



















curriculum, although in another setting, and to progress toward meeting the goals set out in the IEP. Your child must receive, as appropriate, an FBA, behavioral intervention services, and modifications that are designed to address the behavior so that it does not recur.

- ◆ **Expedited Due Process Hearing** If you disagree with any decision regarding disciplinary placement or manifestation determination, you have the right to request an expedited due process hearing. Additionally, if the school believes that maintaining your child in his or her current placement is substantially likely to result in injury to your child or to others, the school may request an expedited due process hearing. The hearing must occur within 20 school days of the date the hearing is requested. The hearing officer must make a determination within 10 school days after the hearing. Unless you and the school agree otherwise, your child must remain in an IAES until the hearing officer makes a determination or until the school's IAES placement expires, whichever occurs first.

When the school requests an expedited due process hearing, the hearing officer may order continued placement in an appropriate IAES for not more than 45 school days if maintaining your child's IEP placement is substantially likely to result in injury to your child or others. The hearing officer may order the IAES placement even if your child's behaviors are a manifestation of his or her disability. Alternatively, the hearing officer may decide to return your child to the placement from which he or she was removed.

- ◆ **Protection for Children Not Yet Determined Eligible for Special Education** If the school had knowledge that your child was a child with a disability before the behavior that resulted in the disciplinary action, then your child has all the rights and protections that a child with a disability would have under IDEA. A school is considered to have prior knowledge if: you expressed concerns in writing to an administrator or teacher that the child is in need of special education and related services; you requested an evaluation of the child in accordance with IDEA; or a teacher of the child or other school personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to the special education director or other supervisory personnel.

A school is considered not to have prior knowledge if: you have refused to consent to an IDEA evaluation; you have refused IDEA services with regard to your child; or your child has been evaluated and determined not to be eligible for special education services.

If you initially gave your consent for services and then later revoked your consent in writing for the continued provision of services after the school began providing IDEA services, you have refused IDEA services, and your child may be subjected to the disciplinary measures applied to children without disabilities and is not entitled to IDEA protections.

If you request an initial evaluation of your child during the time period in which your child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, your child remains in the educational placement determined by school

authorities, which can include suspension or expulsion without educational services.

◆ **Referral to and Action by Law Enforcement and Judicial Authorities**

IDEA does not prohibit a school from reporting a crime committed by a child with a disability to appropriate authorities or prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability. If a school reports a crime committed by a child with a disability, the school must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the school reports the crime; however, these records may be transmitted only to the extent permitted by the Family Educational Rights and Privacy Act (**FERPA**).

■ **Education Records**

*Education records* are those records that directly relate to your child and are maintained by the school or a party acting for the school, subject to certain exceptions specified in FERPA and its implementing regulations in 34 *Code of Federal Regulations* (**CFR**) Part 99.

You have the right to review your child's entire education record including the parts that are related to special education. The school may presume that you have authority to inspect and review records relating to your child unless advised that you do not have the authority under applicable state law governing such matters as guardianship, separation, and divorce. You can also give permission for someone else to review your child's record. When you ask to review the records, the school must make them available

without unnecessary delay and before any ARD committee meeting or any due process hearing or resolution session, and in no case more than 45 calendar days after the date of the request.

◆ **Clarification, Copies, and Fees**

If you ask, the school must explain and interpret the records, within reason. The school must make you copies if that is the only way you will be able to inspect and review the records. The school may not charge a fee to search for or to retrieve any education record about your child. However, it may charge a fee for copying, if the fee does not keep you from being able to inspect and review the records.

◆ **Information on More than One Child**

If any education record includes information on more than one child, you have the right to inspect and review only the information relating to your child, or to be informed of that specific information.

You have the right to request and obtain a list of the types and locations of education records collected, maintained, or used by the school.

FERPA permits certain individuals, including school officials, to see your child's records without your consent. Otherwise, your consent must be obtained before personally identifiable information is disclosed to other individuals. *Personally identifiable information* includes: your child's name, your name as a parent, or the name of another family member; your address; a personal identifier (like social security number); or a list of characteristics that would make it possible to identify your child with reasonable certainty.

Your consent, or the consent of an eligible child who has reached the age of majority under state law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services. If your child is attending, or is going to attend, a private school that is not located in the same school district where you reside, your consent must be obtained before any personally identifiable information about your child is released between officials in the school district where the private school is located and officials in the school district where you reside.

The school must keep a log of everyone (except for you and authorized school officials) who reviews your child's special education records, unless you provided consent for the disclosure. This log must include the name of the person, the date access was given, and the purpose for which the person is authorized to use the records.

One official at the school must assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures regarding confidentiality under IDEA and FERPA. Each school must maintain, for public inspection, a current listing of the names and positions of those employees within the school who may have access to personally identifiable information.

◆ **Amending Records** If you believe that your child's education records are inaccurate, misleading, or violate your child's rights, you may ask the school to amend the information. Within a reasonable time the school must decide whether to amend the information. If the school refuses to amend the

information as requested, it must inform you of the refusal and of your right to a hearing to challenge the information in the records. This type of hearing is a local hearing under FERPA and is not an IDEA due process hearing held before an impartial hearing officer.

If, as a result of the hearing, the school decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must change the information and inform you in writing. If, as a result of the hearing, the school decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, you must be informed of your right to place a statement commenting on the information in your child's records for as long as the record or contested portion is maintained by the school.

If you revoke your consent in writing for your child's receipt of special education and related services after the school initially provided services to your child, the school is not required to amend your child's education records to remove any references to your child's previous receipt of special education services. However, you still have the right to ask the school to amend your child's records if you believe the records are inaccurate, misleading, or violate your child's rights.

◆ **Safeguards and Destruction** The school must protect the confidentiality of your child's records at collection, storage, disclosure, and destruction stages. *Destruction* means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable. The school

must inform you when information in your child's records is no longer needed to provide educational services to your child. The information must be destroyed at your request except for name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed.

- ◆ **Notice to Parents** The TEA will give notice that is adequate to fully inform parents about confidentiality of personally identifiable information, including: a description of the extent to which the notice is given in the native languages of the various population groups in the state; a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods to be used in gathering the information, including the sources from whom information is gathered, and the uses to be made of the information; 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 a description of all of the rights of parents and children regarding this information, including the rights under FERPA and its implementing regulations in 34 CFR Part 99.

### ■ **Voluntary Private School Placements by Parents**

You have specific rights when you voluntarily place your child in a private school. IDEA does not require a public school to pay for the cost of education, including special education and related services, for your child with a disability at a private school or facility if the public school made FAPE available to your child and you choose to place the child in a private school

or facility. However, the public school where the private school is located must include your child in the population whose needs are addressed under IDEA provisions regarding children who have been placed by their parents in a private school.

### ■ **Private School Placements by Parents When FAPE is at Issue**

You have specific rights when you place your child in a private school because you disagree with the public school regarding the availability of a program appropriate for your child.

If your child previously received special education and related services under the authority of a public school and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the public school, a court or a hearing officer may require the public school to reimburse you for the cost of that enrollment if the court or hearing officer finds that the public school had not made FAPE available to your child in a timely manner prior to that enrollment and that the private placement is appropriate. A hearing officer 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 TEA and schools.

- ◆ **Limitation on Reimbursement** The cost of reimbursement described in the paragraph above may be reduced or denied if: at the most recent ARD committee meeting that you attended before your removal of your child from the public school, you did not inform the ARD committee that you were rejecting the placement proposed by the public school 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 at least 10 business days, including any holidays that occur on a business day, before your removal of your child from the public school, you did not give written notice to the public school of that information; or, before your removal of your child from the public school, the public school 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 a court finds that your actions were unreasonable.

However, the cost of reimbursement must not be reduced or denied for failure to provide the notice if: the public school prevented you from providing the notice; you had not received notice of your responsibility to provide the notice described above; or compliance with the requirements above would likely result in physical harm to your child. At the discretion of the court or a hearing officer, the cost of reimbursement may not be reduced or denied for your failure to provide the required notice if you are not literate or cannot write in English, or compliance with the above requirement would likely result in serious emotional harm to your child.

## ■ **Transfer of Parental Rights**

All parental rights under IDEA transfer to the child when the child reaches the age of majority. The age of majority under Texas law is age 18. For most children, all of the parental rights discussed in this document will transfer to the child at 18 years of age. When parental rights transfer to your adult student, he or she has the right to make educational decisions, although the public

school must still provide you with notices of ARD committee meetings and prior written notices. You, however, may not attend meetings unless specifically invited by the adult student or the school or unless your adult student gives you that right in a supported decision-making agreement.

- ◆ **Court-appointed Guardian for an Adult Student** If a court has appointed you or another person as the adult student's legal guardian, the rights under IDEA will not transfer to the adult student. The legally appointed guardian will receive the rights.
- ◆ **Incarcerated Adult Student** If the adult student is incarcerated, all of IDEA rights will transfer to the adult student at age 18. You will not keep the right to receive prior written notices related to special education.
- ◆ **Adult Students before Age of 18** There are certain conditions described in Chapter 31 of the Texas Family Code that result in a child becoming an adult before age 18. If your child is determined to be an adult under this chapter, the rights under IDEA will transfer to your child at that time.
- ◆ **Alternatives to Guardianship** The public school must honor a valid power of attorney or a valid supported decision-making agreement that is executed by your adult student.
- ◆ **Required Notices and Information** On or before your child's 17th birthday, the public school must provide you and your child written notice describing the transfer of parental rights and include information about guardianship and alternatives to guardianship, including

supported decision-making agreements, and other supports and services that may assist your child in living independently. Beginning with the 2018-2019 school year, your child's IEP must also state that the public school provided this information.

At your child's 18th birthday, the public school must provide you and your child written notice that parental rights transferred to the adult student. Beginning with the 2018-2019 school year, this written notice must include information and resources about guardianship and alternatives to guardianship, including supported decision-making agreements, and other supports and services that may assist your child in living independently. This written notice must also include contact information to use in seeking additional information.

### ■ **Special Education Information**

If you need information about special education issues, you may call the Special Education Information Center at 1-855-SPEDTEX (1-855-773-3839). If you call this number and leave a message, someone will return your call during normal business hours. Individuals who are deaf or hard of hearing may call the voice number above using Relay Texas at 7-1-1.

### ■ **Resolving Disagreements**

There may be times when you disagree with the actions taken by the school related to your child's special education services. You are strongly encouraged to work with school personnel to resolve differences as they occur. You may ask the school about what dispute resolution options it offers for parents. The TEA offers four formal options for resolving special education

disagreements: state IEP facilitation, mediation services, the special education complaint resolution process, and the due process hearing program.

### ■ **State IEP Facilitation**

As required by state law, the TEA has established a state IEP facilitation project to provide independent IEP facilitators to assist with an ARD committee meeting for parties who are in dispute about decisions relating to the provision of FAPE to a child with a disability. The conditions that must be met for the TEA to provide an independent facilitator are as follows:

- The required request form must be completed and signed by both you and the school. This form is available in English and Spanish at: [http://tea.texas.gov/Academics/Special\\_Student\\_Populations/Special\\_Education/Programs\\_and\\_Services/Individualized\\_Education\\_Program\\_Facilitation/](http://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Programs_and_Services/Individualized_Education_Program_Facilitation/). It is also available upon request from the TEA. The contact information for the TEA is given at the end of this document.
- The dispute must relate to an ARD committee meeting in which mutual agreement about one or more of the required elements of the IEP was not reached and the ARD committee agreed to recess and reconvene the meeting.
- You and the school must have filed the required request form within five calendar days of the ARD committee meeting that ended in disagreement, and a facilitator must be available on the date set for reconvening the meeting.
- The dispute must not relate to a manifestation determination or determination of an IAES placement.

- You and the school must not be concurrently involved in special education mediation.
- The issues in dispute must not be the subject of a special education complaint or a special education due process hearing.
- You and the school must not have participated in IEP facilitation concerning the same child within the same school year of the filing of the current request for IEP facilitation.

### ■ Mediation Services

Mediation is one of the available options used for resolving disagreements about a child's identification, evaluation, educational placement, and FAPE. If both you and the school agree to participate in mediation, the TEA makes the arrangements and pays for the mediation. Mediation may not be used to delay or deny you a due process hearing or any other rights under IDEA.

The TEA automatically offers mediation services each time a due process hearing is requested. But, you may ask for mediation services any time you and the school have a disagreement about your child's special education program.

The mediators are not employees of the TEA or any school in Texas, and they cannot have any personal or professional interest that would conflict with their objectivity. The mediators are professionals who are qualified and trained in resolving disputes and who have knowledge of special education laws. The mediator's role is to be objective and not take the side of either party at the mediation. The goal of mediation is to assist you and the school in reaching an agreement that satisfies both of you.

A current list of mediators is available at <http://tea.texas.gov/index4.aspx?id=5087>.

If you and the school agree to mediate, you can agree to use a specific mediator or a mediator will be randomly assigned. In either case, the mediator will contact you promptly to schedule the mediation session at a place and time convenient to you and the school. The discussions that occur during mediation are private and cannot be used as evidence in a future due process hearing or court proceeding.

If you and the school reach agreement, you and the school's authorized representative will sign a written agreement. The agreement is legally binding and enforceable in a court that has authority under state law to hear this type of case or in a federal district court.

You can find more information about the mediation process on the TEA website at <http://tea.texas.gov/index4.aspx?id=5087>.

### ■ Special Education Complaint Resolution Process

Another option for resolving special education disputes is the TEA's special education complaint resolution process. If you believe a public agency has violated a special education requirement, you may send a written complaint to the TEA at the address given at the end of this document. You must also send your complaint to the entity against whom the complaint is filed. Any organization or individual may file a complaint with the TEA. The complaint timeline will start the next business day after the day that the TEA receives the complaint. Your written complaint must describe a violation that occurred not more than one year before the date that the complaint is received. The complaint must include: a statement that the public agency has violated

a special education requirement, the facts upon which the statement is based, and your signature and contact information. If the complaint concerns a specific child, the complaint must also include: the child's name and address or available contact information if the child is homeless, the name of the child's school, and a description of the nature of the problem of the child, including facts relating to the problem to the extent known and available to you at the time.

The TEA will give you the opportunity to submit additional information and enter into voluntary mediation. The TEA will also give the public agency an opportunity to respond to the complaint and the opportunity to submit a proposal to resolve the complaint.

Within 60 calendar days after receiving your written complaint, unless extended due to special circumstances that meets the requirements stated above or party agreement, the TEA will conduct an investigation, including an on-site investigation, if necessary. The TEA will review all relevant information and determine whether the public agency has violated a special education requirement. You will be given a written decision addressing each of the allegations including findings of fact, conclusions, and reasons for the TEA's decision.

If the TEA determines that the public agency has violated a special education requirement, it must require the public agency to take appropriate steps to address the violations found, including engaging in technical assistance activities, negotiations, and corrective actions. Corrective actions may include providing services to make up for services that were not previously provided to a specific child or a group of children and appropriate future provision of services for all children with disabilities. The TEA's

decisions regarding your complaint are final and may not be appealed. Filing a complaint, however, does not take away your right to request mediation or a due process hearing.

If you file a complaint and request a due process hearing about the same issues, the TEA will set aside any issues in the complaint that are being addressed in the due process hearing until the hearing is over. Any issue in the complaint that is not a part of the due process hearing will be resolved within the timelines and procedures described in this document. If an issue raised in a complaint is decided in a due process hearing involving the same parties, the hearing decision is binding on that issue.

You can find more information about the complaint process and complaint investigation forms on the TEA website at [https://tea.texas.gov/Academics/Special Student Populations/Special Education/Dispute Resolution/Special Education Dispute Resolution Processes/](https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Dispute_Resolution/Special_Education_Dispute_Resolution_Processes/).

#### ■ **Due Process Hearing Program**

The fourth option for resolving special education disputes is the due process hearing program. In a due process hearing, an impartial hearing officer hears evidence from the parties and makes a legally binding decision.

You have the right to request a due process hearing on any matter relating to the identification, evaluation or educational placement of your child, or the provision of FAPE to your child. 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 hearing is over.



You must request a due process hearing within one year of the date you knew or should have known about the alleged action that forms the basis of the hearing request. This one-year timeline is also referred to as a statute of limitations. This timeline does not apply to you if you were prevented from requesting the hearing because of specific misrepresentations by the school that it had resolved the problem, or because the school withheld information from you that was required to be provided to you. In some circumstances, the one-year statute of limitations to request a due process hearing may be tolled—or paused—if you are an active-duty member of the armed forces, the Commissioned Corps of the National Oceanic and Atmospheric Administration, or the Commissioned Corps of the United States Public Health Service, and if the statute of limitations provisions of a federal law known as the Servicemembers Civil Relief Act apply to you.

If you request the due process hearing, you have the burden of proving that the school violated a special education requirement. In certain situations, the school may request a due process hearing against you. In these situations, the school has the burden of proof.

Before you sue the school in court about any of the matters listed above, you must request a due process hearing. If you have not participated in a due process hearing, your claims in court may be dismissed.

- ◆ **Requesting a Due Process Hearing** To request a hearing, you, your attorney, or your advocate must send a written request for a due process hearing or to the TEA at the address located at the end of this document.

A form to request a due process hearing is available from the TEA at [https://tea.texas.gov/About\\_TEA/Government\\_Relations\\_and\\_Legal/Special\\_Education/Due\\_Process\\_Hearings/Office\\_of\\_Legal\\_Services\\_Special\\_Education\\_Due\\_Process\\_Hearing\\_Program/](https://tea.texas.gov/About_TEA/Government_Relations_and_Legal/Special_Education/Due_Process_Hearings/Office_of_Legal_Services_Special_Education_Due_Process_Hearing_Program/).

You do not have to use the TEA form, but your request must contain the following information: your child's name and address, or available contact information if your child is homeless; the name of your child's school; a description of the problem your child is having, including facts relating to the problem; and a resolution of the problem that you propose to the extent known and available to you at the time.

If you request the hearing, you must send a copy of your written request to the school. You may not have a hearing until you send a request that meets all of the above requirements. Within 10 calendar days of receiving your request, the school must send you a response that meets the requirements of prior written notice unless it has already done so. Within 15 calendar days of receiving your request, the school must notify the hearing officer and you if it believes you did not include all the required information. The hearing officer has five calendar days to rule on whether the information in your request is sufficient.

You may only amend—or change—your request if the school agrees or if the hearing officer gives you permission not later than five calendar days before the hearing. You may not raise issues at the hearing that were not raised in the request. If the filing party, whether you or the school, makes changes to the request, the

timelines for the resolution period and the timelines for the hearing start again on the date the amended request is filed.

You must be provided with information about any free or low-cost legal and other relevant services available in the area if you request the information, or if you or the school files a due process complaint.

- ◆ **Resolution Period** Except in the case of an expedited hearing (see below for expedited resolution timelines), within 15 calendar days of receiving your request for a due process hearing, the school must convene a meeting called a *resolution meeting* with you, a school representative with decision-making authority, and the relevant members of the ARD committee chosen by you and the school. The school may only include an attorney at the meeting if you have an attorney at the meeting.

Except when you and the school have both agreed in writing to waive the resolution process or agreed to use mediation instead, the resolution meeting must be held. If you do not participate in the resolution meeting, the timelines for the resolution process and hearing will be delayed until the meeting is held.

If the school makes reasonable efforts to get you to attend the resolution meeting, but you do not attend, then at the end of the 30 calendar-day resolution period, the school may ask the hearing officer to dismiss your request for a due process hearing. The school must be able to show that it made reasonable efforts to get you to attend the resolution meeting using the following documentation: a record of the school's attempts to arrange a mutually agreed upon time and place, such as detailed records of telephone calls made

or attempted and the results of those calls; copies of correspondence sent to you and any responses received; and detailed records of visits made to your home or place of employment and the results of those visits.

If, on the other hand, the school fails to hold the resolution meeting within 15 calendar days of receiving notice of your request for a due process hearing or fails to participate in the resolution meeting, you may ask the hearing officer to end the resolution period and to order the 45 calendar-day hearing timeline to begin.

Ordinarily, the resolution period lasts for 30 calendar days. However, if you and the school agree in writing to waive the resolution meeting, then the 45 calendar-day timeline for the hearing starts the next calendar day. Likewise, if you and the school have started the mediation process or the resolution meeting, but before the end of the 30 calendar-day resolution period, you and the school agree in writing that no agreement is possible, then the 45 calendar-day timeline for the hearing starts the next calendar day. Finally, if you and the school have agreed to use the mediation process, both parties can agree in writing to continue the mediation at the end of the 30 calendar-day resolution period until an agreement is reached. However, if either you or the school withdraws from the mediation process, the 45 calendar-day timeline for the hearing starts the next calendar day.

The purposes of the resolution meeting are to give you an opportunity to discuss your request and the underlying facts with the school and to give the school the opportunity to resolve the dispute that is the basis of the request. If you reach an agreement in the meeting, you and the

school must put your agreement in writing and sign it. This written agreement is enforceable in a court that has authority under state law to hear this type of case or in a federal district court unless one of the parties voids the agreement within three business days of the date it is signed.

If the school has not resolved the issues raised in your request to your satisfaction within 30 calendar days from the receipt of your request, the 45 calendar-day hearing timeline begins and the hearing may proceed.

- ◆ **Resolution Meeting in Expedited Hearings** For expedited hearings, the school must convene the resolution meeting within seven calendar days of receiving the request for an expedited due process hearing. You have a right to a hearing if the school has not resolved the issues raised in your request to your satisfaction within 15 calendar days of the school's receipt of the request for an expedited due process hearing. The hearing must be held within 20 school days of the date that the request for a due process hearing is filed. The hearing officer must issue a final decision within 10 school days after the hearing.

The TEA provides impartial hearing officers to conduct hearings. The hearing officers are not employees of the TEA or any agency involved in the education or care of your child and cannot have any personal or professional interest that would conflict with his or her objectivity in the hearing. The hearing officer must possess the necessary knowledge and skill to serve as a hearing officer.

The TEA maintains a list of hearing officers that includes the qualifications of each hearing officer. This list is available on the TEA

website at <https://tea.texas.gov/index4.aspx?id=5090>. You can also request the list from the TEA Office of Legal Services, whose contact information is provided at the end of this document.

- ◆ **Child's Status during Proceedings (Stay-put)** During a due process hearing and any court appeals, your child generally must remain in the current educational placement, unless you and the school agree otherwise. Remaining in a current setting is commonly referred to as *stay-put*. If the proceeding involves discipline, see the discipline section for discussion of the child's placement during discipline disputes.

If the hearing involves an application for your child to be initially enrolled in public school, your child must be placed, if you consent, in the public school program until the completion of all the proceedings. If the child is turning three and transitioning from an Early Childhood Intervention (ECI) program, stay-put is not the ECI services. If the child qualifies for special education services and the parent consents, the services that are not in dispute must be provided.

- ◆ **Before the Hearing** At least five business days before the due process hearing, you and the school must disclose to each other any evidence that will be introduced at the hearing. Either party may contest the introduction of any evidence that has not been shared on time. The hearing officer may prohibit the introduction of evidence, including evaluations and recommendations, not disclosed within the timelines.
- ◆ **During the Hearing** You have the right to bring and be advised by your attorney and by people with special knowledge or

training regarding children with disabilities. You have the right to present evidence, and to confront, cross-examine, and compel the attendance of witnesses. You have the right to bring your child and to open the hearing to the public. You have the right to have each session of the hearing conducted at a time and place that is reasonably convenient to you and your child. You have the right to obtain a written or electronic verbatim record of the hearing and obtain written or electronic findings of fact and decisions at no cost to you.

- ◆ **The Decision** The hearing officer's decision of whether your child received FAPE must be based on substantive grounds. If you complain about a procedural error, the hearing officer may only find that your child did not receive FAPE if the error: impeded your child's right to FAPE; deprived your child of educational benefits; or significantly interfered with your opportunity to participate in the decision-making process regarding FAPE to your child.

The TEA will ensure that a final hearing decision is reached and mailed to the parties within 45 calendar days after the expiration of the 30 calendar-day resolution period, or the adjusted resolution period if applicable. In an expedited hearing, the TEA will ensure that a final decision is reached within 10 school days from the date of the hearing. The hearing officer may grant a specific extension for a good reason at the request of either party in a non-expedited hearing. A hearing officer may not grant an extension in an expedited hearing. The decision of the hearing officer is final, unless a party to the hearing appeals the decision to state or federal court. The

hearing officer's decision will be posted on the TEA's website after all personally identifiable information about your child has been removed.

The school must implement the hearing officer's decision within the timeframe stated by the hearing officer, or if there is no timeframe stated, within 10 school days after the date the decision was rendered, even if the school appeals the decision, except that any reimbursements for past expenses can be withheld until the appeal is resolved. Nothing in IDEA limits you from filing another due process complaint on an issue separate from the one addressed in a previous hearing.

- ◆ **Civil Action** You have the right to appeal the hearing officer's findings and decision to state or federal court, no more than 90 calendar days after the date the decision was issued. As part of the appeal process, the court must receive the records of the due process hearing, hear additional evidence at the request of either party, base its decision on the preponderance of the evidence, and grant any appropriate relief.

Nothing in IDEA limits the rights, procedures, and remedies available under the U.S. Constitution or other federal laws protecting the rights of children with disabilities, except that before filing a civil action in court seeking relief that is available under IDEA, a parent or school must utilize the due process hearing procedures provided under IDEA. This means that even if you have remedies under other laws that overlap with those available under IDEA, you first must use IDEA's due process hearing procedures before filing an action in court.

If you win part or all of what you are seeking in a due process hearing or in court, a judge may award you reasonable attorney's fees and related costs.

The award of attorney's fees will not include costs related to the resolution session or to ARD committee meetings, unless a hearing officer or a court ordered the ARD committee meeting.

You cannot be awarded attorney's fees or costs for work done after the time the school gave you a written settlement offer if: the school made the offer more than 10 calendar days before the due process hearing began; you did not accept the offer within 10 calendar days; and the court found that the relief you obtained from the hearing was not more favorable.

The court must reduce the amount of attorney's fees awarded to you if it finds that: you or your attorney unreasonably protracted the dispute; the attorney's fees unreasonably exceed the hourly rate charged by similar attorneys in the community for similar services; the time spent by your attorney is excessive given the nature of the proceeding; or your attorney failed to give the school the appropriate information in the complaint notice. A reduction in fees is not required if the court finds the school unreasonably protracted the proceedings or behaved improperly.

If the school wins at the hearing or court proceeding, a court may order you or your attorney to pay the school's reasonable attorney's fees if your attorney filed a request for a due process hearing or subsequent cause of action that was frivolous, unreasonable, or without foundation, or continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation. You or your attorney

could also be required to pay the school's attorney's fees if your request for a due process hearing or subsequent court proceeding was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.



## Contact Information

If you have any questions about the information in this document or need someone to explain it to you, please contact:

<b>Local Contact Information</b>		
School	Education Service Center	Other Resource
<a href="http://www.gcisd-k12.org">http://www.gcisd-k12.org</a>	<a href="http://www.esc11.net">http://www.esc11.net</a>	<a href="http://www.partnerstx.org">http://www.partnerstx.org</a>
<b>Name:</b> Emily Whitsett, Coordinator Grapevine-Colleyville ISD Special Services 5800 Colleyville Blvd, Suite B208 Colleyville, TX 76034	<b>Name:</b> Kathy Duniven, Coordinator ESC Region XI 1451 S. Cherry Lane White Settlement, TX 76108	<b>Name:</b> Partner's Resource Network 1090 Longfellow Dr., Suite B Beaumont, TX 77706
<b>Telephone Number:</b>  817-251-5736	<b>Telephone Number:</b>  817-740-7583	<b>Telephone Number:</b>  800-866-4726
<b>E-mail:</b>  <a href="mailto:emily.whitsett@gcisd.net">emily.whitsett@gcisd.net</a>	<b>E-mail:</b>  <a href="mailto:kduniven@esc11.net">kduniven@esc11.net</a>	<b>E-mail:</b>  <a href="mailto:partnersresource@sbcglobal.net">partnersresource@sbcglobal.net</a>

If you need information about special education issues, you may call the Special Education Information Center at 1-855-SPEDTEX (1-855-773-3839). If you call this number and leave a message, someone will return your call during normal business hours. Individuals who are deaf or hard of hearing may call the voice number above using Relay Texas at 7-1-1.

If you have questions about a pending special education complaint, contact the TEA's Division of Special Education at 512-463-9414. If you have questions about a pending mediation or due process hearing, contact the assigned mediator or hearing officer respectively.

**When sending a written request for the TEA services,  
please address your letter as follows:**

Texas Education Agency  
1701 N. Congress Avenue  
Austin, TX 78701-1494

**To the attention of the following Divisions:**

Division of Special Education  
State IEP Facilitation Project

Office of Legal Services  
Special Education Mediation Coordinator

Division of Special Education  
Special Education Complaint Unit

Office of Legal Services  
Special Education Due Process Hearings

**Please visit the TEA Division of Special Education website at**  
<http://tea.texas.gov/index2.aspx?id=2147491399>