

Ch. 9 Procedural Safeguards



OKLAHOMA
Education



Who serves as “parent”?

Ch. 9, Section 2, A

- Person acting in place of the parent
 - an individual acting in the place of a biological or adoptive parent
- Surrogate parent
 - an individual appointed by the LEA or a judge to make educational decisions regarding the Free Appropriate Public Education (FAPE) of a child with a disability, when no parent can be identified after reasonable efforts to locate the parents
- Guardian
 - a person authorized to act as the child’s parent and/or to make educational decisions

Multiple “Parents”

Ch. 9, Section 2, A

- More than one **qualified** parent: Biological or adoptive parents presumed to be the parents and have legal authority
 - If biological or adoptive parents do not have legal authority, LEA should obtain documentation of that and who has been given legal authority
- More than one **legally** authorized: Notifies all legal parents (Prior Written Notices, notice of meetings, etc.)
 - Even when only one parent has the right to consent
- One parent consents, one revokes
 - LEA must accept revocation (OSEP’s Letter to Cox, 2009)
 - LEAs do not resolve dispute amongst parents



Informed Consent

Ch. 9, Section 3

- Actions requiring consent
- When consent is not required
- Refusal to give consent
 - IF upon receiving the parent's refusal to give consent the school team determines not to pursue the initial evaluation and not to file a due process complaint
 - If a parent and/or adult student fail to consent to the initial provision of the IEP services
- Failure to respond for request for consent
 - Is not the same as refusal to consent

Criteria for Written Notices

Ch. 9, Section 4, A

- Must be provided in a reasonable amount of time
- Must use language understandable to the general public
- Must be provided in the native language or other mode of communication normally used by the parent

Content of Written Notice

Ch. 9, Section 4, C

The Written Notice **must** include the following:

- A description of the **action proposed or refused** by the LEA;
- An **explanation of why** the LEA proposes or refuses to take the action;
- A **description of any other options** the IEP team considered and the reasons **why those options were rejected**;
- A **description of each procedure, assessment, record, or report** that the LEA used as a basis for the proposed or refused action;
- A **description of any other factors** relevant to the proposed or refused action;
- A **statement of the parent's special education rights** and a **description of how to obtain** a copy of the Notice of Procedural Safeguards; and
- **Contact information** for resources to support their understanding of the Notice of Procedural Safeguards.

Other Items

- Independent Educational Evaluations (IEE)
- Confidentiality and Access to Records
- Complaint, Mediation, and Due Process (also see Ch. 11 “Dispute Resolution”)