Walden Academy Regulation 6159.1: Procedural Safeguards And Complaints For Special Education

Status: ADOPTED/APPROVED

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Prior Written Notice

The Superintendent or designee shall send to the parents/guardians of any student with disabilities a prior written notice: (Education Code 56346, 56500.4, 56500.5; 20 USC 1415; 34 CFR 300.102, 300.300, 300.503)

1. Before Walden Academy initially refers the student for assessment
2. Within a reasonable time before Walden Academy proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student
3. Within a reasonable time before Walden Academy refuses to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student
4. Within a reasonable time before the student graduates from high school with a regular diploma thus resulting in a change in placement
5. Upon receipt of the parent/guardian's written revocation of consent for the continued provision of special education and related services to the student

This prior written notice shall include: (Education Code 56500.4; 20 USC 1415; 34 CFR 300.503)

1. A description of the action proposed or refused by Walden Academy
2. An explanation as to why Walden Academy proposes or refuses to take the action
3. A description of each assessment procedure, assessment, record, or report Walden Academy used as a basis for the proposed or refused action
4. A statement that the parents/guardians of the student have protection under procedural safeguards and, if this notice is not an initial referral for assessment, the means by which a copy of the description of procedural safeguards can be obtained
5. Sources for parents/guardians to obtain assistance in understanding these provisions
6. A description of any other options that the individualized education program (IEP) team considered and why those options were rejected
7. A description of any other factors relevant to Walden Academy's proposal or refusal

Procedural Safeguards Notice

A procedural safeguards notice shall be made available to parents/guardians of students with disabilities once each school year and: (Education Code 56301; 20 USC 1415; 34 CFR 300.504)

1. Upon initial referral or parent/guardian request for assessment
2. Upon receipt of the first state compliance complaint in a school year, filed in accordance with the section "State Compliance Complaints" below

3. Upon receipt of the first due process hearing request in a school year

4. In accordance with the discipline procedures pursuant to 34 CFR 300.530(h), when removal of a student because of a violation of a code of conduct constitutes a change of placement

5. Upon request by a parent/guardian

The procedural safeguards notice shall include a full explanation of all of the procedural safeguards available under 34 CFR 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to: (Education Code 56301; 20 USC 1415; 34 CFR 300.504)

1. Independent educational evaluation

2. Prior written notice

3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to the student's continued receipt of special education and related services

4. Access to educational records

5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures, including the time period in which to file a complaint, the opportunity for the Glenn COE to resolve the complaint, and the difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures

6. The availability of mediation

7. The student's placement during the pendency of any due process complaint

8. Procedures for students who are subject to placement in an interim alternative educational setting

9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense

10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations

11. State-level appeals

12. Civil actions, including the time period in which to file those actions

13. Availability of attorneys' fees pursuant to 34 CFR 300.517

This notice shall also include the rights and procedures contained in Education Code 56500-56509, including: (Education Code 56321, 56321.5, 56321.6)

1. Information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing

2. The timelines for completing each process

3. Whether the process is optional

4. The type of representative who may be invited to participate

5. The right of the parent/guardian and/or Walden Academy to electronically record the proceedings of IEP meetings in accordance with Education Code 56341.1

6. Information regarding the state special schools for students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind

A copy of this notice shall be attached to the student's assessment plan. At each IEP meeting, the Superintendent or designee shall inform the parent/guardian of the federal and state procedural safeguards that were provided in the notice. (Education Code 56321, 56500.1)

Format of Parent/Guardian Notices

The parents/guardians of a student with a disability shall be provided written notice of their rights in language easily understood by the general public and in their native language or other mode of communication used by them, unless to do so is clearly not feasible. (Education Code 56341, 56506; 34 CPR 300.503, 300.504)

If the native language of other mode of communication of the parent/guardian is not a written language, Walden Academy shall take steps to ensure that the notice is translated orally or by other means in the parent/guardian's native language or other mode of communication and that the parent/guardian understands the contents of the notice. (34 CPR 300.503)

Walden Academy may place a copy of the procedural safeguards notice on the Glenn COE's web site. (20 USC 1415)

A parent/guardian of a student with disabilities may elect to receive the prior written notice or procedural safeguards notice by an electronic mail communication. (34 CPR 300.505)

Filing Due Process Complaints

A parent/guardian and/or Walden Academy may initiate due process hearing procedures whenever: (Education Code 56501; 20 USC 1415)

1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of PAPE to the student.

2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of PAPE to the student.

3. The parent/guardian refuses to consent to an assessment of the student.

4. There is a disagreement between a parent/guardian and Walden Academy regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CPR 300.148.

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying: (Education Code 56502; 20 USC 1415; 34 CPR 300.508)

1. The student's name

2. The student's address or, in the case of a student identified as homeless pursuant to 42 USC 11434, available contact information for that student

3. The name of the school the student attends

4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem

5. A proposed resolution to the problem to the extent known and available to the complaining party at the time

Parties filing a due process complaint shall file their request with the state Office of Administrative Hearings, Special Education Division.

The request shall be filed within two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request. This timeline shall not apply if the Glenn COE misrepresented that it had solved the problem or withheld required information from the parent/guardian. (Education Code 56505; 20 USC 1415; 34 CPR 300.507, 300.511)

Walden Academy's Response to Due Process Complaints

If Walden Academy has sent prior written notice to the parent/guardian regarding the subject matter of the parent/guardian's due process complaint, Walden Academy shall, within 10 days of receipt of the complaint, send a response specifically addressing the issues in the complaint. (20 USC 1415; 34 CPR 300.508)

If Walden Academy has not sent a prior written notice to the parent/guardian regarding the subject matter contained in the parent/guardian's due process complaint, Walden Academy shall send a response to the parent/guardian within 10 days of receipt of the complaint containing: (20 USC 1415; 34 CFR 300.508):

1. An explanation of why Walden Academy proposed or refused to take the action raised in the complaint
2. A description of other options that the IEP team considered and the reasons that those options were rejected
3. A description of each assessment procedure, assessment, record, or report Walden Academy used as the basis for the proposed or refused action
4. A description of the factors that are relevant to Walden Academy's proposal or refusal

Upon the filing of a due process complaint by either party or upon request of the parent/guardian, Walden Academy shall inform the parent/guardian of any free or low-cost legal and other relevant services available in the area. (34 CFR 300.507)

Informal Process/Pre-Hearing Mediation Conference

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally to resolve any issue(s) relating to the identification, assessment, education and placement, or provision of FAPE for a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). (Education Code 56502)

In addition, either party may file a request with the state Office of Administrative Hearings for a mediation conference. (Education Code 56500.3)

If resolution is reached that resolves the due process issue(s), the parties shall enter into a legally binding agreement that satisfies the requirements of Education Code 56500.3. (Education Code 56500.3)

Attorneys may attend or otherwise participate only in those mediation conferences that are scheduled after the filing of a request for due process hearing. (Education Code 56500.3, 56501)

State Compliance Complaints

Any individual, including a person's duly authorized representative or an interested third party, public agency, or organization may file with the California Department of Education (CDE) a written and signed statement alleging that, within the previous year, any of the following occurred: (5 CCR 3200, 3201)

1. Walden Academy violated Part B of the Individuals with Disabilities Education Act (20 USC 1411-1419) and its implementing regulations (34 CFR 300.1-300.818).

2. Walden Academy violated Part 30 of the Education Code (Education Code 56000-56865) and 5 CCR 3200-3205.

3. Walden Academy violated the terms of a settlement agreement related to the provision of FAPE, excluding any allegation related to an attorney fees provision in a settlement agreement.

4. Walden Academy failed or refused to implement a due process hearing order to which Walden Academy is subject.

5. Physical safety concerns interfered with the provision of FAPE.

The complaint shall include: (5 CCR 3202; 34 CFR 300.153)

1. A statement that Walden Academy has violated or failed to comply with any provision set forth in 5 CCR 3201

2. The facts on which the statement is based

3. The signature and contact information for the complainant

4. If alleging violations with respect to a specific student, the student's name and address (or other available contact information for a homeless student), the name of the school that the student is attending, a description of the nature of the student's problem and facts related to the problem, and a proposed resolution of the problem to the extent known and available to the patty at the time the complaint is filed

The complainant shall forward a copy of the complaint to the Superintendent or designee at the same time the complaint is filed with CDE. (5 CCR 3202)

Within 30 days of the date of CDE's investigation report, Walden Academy or complainant may request reconsideration of the decision in accordance with 5 CCR 3204. Pending CDE's response, any corrective actions set forth in the report shall remain in effect and enforceable, unless stayed by a court. (5 CCR 3204)
