

ADOPTED: February 4, 1993

REVISED: November 7, 2002

**MAINE SCHOOL ADMINISTRATIVE DISTRICT NO. 54
PROCEDURAL SAFEGUARDS**

As a parent of a student who may require, or who is receiving, special educational and related services:

1. You have the right to inspect, to review, and to obtain copies of all records relating to your son's or daughter's education in accordance with local policy and these rules.

If you believe that information in educational records collected, maintained or used under these rules is inaccurate or misleading or violates the privacy of other rights of your child, you may request that the school amend the information. MSAD #54 must then decide whether to amend the information in accordance with your request within a reasonable period of time receipt of the request. If MSAD#54 decides to refuse to amend the information in accordance with your request it must inform you of the refusal and of your right to a hearing.

2. You have the right to receive prior written notice and you must give your written permission before the school provides the first special education evaluation, or the first special educational placement of your son or daughter.

You have the right to receive prior written notice before the school changes any existing special education identification, evaluation, program or placement of your son or daughter.

3. You have the right to attend any meeting of the Pupil Evaluation Team, which meets to determine your son's or daughter's educational program and to question any matter, decision or recommendation relating to your son's or daughter's identification, evaluation and educational program or placement.
4. You have the right to obtain an independent educational evaluation of your son or daughter at public expense if you disagree with the evaluation obtained by the school.

The school must grant your request to provide at public expense an independent educational evaluation or, if it disagrees, must initiate a due process hearing to show that its own evaluation is appropriate. Such a determination shall be made within 30 days of the receipt of your written request for an independent educational evaluation. You are under no obligation to submit a written request to the school prior to exercising your right to an independent evaluation.

On your request (if the school agrees), or after a decision of the hearing official (if the school disagrees), an evaluation conducted by an appropriately certified or licensed special education professional who is qualified to provide educational evaluations and who is not an employee of the school, will be provided at no cost to you. If the hearing officer decides that the school's evaluation of your son or daughter is appropriate, or that the individual(s) who provided the evaluation you obtained were not qualified, or that the charges were excessive; the school may not be responsible for the costs incurred by the parents to obtain an independent evaluation. You may at any time obtain an independent evaluation at your own expense.

Any evaluation of your child by an appropriately certified or licensed special education professional must be considered by the Pupil Evaluation Team, whether or not the evaluation was obtained at public expense.

5. You have the right to file a written complaint with the superintendent of the administrative unit responsible for the education of your child if you have reason to believe that the administrative unit is not in compliance with these special education regulations. The superintendent, or a designee, shall then appoint a person to investigate your complaint and to recommend to the superintendent, within 30 days, any corrective action necessary to ensure compliance.

You must exercise your right to appeal within 30 days of the receipt of the hearing officer's decision.

Your child will remain in the current educational program (or, if applying for initial admission to the public school, shall be placed in the regular public school program) until all proceedings have

been completed, unless you and the school agree upon a temporary placement in a program, which differs from the current educational program.

6. You have the right to file a written complaint with the Commissioner of the Department of Education if you have reason to believe that the administrative unit responsible for the education of your child is not in compliance with these special education regulations.

The Commissioner must initiate and complete, within 45 days of the receipt of the complaint, an investigation and a determination of probable cause.

If the administrative unit is determined to be in non-compliance, the Commissioner will develop a corrective action plan and initiate consultation and mediation efforts to resolve the subject of the complaint.

7. You have the right to request the Department of Education to provide mediation services if you and the school are unable to agree upon the identification, evaluation, educational program, or placement of your child.
8. You have the right to a special education due process hearing if you have any concerns regarding the identification, evaluation, educational program or placement of your child, and if your concerns cannot be resolved to your satisfaction.

You have the right to be assisted at this hearing by a person or persons of your choosing, including an attorney, and the right to present evidence, confront, cross-examine, and compel the attendance of witnesses. The administrative unit may be responsible for your legal expenses related to this hearing if the hearing officer rules in your favor.

You have the right to a written or electronic verbatim recording of the hearing. You will receive written findings of fact and a written decision of the hearing at no cost within forty-five days of the receipt of the request for a hearing.

9. You have the right to appeal to the Superior Court or to a United States District Court when the decision of the due process hearing is not acceptable to you.

You must exercise your right to appeal within 30 days of the receipt of the hearing officer's decision.

Your child will remain in the current educational program (or, if applying for initial admission to the public school, shall be placed in the regular public school program) until all proceedings have been completed, unless you and the school agree upon a temporary placement in a program, which differs from the current educational program.

10. MSAD #54 shall ensure that an individual is assigned to act as a surrogate for the parents of a child when no parent can be identified, the school, after reasonable assurance cannot discover the whereabouts of a parent, or when the child is a ward of the state. The surrogate parent is appointed by the Department of Education and may represent the child in all matters relating to the identification, evaluation, educational placement of the child, and the provision of a free appropriate public education.
11. In general, if your child has violated the school's disciplinary standards, MSAD #54 may change your child's current educational placement to an interim alternative educational setting or other setting for a period not to exceed 10 days.

MSAD #54 may place your child in an interim alternative education setting if your child possesses or uses illegal drugs, or carries a weapon to school or to a school function.

If MSAD #54 wants to change your child's placement for more than 10 school days, you have the right to participate in the manifestation determination meeting. This meeting determines whether the behavior was or was not related to your child's disability.

If the determination is made that the behavior is related to your child's disability, then your child may not be suspended, expelled, or removed from the current educational placement for more than ten days, (except in the case of weapons or drugs), unless the PET develops a new IEP and decides upon a new placement. If there is

no relationship between your child's disability and the behavior, then your child may be disciplined as any other child. MSAD #54 shall provide your child with the services specified in your child's IEP during the period of discipline.

If you disagree with the manifestation determination, the decision to place your child in an interim alternative educational setting, or any other disciplinary placement, you have the right to request a hearing or an expedited due process hearing.

12. MSAD #54 may be required to reimburse the costs of private school placement if you can prove, at a due process hearing, that the school district has failed or is unable to provide your child with an appropriate education.

If you plan to place your child with a disability in a private school and seek reimbursement from the school district, you must inform the school district at a PET meeting or provide MSAD #54 with written notice at least ten days (excluding weekends) prior to the enrollment of your child in the private school. You must inform MSAD #54 about your disagreement with your child's IEP, the placement proposed by the school, your intention to enroll your child in a private school, and your intention to request reimbursement.

If MSAD #54 has provided you with a written notice that they intend to evaluate your child before you remove your child from the public school, you must make your child available to the school for evaluation.

A court or hearing officer could decide to reduce or deny reimbursement for your private school placement if you fail to inform the school of your intention to make a private school placement at public expense, fail to make your child available for evaluation, or take unreasonable action.

13. In any action or proceedings brought under Part B of the Individuals with Disabilities Act, the court may award reasonable attorney's fees to you as the parent or guardian of a child or youth with disabilities who is the prevailing party.
14. In general, when your child reaches age 18 (or has been emancipated), these procedural safeguards will transfer to your

child. A court may appoint a legal guardian for your child if your child has been determined, as consistent with state procedures, to be unable to provide informed consent.

At least one year before your child reaches the age of 18, MSAD #54 will inform your child of the rights, if any, that will be transferred to your child. The school will inform both you and your child when the rights are transferred to your child.

As the parent of a child with a disability, both you and your child will continue to receive both prior written notice and the notice of procedural safeguards.

After the transfer of rights to your adult child, you will have the right to access the educational records of your child if your child is still claimed by you as dependent or if you have your child's written consent for access.

Legal Reference: Maine Special Education Regulations Chapter 12.