

**New York State Education Department  
PROCEDURAL SAFEGUARDS NOTICE**

**Rights for Parents of Children with Disabilities,  
Ages 3-21**

Parents are vital members of a team called the Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE) that is responsible for developing an appropriate educational program for your child. You must be given opportunities to participate in the discussion and decision-making process about your child's needs for special education. The following information concerns procedural safeguards - your legal rights under federal and State laws to be involved and make sure that your child receives a free appropriate public education.

**Procedural safeguards notice must be provided to you one time a year and:**

- upon initial referral or your request for an evaluation of your child.
- the first time in a school year when the school district receives a written notice from you requesting mediation or an impartial hearing.
- when a decision is made to suspend or remove your child for discipline reasons that would result in a disciplinary change in placement.
- whenever you request a copy.

**CONSENT**

There are many times when the school district must notify (tell) you in writing of its proposed (planned) action and ask for your written consent (permission) to carry out this action.

**Consent means that:**

1. you have been informed, in the language you speak or other kind of communication that you understand, of all the information about the activity for which your permission is asked.
2. you understand and agree in writing to the activity for which your permission is needed.
3. your permission is given freely and may be withdrawn at any time. However, if you withdraw your consent, it is not retroactive (it will

not apply to actions already taken by the district).

**Your written consent will be requested when:**

1. your child will be evaluated for the first time by the CSE or CPSE to decide if he or she has a disability and needs special education.
2. your child is recommended to receive special education services and programs for the first time.
3. your child is recommended to receive twelve-month special education services and/or programs during July and August for the first time.
4. your child will be reevaluated.
5. the school district proposes to use your private insurance. In this case, you must be notified that, if you refuse to allow the school district to access (use) your private insurance, the district is still responsible to provide all required services at no cost to you.
6. another agency other than a school requests to review records about your child. The request for consent will include information about the records that will be released and to whom they will be given.
7. you decide to withdraw a referral for special education for your child.

**NOTICES: Prior Written Notice and Meeting Notice**

As a parent of a child with a disability or suspected disability, you will receive notices to tell you about proposed special education services, meetings and your rights. Notice is a written statement provided to you in the language you speak or other kind of communication that you understand unless it is clearly not possible to do so. If the language you speak at home (your native language) or other kind of communication you understand is not a written language, the school district must take steps to make sure that the notice is translated orally or by other means (such as sign language) so that you understand the notice. You have the right to ask for an interpreter, translator or reader for the meetings.

In addition to this procedural safeguards notice, you will also receive:

- prior written notices and
- notices of meetings.

### **Prior Written Notice**

Prior written notice is written notice that is given to you a reasonable time before the school district proposes to or refuses to start or change the identification, evaluation or educational placement or the provision of a free appropriate education to your child.

#### **Prior Written Notice must include:**

1. a description of the action offered or refused by the CSE or CPSE.
2. an explanation of why the school district will or will not take action.
3. a description of any other options (choices) the school district considered and the reasons why those choices were refused.
4. a description of each evaluation, procedure, test, record or report the school district used as a reason to offer or refuse an action.
5. a description of any other factors that are relevant to the district's decision.
6. a statement that you have certain rights and protection under the law and the ways you can obtain (get) a copy of the notice that describes these rights and protections.
7. sources for you to contact to get assistance in understanding the special education process and your rights.

If the prior written notice relates to an action by the school district that requires your consent, the district will give you notice at the same time they request your consent. You should also receive prior written notice before your child graduates from high school with a local or Regents diploma or before he/she receives an Individualized Education Program (IEP) diploma.

### **Notice of Meetings**

Whenever the CSE or CPSE proposes to conduct a meeting to develop or review your child's IEP or to discuss the provision of a free appropriate public education to your child, you must receive a meeting notice.

You must receive a written meeting notice at least five days before the meeting unless you and the school district agree to meet within five days or for

certain meetings relating to discipline procedures. If the proposed meeting time or place is not good for you, you may call the school district to ask for a change that is good for both of you.

If you are unable to attend the meeting, the district can use other ways to encourage your participation. They may call you before a meeting occurs to talk about evaluation results and ask you for information, or they may ask you or you may request to participate in the meeting by telephone or video conference call.

#### **A Meeting Notice must include:**

1. the purpose of the meeting and the date, time, location and names and titles of the persons expected to attend the meeting.
2. a statement that you have the right to participate as a member of the CSE or CPSE.
3. a statement telling you that you may bring anyone to the meeting who has knowledge or special expertise about your child.
4. a statement of your right to ask the school physician to be at the meeting of the CSE. (This does not apply to parents of preschool children.) You must do this in writing at least 72 hours before the meeting.
5. a statement that you may request in writing that the additional parent member of the CSE or CPSE not participate in the CSE or CPSE meeting .
6. if the meeting is a Subcommittee meeting, a statement that you may make a written request to the full CSE if you disagree with the recommendation of a Subcommittee.
7. for students for whom a meeting will be held to consider transition services, a statement that indicates the purpose of the meeting and that the student will be invited and lists any other agencies that will be invited to send a representative.
8. for preschool students, a statement that you have the opportunity to address the CPSE in writing or in person.

### **YOUR CHILD'S EDUCATIONAL RECORDS**

You have the right to ask for and read records about your child unless the district has been legally

notified in writing that your rights as a parent have been terminated or otherwise limited by a court order. You have the right to ask for and receive explanations and interpretations of the records from your school district. You also have the right to ask that the school district provide you with a copy of your child's educational records if it is the only way that you can inspect and review the records. The school district may charge a reasonable cost for copies of the records unless the fee prevents you from inspecting or reviewing your child's records. You may also have someone you select as your representative inspect and review the records. Upon your request, the school district must allow you to review and inspect your child's records:

- within a reasonable time.
- in no case more than 45 calendar days after you ask.
- before any meeting about your child's IEP.
- before any due process hearing about your child's special education needs.

Personal information about your child may not be released without your consent unless it is:

1. given to school officials or teachers with a legitimate educational interest, State and local educational authorities, or certain individuals designated under federal law.
2. used to meet a requirement under federal law.

## **EVALUATIONS**

### **Individual evaluation**

An individual evaluation means any procedures, tests or assessments, including observations, given individually to your child to find out whether he or she has a disability and/or to identify his/her special education needs. The term does not include basic tests given to groups of children in a school, grade or class or the screening of your child by a teacher or specialist to determine appropriate instructional strategies (ways to teach the curriculum).

The results of the individual evaluation must be shared with you. When the CSE or CPSE has conducted an evaluation to determine your child's eligibility for special education, you must be provided a copy of the evaluation report and documentation of determination of eligibility. In addition, if you are the

parent of a preschool child, the CPSE must also give you a copy of the summary report of the findings of the evaluation.

### **Independent educational evaluation**

An independent educational evaluation (IEE) of your child means a procedure, test or assessment done by a qualified examiner who does not work for the school district or other public agency responsible for the child's education. You may get an IEE at district expense if you disagree with the evaluation arranged for by the school district. If you ask the school district to pay for the IEE, the school district may ask, but not require, you to explain the reason why you object to the district's evaluation. The school district may not unreasonably delay either providing the IEE or initiating an impartial hearing to defend the district's evaluation.

Independent evaluators (outside testers) must meet the same qualifications as school district evaluators and follow the accepted evaluation procedures.

### **You have the right to:**

1. obtain an IEE.
2. have the results of the IEE considered by the CSE or CPSE as part of its review and in the development of your child's IEP.
3. have the full cost of the IEE be at district expense. The school district may request an impartial hearing to show that its evaluation is appropriate or that your evaluation did not follow district criteria. If the impartial hearing officer (IHO) finds that the district evaluation is appropriate, the district does not have to pay for it.
4. receive information about where an IEE may be obtained, the criteria the school district uses when it does an evaluation, and any district criteria regarding the reimbursement of IEEs if you request the district pay for the IEE.
5. have an IEE at district expense if the IHO asks for this evaluation as part of an impartial hearing.
6. have the results of the IEE used as evidence at an impartial hearing.

## **OPPORTUNITY TO PRESENT A WRITTEN COMPLAINT TO THE STATE EDUCATION DEPARTMENT**

You have the right to submit a written complaint to the New York State Education Department if you believe that your school district has violated a requirement of State or federal special education laws and regulations. Your complaint must include a statement that the school district has violated special education law or regulations and include the facts on which you base your statement. You must send the original signed written complaint to:

Statewide Special Education Coordinator

Office of Vocational and Educational Services  
for Individuals with Disabilities  
One Commerce Plaza, Room 1619  
Albany, NY 12234

The alleged violation must have occurred not more than one year prior to the date of the complaint:

- unless the violation is continuing; or
- the complaint is requesting compensation services. This only applies to alleged violations that occurred not more than three years prior to the date of the complaint.

A determination must be made within 60 calendar days of receipt of the complaint unless exceptional circumstances exist.

## **SPECIAL EDUCATION MEDIATION**

Special education mediation is a voluntary process for you and the school district which all school districts must offer parents as a way to work out disagreements with the recommendations of the CPSE/CSE. Mediation is available to resolve a complaint before or after you request an impartial hearing. You and a person chosen by the Board of Education (BOE) meet with a qualified and impartial mediator from the Community Dispute Resolution Center (CDRC) who helps in reaching agreement about the recommendation for your child. Mediation is at no cost to you. If you decide not to use mediation, someone may call you from the CDRC to talk about the benefits of mediation.

### **You have the right to:**

1. mediation by a qualified and impartial mediator from a CDRC.
2. mediation held in a timely manner and at a place that is good for you and the district.

3. have any agreements made during mediation written down. Written agreements are legally binding and are enforceable in court.
4. have discussions that occur during the mediation process be confidential and not used as evidence in any impartial hearing or civil proceeding. Parties to the mediation process may be required to sign a confidentiality pledge prior to the mediation.
5. request mediation or an impartial hearing at any time.

## **IMPARTIAL HEARINGS**

You or the Board of Education (BOE) may request an impartial hearing relating to the identification, evaluation or educational placement of your child or the provision of a free appropriate public education (FAPE) to your child. An impartial hearing is a formal proceeding in which disagreements between you and the school district are decided by an IHO appointed by the BOE.

For school-age children, the school district may request mediation or an impartial hearing when you refuse to give consent for an initial evaluation. If you do not provide consent within 30 days, the school district must provide you an opportunity for an informal conference to discuss the request for an initial evaluation and the request may be subsequently withdrawn. For three and four year-old children, the school district may not use due process procedures (e.g., mediation or an impartial hearing) if you refuse to give consent to initial evaluation.

For school-age children, the school district may use due process procedures (e.g., mediation or an impartial hearing) when you refuse to give consent for a reevaluation of your child but may not request mediation or an impartial hearing if you refuse consent for services.

The impartial hearing is at no cost to you (except for your own attorneys' fees). When you request an impartial hearing, the school district must inform you of any free or low-cost legal and other relevant services in the area. (You may request this information at any time).

The issue you are filing a complaint about must have occurred not later than two years from the date you knew or should have known about the problem,

unless you were prevented from submitting the complaint because the school district misrepresented (led you to believe) that it had resolved the problem forming the basis of the complaint or the school district did not give you information you were required to have.

### **Due Process Complaint Notice:**

To request an impartial hearing, you must submit a written due process complaint notice to the school district. If the BOE requests the hearing, the BOE must submit the written due process complaint notice to you.

1. Your request for an impartial hearing must be made in writing to the BOE. You or your attorney must also send a copy to the State Education Department.
2. The written due process complaint notice must describe the facts relating to your concerns and a proposed solution (a suggestion you might have to solve the problem if you know of one) and include your child's name, address (or available contact information in the case of a homeless child) and the name of the school your child attends. In the case of a homeless child or youth, the form must include available contact information for the child and the name of the school the child is attending. A Due Process Complaint Notice form can be obtained from your local school district to request an impartial hearing.  
A model form can be found at: <http://www.vesid.nysed.gov/specialed/publication/policy/dueprocess7105.htm>.
3. You may not have an impartial hearing until you submit a complete due process complaint notice to the school. The school district may ask an IHO to decide if the notice is complete.
4. If the school district is the party requesting an impartial hearing, the school district must provide a complete due process complaint notice to you. You have the right to ask the IHO to rule on the completeness of the notice if you believe the notice the school district gave you does not provide the required information (i.e., is insufficient). You must respond in writing to the issues the BOE raised in the due process complaint notice within 10 days.

### **Resolution Session:**

1. Before an impartial hearing can be held, you must meet with the school district in a resolution session meeting. At this meeting you will discuss your concerns and the facts that form the basis of your concerns and try to resolve the complaint.
2. The school district will arrange for the resolution session within 15 days of your request for an impartial hearing.
3. The resolution session must include you as the parent of the child and the relevant member or members of the CSE or CPSE who have specific knowledge of the facts identified in the complaint. Someone from the school district who can make decisions for the school district must also attend. The school district cannot bring their attorney to the resolution session unless you bring an attorney.
4. You and the school district can, at any time, agree to waive (not to conduct) the resolution session and, instead, arrange for mediation to resolve the complaint or to begin the impartial hearing.
5. If you and the school district agree in writing to resolve the problem, that agreement is a legally binding agreement that is enforceable in court.
6. You and the school district have three business days after the resolution session agreement is reached to change your minds (void the agreement).
7. If the resolution session has not resolved the complaint to your satisfaction within 30 days of the day the school district received a complete due process complaint notice from you, the impartial hearing must begin.

### **Impartial Due Process Hearing**

At an impartial due process hearing, you have the right to:

1. have and be advised by an attorney and/or by individuals with special knowledge or training about the education of students with disabilities.
2. present evidence and testimony and question, cross-examine and require the attendance of witnesses.
3. receive information, including evaluations and recommendations, at least five business days before the hearing (or three business days in the case of an expedited due process hearing) and to

- stop such information from being presented that was not exchanged between both parties on time.
4. receive, at your option, a written or electronic word-for-word record of the hearing and word-for-word findings of fact and the decision of the IHO.
  5. have the hearing open to the public.
  6. have your child present during the hearing.
  7. have an interpreter for the deaf or an interpreter fluent in your native language (the language normally used by you), if necessary, at no cost to you.
  8. have an impartial hearing conducted at a time and place that is reasonably convenient for you and your child.
  9. receive an expedited due process hearing for certain disciplinary decisions.

#### **Timelines for impartial hearings:**

1. If the school district has not resolved the complaint to your satisfaction within 30 calendar days of the receipt of a complete due process complaint notice, the impartial due process hearing must be scheduled to begin.
2. The IHO has to make his or her decision no later than 45 calendar days for a school-age child or 30 calendar days for a preschool child after the impartial hearing begins. However, the IHO may extend the time for a specific period at the request of you or the school district, but only after considering the impact a delay would have on the child's educational interest and other important factors.
3. Impartial hearings conducted on matters relating to student discipline have a shorter time period. In these cases, the decision of an IHO must be completed within 15 business days after the receipt of the request for the hearing, provided that the IHO may grant specific extensions at your or the school district's request. In an expedited impartial hearing, the IHO must mail a written decision to the parties within five business days after the last hearing date, but in no event later than 45 calendar days after receipt of the request, without exceptions or extensions.

#### **STATE-LEVEL APPEAL OF IHO DECISIONS**

The decision made by the IHO is final unless you or the school district ask for a review of the decision of the IHO (called an appeal) by the State Review Officer (SRO). If you want to appeal the IHO decision to the SRO, a Notice of Intention to Seek Review (Form A) must be served on the school district not less than 10 days before the Notice of Petition (Form B) is served on the school district, and within 25 days from the date of the hearing officer's decision. The petition must be served, by hand-delivery, on the school district within 35 days from the date of the hearing officer's decision. If the hearing officer's decision was served by mail on petitioner, the date of mailing plus the four following days must be excluded in computing the 25 or 35-day period. The SRO will:

1. make a final decision within 30 calendar days. The SRO may extend the time beyond the 30 days at the request of you or the school district. The extension must be for a specific time.
2. mail copies of the written or, at your option, electronic findings of fact and the decision to you or your attorney and the BOE within the 30-day period.

Rules for filing an appeal to the SRO can be found at: <http://www.sro.nysed.gov/appeals.htm>.

#### **COURT APPEAL OF SRO DECISION**

The decision of the SRO is final unless either you or the school district seeks review of the SRO's decision in either State Supreme Court or Federal District Court within four months from the date of the SRO's decision.

#### **PENDENCY: THE STUDENT'S PLACEMENT DURING DUE PROCESS HEARINGS**

Pendency, sometimes referred to as "stay-put" or "status-quo" means the educational placement for your child during any impartial hearing or appeal.

#### **Pendency for a preschool child**

Except for expedited impartial hearings for discipline reasons, your preschool child will stay in his or her current placement during any hearing or appeal, unless you and the school district agree in

writing to other arrangements.

A child who has received early intervention services and is now of preschool age may, during hearings and appeals, receive special education in the same program as the early intervention program if that program is also an approved preschool program.

If your preschool child is currently not receiving special education services and programs, he or she may, during any hearings or appeals, receive special education services and programs if you and the school district agree.

### **Pendency for a school-age child**

During any hearing or appeal, except an expedited impartial hearing or appeal relating to disciplinary procedures, your school-age child will stay in the school placement he or she is in now, unless you and the school district agree in writing to other arrangements.

If the disagreement involves initial admission to public school, you have the right to have your school-age child placed in a public school program with your consent until all proceedings are over.

If the due process proceeding concerns consent for an initial evaluation, your child will not be evaluated while the proceeding is pending.

A child who received preschool special education services and is now school age may, during hearings and appeals, remain in the same program as the preschool program if that program also has an approved school-age special education program.

### **Pendency during a Court Appeal of SRO Decision**

If you or the school is appealing a decision of a SRO to a court, pendency is as follows:

- If a SRO issues a placement decision that agrees with the parents, pendency during any subsequent appeal to a court is the placement decided by the SRO.
- If the SRO issues a placement decision that agrees with the school district, pendency during any subsequent appeal to a court is your child's current educational placement.

### **Pendency during an Expedited Hearing for Discipline Reasons**

Unless you and the school district otherwise agree, when there is an expedited impartial hearing or appeal

regarding your child's disciplinary placement or the decision as to whether your child's behavior is related to his or her disability (manifestation determination) (see page 9), your child must remain in the disciplinary setting or interim alternative educational setting (IAES) until an IHO makes a determination about placement or until the time period of the disciplinary removal is over.

### **ATTORNEY'S FEES**

1. A court may award reasonable attorneys' fees to the parents or guardian of a child with a disability if they are the party who wins the hearing. Attorneys' fees may be lowered if you unreasonably delay an agreement or a decision in the case; if the fees, time spent or services of your attorney exceed reasonable rates; or if you failed to provide the information required when you request a hearing. However, attorneys' fees will not be reduced if a court finds that the State or school district unreasonably delayed the final resolution of the action or proceeding or there was a violation of your child's due process rights. Attorneys' fees may not be awarded:

- relating to any meeting of the CSE or CPSE unless the meeting is held as a result of an administrative proceeding or court action.
- for mediation that is conducted prior to the filing of a request for an impartial hearing.
- for a resolution session.
- if a written offer of settlement is made by the school district within ten calendar days prior to the proceeding, you do not accept the offer within ten calendar days and the court or hearing officer finds that the decision is not more favorable to the parents than the offer of settlement.

2. A court may also award attorney fees to a school district against you or your attorney if your complaint was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

### **REIMBURSEMENT FOR PLACEMENT MADE BY PARENTS IN A PRIVATE SCHOOL IF THE DISTRICT FAILS TO MAKE A FREE AND**

## **APPROPRIATE PROGRAM AVAILABLE TO THE CHILD**

A school district is not required to pay for the cost of education of your child at a private school or facility if the school district has made a free and appropriate public education (FAPE) available to your child. However, if you place your child in a private school because you and the school district disagree that an appropriate program has been made available for your child, you have the right to request an impartial hearing to seek reimbursement for the private school placement.

1. If you are the parent of a child who previously received a special education program and/or services through the school district and you place your child in a private school without the consent or referral of the school district, you may be entitled to reimbursement for the cost of the private placement if you can prove at an impartial hearing or State-level or court appeal that:

- the school district did not provide your child with a free appropriate public education in a timely manner prior to that enrollment in private school; and
- the private placement is appropriate to meet your child's educational needs. An IHO, State review officer or court may find that a parental placement is appropriate even if it does not meet the State standards that apply to education programs provided by the school district or the State.

2. Your reimbursement may be denied or reduced if you do not:

- inform the school district at the most recent CSE or CPSE meeting you attend that you are rejecting the placement proposed by the school district and state your concerns and that you will be placing your child at a private school at public expense, or
- provide the school district with written notice at least ten business days (including any holidays that occur on a business day) prior to removing your child from the public school. However, if you are unable to read and cannot write in English; or if providing notice would likely result in physical or serious emotional harm to your child; or if the school prevented

you from providing the notice; or if you did not receive the procedural safeguards notice that tells you about this requirement, then the cost of reimbursement may not be reduced or denied because you did not give this notice.

3. If the school district gave you written notice before you removed your child from public school that it wants to evaluate your child, you must make your child available for the evaluation. If you refuse to make your child available, any request for tuition reimbursement may be reduced or denied.
4. If you do not inform the school district or make your child available for the evaluation, or if there are other unreasonable actions on your part, an IHO or court may reduce or deny the reimbursement of costs of the private school for your child.

## **DISCIPLINARY PROCEDURES**

The procedures for the discipline of students with disabilities must be in accordance with section 3214 of the Education Law and Part 201 of the Regulations of the Commissioner of Education. While the school has the authority to suspend or remove your child for violating the school's code of conduct, you and your child have certain rights throughout the process.

### **You have the right:**

1. to be notified immediately by telephone, if possible, and to receive written notice within 24 hours of a proposed suspension of five school days or less. The notice should describe the incident, proposed suspension and your child's rights. You also have the right to request an informal conference with the school principal, which will be held before the suspension unless your child's presence in school poses a danger (in which case the informal conference can occur after your child is suspended).
2. to receive written notice of your opportunity for a superintendent's hearing, if the suspension is for more than five consecutive school days, which describes your child's rights to counsel and to question and present witnesses.
3. for your child to receive alternative instruction

during the first ten days of any suspension or removal to the same extent as nondisabled students, if your child is of compulsory school age.

4. for your child to receive education services necessary to enable your child to participate in the general education curriculum and progress toward achieving his or her IEP goals if your child is suspended or removed for more than ten school days in a school year.
5. for your child also to have services to address the behavior that resulted in the disciplinary action if your child is removed to an interim alternative educational setting (IAES).
6. to have the CSE develop or review and implement a behavioral intervention plan for your child that is based on the results of a functional behavioral assessment, if your child is suspended or removed for more than ten school days in a school year.
7. to a meeting to determine whether your child's behavior which led to the disciplinary action is related to his or her disability (manifestation determination) when the suspension or removal results in your child being suspended or removed for more than ten school days in a school year (disciplinary change in placement).
8. for your child not to be suspended or removed for behaviors that are determined to be related to your child's disability, except for suspensions or removals ten school days or less in a school year and for removals to IAES.
9. to challenge, in an expedited due process hearing before an IHO, the determination of the relationship between your child's behavior that resulted in a disciplinary action and his or her disability (manifestation determination).
10. to challenge, in an expedited due process hearing before an IHO, any placement decision related to discipline.

#### **Special Circumstances (Reasons) for Removals to Interim Alternative Educational Settings (IAES)**

1. *Serious Bodily Injury, Controlled Substances, Illegal Drugs, Weapons*: School authorities may remove your child to an IAES for up to 45 school days if your child:
  - has inflicted serious bodily injury upon another person while at school, on school

premises, or at a school function;

- carries or possesses a weapon to or at school, on school premises, or to a school function; or
  - knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.
2. *Dangerousness*: An IHO may order the removal of your child to an IAES in a dangerous situation (i.e., maintaining the student in the current educational placement is substantially likely to result in injury to your child or to others).
  3. An IAES is a temporary educational placement, other than your child's current placement, where your child will continue to participate in the general education curriculum and be able to progress toward meeting the goals set out in your child's IEP. Your child must receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications designed to prevent the behavior from reoccurring.
  4. The IAES and services are determined by the CSE or CPSE.
  5. If it is determined that your child's behavior is related to his or her disability, the removal to the IAES cannot be for more than 45 school days.
  6. As a parent, you have the right to submit a due process complaint notice to challenge, in an expedited due process hearing, the decision to place your child in an IAES or the manifestation determination.

#### **Students with disabilities, students presumed to have a disability for discipline purposes, and students referred for special education while subject to disciplinary action.**

1. *Students with disabilities*: A student who has been identified by a CSE or a CPSE as a student with a disability must be afforded all the due process rights in this notice.
2. *Students presumed to have a disability*: If you believe that the school district had knowledge that your child was a child with a disability prior to the behavior that resulted in the disciplinary action, you have the right to assert that your child is a *student presumed to have a disability*. If it is determined that the district did, in fact, have such knowledge, then your child has all the rights and

protections in this notice.

3. *Students not yet identified as a student with a disability*: If you request an initial evaluation of your child during the time period in which your child is suspended or removed for disciplinary reasons, the evaluation must be conducted in an expedited manner (completed no later than 15 school days after you request the evaluation). The CSE meeting to determine eligibility must be held no later than five school days after the completion of the expedited evaluation. Until the evaluation is completed, your child remains in the educational placement determined by school authorities, which can include suspension.