calendar days after the expiration of the 30-calendar-day period for resolution meetings or, not later than 45 calendar days after the expiration of the adjusted time period as described under the sub-heading, **Adjustments to the 30-calendar-day resolution period:**

1. A final decision is reached in the hearing; and
2. A copy of the decision is mailed to each of the parties.

An ALJ may grant specific extensions of time beyond the 45-calendar-day time period described above at the request of either party.

Each hearing must be conducted at a time and place that is reasonably convenient to you and your child.

Civil Actions, Including the Time Period in Which to File Those Actions

34 CFR §300.516

General

Any party (you or the school district) who does not agree with the findings and decision in the due process hearing (including a hearing relating to disciplinary procedures) has the right to bring a civil action with respect to the matter that was the subject of the due process hearing. The action may be brought in a state court of competent jurisdiction (a state court that has authority to hear this type of case) or in a district court of the United States without regard to the amount in dispute.

unreasonable, or without foundation; or (b) continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

In any action or proceeding brought under Part B of the IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing state educational agency or school district, to be paid by you or your attorney, if your request for a due process hearing or later court case was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to unnecessarily increase the cost of the action or proceeding.

Award of fees

A court awards reasonable attorneys' fees as follows:

1. Fees must be based on rates prevailing in the community in which the action or hearing arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded.
2. Fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Part B of the IDEA for services performed after a written offer of settlement to you if:
 - a. The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing, at any time more than 10 calendar days before the proceeding begins;
 - b. The offer is not accepted within 10 calendar days; and
 - c. The court or ALJ finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.

Despite these restrictions, an award of attorneys' fees and related costs may be made to you if you prevail and you were substantially justified in rejecting the settlement offer.

3. Fees may not be awarded relating to any meeting of the IEP Team unless the meeting is held as a result of an administrative proceeding or court action.
4. Fees also may not be awarded for a mediation as described under the heading, **Mediation**.
5. A resolution meeting, as described under the heading, **Resolution meeting**, is not considered a meeting convened as a result of an administrative hearing or court action, and also is not considered an administrative hearing or court action for purposes of these attorneys' fees provisions.

The court reduces, as appropriate, the amount of the attorneys' fees awarded under Part B of the IDEA, if the court finds that:

1. You, or your attorney, during the course of the action or proceeding, unreasonably delayed the final resolution of the dispute;

Procedures When Disciplining Children with Disabilities

Authority of School Personnel

34 CFR §300.530

Case-by-case determination

School personnel may consider any unique circumstances on a case-by-case basis, when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

General

To the extent that they also take such action for children without disabilities, school personnel may, for not more than **10 school days** in a row, remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension. School personnel may also impose additional removals of the child of not more than **10 school days** in a row in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement (see **Change of Placement Because of Disciplinary Removals** for the definition, below).

Once a child with a disability has been removed from his or her current placement for a total of **10 school days** in the same school year, the school district must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub-heading, **Services**.

Additional authority

If the behavior that violated the student code of conduct was not a manifestation of the child's disability (see **Manifestation determination**, below) and the disciplinary change of placement would exceed **10 school days** in a row, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under **Services**. The child's IEP Team determines the interim alternative educational setting for such services.

Services

The services that must be provided to a child with a disability who has been removed from the child's current placement may be provided in an interim alternative educational setting.

If the school district, the parent, and relevant members of the child's IEP Team determine that either of those conditions was met, the conduct must be determined to be a manifestation of the child's disability.

If the school district, the parent, and relevant members of the child's IEP Team determine that the conduct in question was the direct result of the school district's failure to implement the IEP, the school district must take immediate action to remedy those deficiencies.

Determination that behavior was a manifestation of the child's disability

If the school district, the parent, and relevant members of the IEP Team determine that the conduct was a manifestation of the child's disability, the IEP Team must either:

1. Conduct a FBA, unless the school district had conducted a FBA before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan (BIP) for the child; or
2. If a BIP already has been developed, review the BIP, and modify it, as necessary, to address the behavior.

Except as described below under the sub-heading, **Special circumstances**, the school district must return the child to the placement from which the child was removed, unless the parent and the district agree to a change of placement as part of the modification of the BIP.

Special circumstances

Whether or not the behavior was a manifestation of the child's disability, school personnel may remove a student to an interim alternative educational setting (determined by the child's IEP Team) for up to 45 school days, if the child:

1. Carries a weapon to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of the MDE or a school district;
2. Knowingly has or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the MDE or a school district; or
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the MDE or a school district.

Definitions

Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

Determination of Setting

34 CFR § 300.531

The IEP Team must determine the interim alternative educational setting for removals that are **changes of placement**, and removals under the headings, **Additional authority** and **Special circumstances**, above.

Appeal

34 CFR § 300.532

General

The parent of a child with a disability may file a due process complaint (see above) to request a due process hearing if he or she disagrees with:

1. Any decision regarding placement made under these discipline provisions; or
2. The manifestation determination described above.

The school district may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

Authority of an administrative law judge

An ALJ that meets the requirements described under the sub-heading, **Impartial administrative law judge**, must conduct the due process hearing and make a decision. The ALJ may:

1. Return the child with a disability to the placement from which the child was removed if the ALJ determines that the removal was a violation of the requirements described under the heading, **Authority of School Personnel**, or that the child's behavior was a manifestation of the child's disability; or
2. Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the ALJ determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

These hearing procedures may be repeated, if the school district believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

Whenever a parent or a school district files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the headings, **Due Process Complaint**, **Hearings on Due Process Complaints**, except as follows:

2. The parent requested an evaluation related to eligibility for special education and related services under Part B of the IDEA; or
3. The child's teacher, or other school district personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to the school district's director of special education or to other supervisory personnel of the school district.

Exception

A school district would not be deemed to have such knowledge if:

1. The child's parent has not allowed an evaluation of the child or has refused special education services; or
2. The child has been evaluated and determined to not be a child with a disability under Part B of the IDEA.

Conditions that apply if there is no basis of knowledge

If prior to taking disciplinary measures against the child, a school district does not have knowledge that a child is a child with a disability, as described above under the sub-headings, **Basis of knowledge for disciplinary matters** and **Exception**, the child may be subjected to the disciplinary measures that are applied to children without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.

Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district, and information provided by the parents, the school district must provide special education and related services in accordance with Part B of the IDEA, including the disciplinary requirements described above.

Referral to and Action by Law Enforcement and Judicial Authorities

34 CFR §300.535

Part B of the IDEA does not:

1. Prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or

Requirements for Unilateral Placement by Parents of Children in Private Schools at Public Expense

General

34 CFR §300.148

Part B of the IDEA does not require a school district to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the school district made a FAPE available to your child and you choose to place the child in a private school or facility. However, the school district where the private school is located must include your child in the population whose special education needs are addressed under the Part B provisions regarding children who have been placed by their parents in a private school under 34 CFR §§300.131 through 300.144.

Reimbursement for private school placement

If your child previously received special education and related services under the authority of a school district, and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the school district, a court or an ALJ may require the agency to reimburse you for the cost of that enrollment if the court or ALJ finds that the agency had not made a FAPE available to your child in a timely manner prior to that enrollment and that the private placement is appropriate. An ALJ or court may find your placement to be appropriate, even if the placement does not meet the State standards that apply to education provided by the MDE and school districts.

Limitation on reimbursement

The cost of reimbursement described in the paragraph above may be reduced or denied:

1. If: (a) At the most recent IEP meeting that you attended prior to your removal of your child from the public school, you did not inform the IEP Team that you were rejecting the placement proposed by the school district to provide FAPE to your child, including stating your concerns and your intent to enroll your child in a private school at public expense; or (b) At least 10 business days (including any holidays that occur on a business day) prior to your removal of your child from the public school, you did not give written notice to the school district of that information;
2. If, prior to your removal of your child from the public school, the school district provided prior written notice to you, of its intent to evaluate your child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but you did not make the child available for the evaluation; **or**

Attachment A – Federal Definitions

Serious Bodily Injury

18 USC 1365(h)

3. The term "serious bodily injury" means bodily injury which involves –
 - (A) a substantial risk of death;
 - (B) extreme physical pain;
 - (C) protracted and obvious disfigurement; or
 - (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and
4. The term "bodily injury" means –
 - (A) a cut, abrasion, bruise, burn, or disfigurement;
 - (B) physical pain;
 - (C) illness;
 - (D) impairment of the function of a bodily member, organ, or mental faculty; or
 - (E) any other injury to the body, no matter how temporary.

Weapon

18 USC 930(g)

(2) The term "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length.