

PROCEDURAL SAFEGUARDS CHECKLIST

Policy assures that:

- A. Southgate Academy ensures that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education (34 CFR §300.500(a).
- B. The parents of a child with a disability shall be given an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. (34 CFR §300.501(a)(1).
- C. Southgate Academy ensures that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child (34 CFR §300.501(c).
- D. The parents of a child with a disability have the right to obtain an independent educational evaluation of their child (34 CFR §300.502(a)(1).
- E. A copy of the procedural safeguards notice shall be given to the parent, at a minimum, upon initial referral for evaluation, each notification of an IEP meeting, reevaluation of the child, and receipt of a request for due process under (34 CFR §300.507.300, 300.504(a).
- F. Parental consent shall be obtained if after a review of existing information, additional data are needed for an initial evaluation or reevaluation, and before initial provision of special education and related services (34 CFR §300.505(a)(1).
- G. A parent or a public agency may initiate a due process hearing on any of the matters described in 34 CFR §300.503(a)(1) and relating to the identification, evaluation, educational placement of a child with a disability, and provision of FAPE (34 CFR §300.507(a)(2).
- H. Southgate Academy ensures that the rights of a child are protected by the assignment of an individual to act as a surrogate for the parents if
 - ___ a. no parent (as defined in 34 CFR §300.20) can be identified
 - ___ b. Southgate Academy, after reasonable efforts, cannot discover the whereabouts of a parent, after having made three documented and reasonable attempts.
 - ___ c. the child is a ward of the State under the laws of the State (34 CFR §300.515(a); ARS 15-763.01).

Definitions

- 1. "Consent" means
 - ___ a. the parent is fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication
 - ___ b. The parent understands and agrees in writing to the activity for which consent is sought
 - ___ c. the consent describes the activity

- ___ d. the consent lists the records (if any) that will be released and to whom
 - ___ e. the parent understands that the consent is voluntary and may be revoked at any time
 - ___ f. if a parent revokes consent, that the revocation is not retroactive, meaning that the revocation does not negate an action that has occurred after the consent was given and before the consent was revoked (34 CFR §300.500(b)(1))
 - ___ g. Parental consent for initial evaluation will not be construed as consent for initial placement (34 CFR §300.505(2)).
- 2. "Evaluation" means
 - ___ a. procedures used in accordance with 34 CFR §300.530-300.536 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs (34 CFR § 300.500(b)).
- 3. "Personally identifiable" means that the information includes
 - ___ a. the name of the child, the child's parent, or other family member
 - ___ b. the address of the child
 - ___ c. a personal identifier, such as the child's social security number or student number
 - ___ d. a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty. (34 CFR §300.500(b)(3)).
- 4. "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by Southgate Academy responsible for the education of the child (34 CFR §300.502(a)(3)).
- 5. "Public expense" means that Southgate Academy either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with FAPE (34 CFR § 300.502(a)(3) and 300.301).

Procedures include, but are not limited to:

Parent participation in meetings (34 CFR §300.345 and 300.501)

- 6. Southgate Academy will take steps to ensure that one or both of the parents are present at each meeting or are given the opportunity to participate by
 - ___ a. notifying parents of the meeting early enough to ensure that they will have an opportunity to attend, and
 - ___ b. scheduling the meeting at a mutually agreed time and place (34 CFR §300.345(a)).
- 7. The meeting notice will
 - ___ a. indicate the purpose, time, and location of the meeting
 - ___ b. indicate who will be in attendance
 - ___ c. inform the parents of the provisions in 34 CFR §300.344(a)(c) (relating to the participation of other individuals on the IEP team who have knowledge or

special expertise about the child) (34 CFR §300.345(b)(1)(2).

Parent involvement in placement decisions (34 CFR §300.501)

8. Southgate Academy will make reasonable efforts to ensure that the parents understand, and are able to participate in, any group discussions relating to the educational placement of their child, including arranging for an interpreter for parents with deafness, or whose native language is other than English (34 CFR §300.501(c)(5).
9. If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, Southgate Academy will use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing. (34 CFR §300.501(c)(3)
10. If Southgate Academy is unable to obtain the parent's participation in the placement decision, Southgate Academy will have a record of its attempt to ensure their involvement. (34 CFR §300.345(d) and 300.501(c)(4).

Independent educational evaluation (34 CFR §300.501)

11. If a parent requests an independent educational evaluation at public expense, Southgate Academy will, without unnecessary delay, **either**
 - ___ a. initiate a due process hearing under 300.507 to show that the agency's evaluation is appropriate, **or**
 - ___ b. ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a due process hearing under 300.507 that the evaluation obtained by the parent did not meet agency criteria. 34 CFR §300.502(b)(2)(i and ii).
12. Upon request for an independent educational evaluation, Southgate Academy will provide to parents.
 - ___ a. information about where an independent educational evaluation may be obtained.
 - ___ b. the agency criteria (34 CFR §300.502(a)(2).
13. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation
 - ___ a) will be considered by Southgate Academy in any decision made with respect to the provision of FAPE to the child.
 - ___ b) may be presented as evidence at a hearing regarding the child (34 CFR §300.502(c)(1 and 2).
14. Cost of the independent educational evaluation will be at public expense if requested by a hearing officer (34 CFR §300.502(d)

Agency criteria (34 CFR §300.502)

15. If an independent educational evaluation is at public expense.
 - ___ a. the criteria under which the evaluation is obtained will be the same as the criteria Southgate Academy uses when it initiates an evaluation, including the location of the evaluation and the qualifications of the examiner.

- b. the criteria will be consistent with the parent's right to an independent educational evaluation (34 CFR §300.502(e)(1)
 - c. the agency may establish a range of payment for independent educational evaluations.
- 16. Southgate Academy will not impose other conditions or timelines related to obtaining an independent educational evaluation at public expense (34 CFR §300.502(e)(2).
- Prior notice by Southgate Academy (34 CFR §300.503)**
- 17. Prior written notice will be given to parents a reasonable time before Southgate Academy **proposes or refuses** to initiate or change the
 - a. identification
 - b. evaluation
 - c. educational placement of a child with a disability
 - d. provision of FAPE. (34 CFR §300.503(a)(1)
- 18. Prior written notice will be given to the parent at the same time Southgate Academy requests parent consent, if the prior written notice relates to an action proposed by the agency that also requires parental consent (34 CFR §300.503(a)(2).
- 19. The content of the prior written notice will contain
 - a. a description of the action proposed or refused by the agency
 - b. an explanation of why the agency proposes or refuses to take the action
 - c. a description of any other options that the agency considered and the reasons why those options were rejected
 - d. a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action
 - e. a description of any other factors that are relevant to the agency's proposal or refusal
 - f. a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained
 - g. sources for parents to contact to obtain assistance in understanding these provisions (34 CFR §300.503(b)(1-7).
- 20. The prior written notice will be written in language understandable to the general public (34 CFR §300.503(c)(1)(i).
- 21. The prior written notice will be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so (34 CFR §300.503(c)(1)(ii).
- 22. If the native language or other mode of communication of the parent is not a written language, Southgate Academy will take steps to ensure

- ___ a. that the prior written notice is translated orally or by other means to the parent in his or her native language or other mode of communication
- ___ b. That the parent understands the content of the prior written notice
- ___ c. that there is written evidence that the requirements of (a) and (b) have been met (34 CFR §300.503(c)(2)(i-iii).

Procedural safeguards notice (300.504)

23. A copy of the procedural safeguards notice will be given to the parent, at a minimum
- ___ a. upon initial referral for evaluation
 - ___ b. upon each notification of an IEP meeting
 - ___ c. upon reevaluation of the child
 - ___ d. upon receipt of a request for due process under 34 CFR §300.507 and 300.504(a)(1-4)
24. The procedural safeguards notice will include a full explanation of all of the procedural safeguards available under the law, relating to
- ___ a. independent educational evaluation
 - ___ b. prior written notice
 - ___ c. parental consent
 - ___ d. access to educational records
 - ___ e. opportunity to present complaints to initiate due process hearings
 - ___ f. the child's placement during pendency of due process proceedings
 - ___ g. procedures for students who are subject to placement in an interim alternative educational setting
 - ___ h. requirements for unilateral placement by parents of children in private schools at public expense
 - ___ i. mediation
 - ___ j. due process hearings, including requirements for disclosure of evaluation results and recommendations
 - ___ k. State-level appeals (if applicable)
 - ___ l. civil actions
 - ___ m. attorneys' fees
 - ___ n. the State complaint procedures under 300.660-300.662, including a description of how to file a complaint and the timelines under those procedures (34 CFR §300.504(b)(1-14)
25. The procedural safeguards notice will be written in language understandable to the general public (34 CFR §300.504(c).
26. The procedural safeguards notice will be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so (34 CFR §300.504(c).
27. If the native language or other mode of communication of the parent is not a written language, Southgate Academy will take steps to ensure

- ___ a. that the procedural safeguards notice is translated orally or by other means to the parent in his or her native language or other mode of communication
- ___ b. that the parent understands the content of the procedural safeguards notice
- ___ c. that there is written evidence that the requirements of (a) and (b) have been met (34 CFR §300.504(c)).

Parental consent (34 CFR §300.505)

- 28. Parental consent will be obtained if, after a review of existing data, additional data are needed for an initial evaluation or reevaluation, and before initial provision of special education and related services (34 CFR §300.505(a)(1).
- 29. If the parents refuse consent for initial evaluation or reevaluation, the agency may pursue those evaluations by using:
 - ___ a. due process procedures under 34 CFR §300.507 and 300.509
 - ___ b. mediation procedures under 34 CFR §300.506 and 300.505(b)
- 30. Informed parental consent need **not** be obtained for the gathering of additional data for reevaluation if Southgate Academy can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond (34 CFR §300.505(c).
- 31. The reasonable measures taken by Southgate Academy to obtain informed parental consent for a reevaluation will include
 - ___ a. detailed records of telephone calls made or attempted and the results of those calls
 - ___ b. copies of correspondence sent to the parents and any responses received
 - ___ c. detailed records of visits made to the parent's home or place of employment and the results of those visits (34 CFR §300.505(c)(2).
- 32. A public agency will not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of Southgate Academy, except as required by this part (34 CFR §300.505(e).

Mediation requirements (34 CFR §300.506)

- 33. Southgate Academy will ensure that the mediation process
 - ___ a. is voluntary on the part of the parties
 - ___ b. is not used to deny or delay a parent's right to a due process hearing under 34 CFR §300.507, or to deny any other rights afforded under Part B of the Act
 - ___ c. is conducted by a qualified and impartial mediator who is trained in effective mediation techniques (34 CFR §300.506(b)(1)(i-ii)
- 34. Either Southgate Academy or parent may contact the Arizona Department of Education/Exceptional Student Services to request mediation.

35. Discussions that occur during the mediation process
- a. will be confidential
 - b. may not be used as evidence in any subsequent due process hearings or civil proceedings (34 CFR §300.506(b)(6))
36. The parties to the mediation process may request a confidentiality pledge prior to the commencement of the process (34 CFR §300.506(b)(6)).

Impartial due process hearing; parent notice (34 CFR §300.507 and AAC R7-2-405)

37. When a due process hearing is initiated under 300.503 (a)(1), Southgate Academy will inform the parents of the availability of mediation described in (34 CFR §300.506 and 300.507(a)(2)).
38. Southgate Academy will inform the parent of any free or low-cost legal and other relevant services available in the area if
- a. the parent requests the information;
 - b. the parent or the agency initiates a due process hearing under this section (34 CFR §300.507(a)(3)(i and ii)).
39. Southgate Academy will notify the Arizona Department of Education/Exceptional Student Services when a written request for due process is received (34 CFR §AAC R7-2-405).
40. The due process hearing will be conducted by Southgate Academy directly responsible for the education of the child. 34 CFR §300.507(b).
41. At least 5 business days prior to a due process hearing conducted pursuant to this section, Southgate Academy will disclose to all parties
- a) all evaluations completed by that date
 - b) recommendations based on the offering party's evaluations that the party intends to use at the hearing (34 CFR §300.509(b)(1))
42. Parents involved in due process hearings have the right to
- a. have the child who is the subject of the hearing present
 - b. open the hearing to the public (34 CFR §300.509(c)(1)(i and ii))
43. The record of the due process hearing and the findings of fact and decisions will be provided at no cost to parents (34 CFR §300.509(c)(2)).

Finality of decision; appeal; impartial review (34 CFR §300.510)

44. A decision made in a due process hearing conducted pursuant to 34 CFR §300.507 or 34 CFR §300.520-300.528 is final, except that any party involved in the hearing may appeal the decision under the provisions of 34 CFR §300.510 - 300.512 and 300.510(a).
45. The decision made by the reviewing official is final unless a party brings a civil action under 34 CFR §300.512.and 300.510(d).

Timelines and convenience of hearings and reviews (34 CFR §300.511)

46. Southgate Academy will ensure that not later than 45 days after the receipt of a request for a due process hearing

- ___ a. a final decision will be reached in the hearing, unless the hearing officer grants specific extensions of time
 - ___ b. a copy of the decision will be mailed to each of the parties. 300.511(a)(1 and 2)
- 47. Each due process hearing and each impartial review involving oral arguments will be conducted at a time and place that is reasonably convenient to the parents and child involved (34 CFR §300.511(d)).

Attorneys' fees (34 CFR §300.513)

- 48. The procedural safeguards notice will include a full explanation of all of the procedural safeguards relating to attorneys' fees (34 CFR §300.504(b)(13)).
- 49. Funds under Part B of the Act will not be used to pay attorneys' fees or costs of a party related to an action or proceeding under section 615 of the Act and subpart E (34 CFR §300.513(b)(1)).

Child's status during proceedings (34 CFR §300.514)

- 50. Except as provided in 34 CFR §300.526, during the pendency of any administrative or judicial proceeding regarding a due process complaint under 34 CFR §300.507, unless the State or Southgate Academy and the parents of the child agree otherwise, the child involved in the due process complaint will remain in his or her current educational placement. 34 CFR §300.514(a).
- 51. If the due process complaint involves an application for initial admission to public school, the child, with the consent of the parents, will be placed in the public school until the completion of all the proceedings (34 CFR §300.514(b)).
- 52. If the decision of a hearing officer in a due process hearing conducted by the SEA or a State review official in an administrative appeal agrees with the child's parents that a change of placement is appropriate, that placement will be treated as an agreement between the State or Southgate Academy and the parents for purposes of 34 CFR §300.514(a) and 300.514(c).

Surrogate parents; and, (34 CFR §ARS 15.763.01 Surrogate parent; appointment 34 CFR §300.515)

- 53. It is the duty of a public agency to assign an individual to act as a surrogate for the parents. This will include a method
 - ___ a) for determining whether a child needs a surrogate parent
 - ___ b) for assigning a surrogate parent to the child (34 CFR §300.515(b)(1 and 2)).
- 54. A petition for the appointment of a surrogate parent will be made to a court of competent jurisdiction (34 CFR §ARS 15-763.01(A)).
- 55. Except as provided in 34 CFR §300.515(c)(3), public agencies will ensure that a person selected as a surrogate
 - ___ a) is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child

- b) has no interest that conflicts with the interest of the child he or she represents
 - c) has knowledge and skills that ensure adequate representation of the child (34 CFR §300.515(c)(2)(i-iii) and ARS 15-763.01(B).
56. The surrogate may represent the child in all matters relating to the
- a) identification
 - b) evaluation
 - c) educational placement of a child with a disability
 - d) provision of FAPE (34 CFR §300.515(e)(1 and 2)

Transfer of parental rights at age of majority (34 CFR §300.517)

57. When a student with a disability reaches the age of majority (except for a student with a disability that has been determined to be incompetent under State law)
- a) Southgate Academy will provide any notice required by this part to both the individual and the parents
 - b) all other rights accorded to parents under Part B of the Act transfer to the student (34 CFR §300.517(a)(1)(i and ii)