

DeSoto County Schools
Office of Special Education
Procedures

VOLUME III:

Procedural Safeguards

Dispute Resolution

Confidentiality

Policies

- *Mississippi State Policies Regarding Children with Disabilities under the Individuals with Disabilities Act Amendments of 2004.*
- *State Board Policy Chapter 74, Rule 74.19*
- *Desoto County Schools Board Policy;*
 - ✓ Section I, Policy Code: IDDFAA

Acknowledgements

The Desoto County Schools Office of Special Education would like to acknowledge the input of the following people in the development of this document.

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CHAPTER 7: PROCEDURAL SAFEGUARDS

Desoto County Schools (DCS) is responsible for providing education to children with disabilities including the Mississippi Department of Education (MDE), Educational Service Agencies (ESAs), State Schools, State Agency schools, and nonprofit public charter schools that are not a part of an LEA or ESA.

Procedural Safeguards

Procedural Safeguards refer to the formal protections, or safeguards, for the rights of children with disabilities and their parents according to the Individuals with Disabilities Education Act (IDEA), Federal regulations, and State laws and policies. According to the U.S. Supreme Court's interpretation of IDEA, the core principle of the IDEA is the cooperative process between parents and educational agencies and the importance of parental involvement in all decisions made for children with disabilities. This includes all decisions regarding the identification, evaluation, placement, and provision of special education and related services. In addition, IDEA upholds a parent's right to disagree with decisions and provides multiple avenues to resolve those disputes. Further protections address privacy of and the limited access to a child's educational records.

Procedural Safeguards Notice

Desoto County Schools (DCS) must ensure a copy of the *Procedural Safeguards Notice* (Appendix PS.E) is provided to each parent of a child with a disability at least once a year and in the following specific situations:

- After an initial request for an evaluation is sent to the Multidisciplinary Evaluation Team;
- After a request for a reevaluation;
- After the initial meeting of the Individualized Education Program (IEP) Committee;
- Upon the receipt of the first formal State or due process complaint in a school year;
- Upon a change of placement due to a disciplinary action; or
- After a request for a Procedural Safeguards Notice by the parent.

Desoto County Schools (DCS) may place a current copy of the *Procedural Safeguards Notice* on its internet website. The parent may also elect to receive a copy of the Notice by electronic mail, which is an available option for DCS.

The contents of the *Procedural Safeguards Notice* (Appendix PS.E) must include a full explanation of all of the *Procedural Safeguards* and State complaint procedures relating to:

- Notifications given to the parent prior to an action or refusal of an action, including the formal *Prior Written Notice* (Appendix PS.B);
- The requirement for informed parental consent for evaluations;
- The right to an *Independent Educational Evaluation* (IEE) and when it must be provided at public expense;
- The requirement to ensure the confidentiality of and access to educational records;

- An explanation of and the procedures for making a *Formal State Complaint* and *Due Process Complaint*;
- The options for dispute resolution including mediation, resolution sessions, hearings, and civil actions and the payment of attorney fees;
- The procedures for addressing discipline issues for children with disabilities including those that result in changes of placement to alternative educational settings; and
- The requirements when making unilateral placements by parents of children in private schools at public expense.

Note: DCS requires that the procedural safeguards notice be offered at every meeting

The *Procedural Safeguards Notice* (Appendix PS.E) must be provided using language understandable to the general public (i.e., in laymen's terms). In addition, the *Procedural Safeguards Notice* must be provided to the parent in his/her native language or mode of communication to ensure the parent can understand the content of the notice. If the parent's native language or mode of communication is a written language or can be provided in a print format (e.g., Braille), the *Procedural Safeguards Notice* must be provided in this form, unless it is not feasible to do so. If the parent's native language or mode of communication is not a written language (e.g., oral and manual communication methods), the *Procedural Safeguards Notice* must be translated orally or by other means in the native language to ensure the parent understands the content of the notice, and DCS must keep written documentation of how they met the requirements for the provision of the *Procedural Safeguards Notice*. DCS has procedural safeguards written in 6 different languages, (English, Spanish, Chinese, Vietnamese, Arabic, and Filipino). The Mississippi Department of Education has procedural safeguards in the following 4 languages: English, Spanish, Chinese and Vietnamese (Mississippi Department of Education Information Publications: Procedural Safeguards).

For assistance in securing translations of the *Procedural Safeguards Notice* (Appendix PS.E), contact Desoto County Schools Office of Special Education or the Mississippi Department of Education Office of Special Education Division of Parent Engagement and Support.

Invitation to Meetings

Parents have the right to participate in all meetings where decisions are made for their child including any decision whether or not to conduct an evaluation or reevaluation, the determination of eligibility status and of the disability category, and the development and revision of the child's *Individualized Education Program* (IEP). Parents are members of both the *Multidisciplinary Evaluation Team* (MET) and the IEP Committee and must be invited to participate in all MET or IEP Committee meetings. When calling an IEP Committee meeting for the development or revision of the child's IEP, the parent must be given a *Notice of Invitation to Committee Meeting* (Appendix PS.A) that includes:

- A list of who will be in attendance by name and position;
- A statement that the parent or public agency may invite other individuals who have knowledge or special expertise regarding the child; and
- The time, location, and a description of the purpose of the meeting.

Recording the Meeting

The parent and DCS have the right to participate in the development of the IEP and to indicate their intent to make an audio recording of the proceedings of the IEP meetings. The parent or guardian or DCS shall notify the members of the IEP Committee of their intent to record the meeting at least twenty-four (24) hours prior to the meeting.

NOTE: The Procedural Safeguards Notice only address audio recordings—not video recordings. Although there is no provision prohibiting the use of video recording, parents do not have a specific right to make a video recording of a meeting. Any use of video recording would need to be agreed upon by all parties involved and may require written or verbal response.

Prior Written Notice

A *Prior Written Notice* (Appendix PS.B) must be provided to a parent, within a reasonable time, prior to DCS proposal or refusal to initiate or change the identification, evaluation, or educational placement of a child or to initiate or change the provision of services to provide a FAPE to a child. DCS ensures that the *Prior Written Notice* (PWN) is provided to the parent at least seven (7) calendar days before implementing any proposed action unless the parent waives the timeline.

The *Prior Written Notice* (Appendix PS.B) must be provided using language understandable to the general public (i.e., in laymen's terms). In addition, the PWN must be provided to the parent in his/her native language or mode of communication to ensure the parent can understand the content of the notice. If the parent's native language or mode of communication is a written language or can be provided in a print format (e.g., Braille), the PWN must be provided in this form, unless it is not feasible to do so. If the parent's native language or mode of communication is not a written language (e.g., oral and manual communication methods), the PWN must be translated orally or by other means in the native language to ensure the parent understands the content of the notice, and the public agency must keep written documentation of how they met the requirements for the provision of the PWN.

Note: DCS requires that the PWN be given within 24-48 hours after the meeting.

Content of the Prior Written Notice

The content of *Prior Written Notice* (Appendix PS.B) must provide the parent with sufficient information so s/he is fully able to understand DCS proposed or refused action in order to make an informed decision.

The PWN must include:

- A description of the action proposed or refused by DCS;
- An explanation of why the public agency proposes or refuses to take action;
- A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;

- A statement that the parent of a child with a disability has protections described in the *Procedural Safeguards Notice* (Appendix PS.E) provided, if inclusion is required, or the method for receiving a copy of the *Procedural Safeguards Notice*;
- Sources for the parent to contact to obtain assistance in understanding the provisions of IDEA and his/her rights outlined in the *Procedural Safeguards*;
- A description of other options that the IEP Committee considered and the reasons why those options were rejected;
- A description of any other factors, which are relevant to the agency's proposal or refusal.

When a Prior Written Notice is Required

DCS is required to provide a *Prior Written Notice* (Appendix PS.B) to a parent prior to DCS proposal or refusal to initiate or change the identification, evaluation, or educational placement of a child or to initiate or change the provision of services to provide a FAPE to a child. DCS must ensure that the PWN is signed by the parent no less than seven (7) calendar days prior to the proposed action unless the parent waives the timeline. All changes will begin on Day 8 with or without the parent's signature. PWN is required under the following conditions:

- If the initial MET determines that an evaluation is warranted (i.e., the MET does suspect the child has a disability) or determines that an evaluation is not warranted (i.e., the MET does not suspect the child has a disability);
- If DCS refuses to provide an Independent Educational Evaluation (IEE) at public expense and initiates a due process hearing;
- After the IEP Committee has developed or modified an IEP;
- If the IEP Committee refuses to convene an IEP Committee meeting at the request of a parent;
- If the IEP Committee proposes to initiate or change the identification, evaluation, or educational placement of a child or refuses a parent's request to initiate or change the identification, evaluation, or educational placement of a child;
- If the IEP Committee proposes to initiate or change the provision of services to provide a FAPE to a child or refuses a parent's request to initiate or change the provision of services to provide a FAPE to a child;
- If the public agency has removed the child with a disability that results in a change in placement (i.e., for more than ten (10) days, a series of removals that constitute a pattern, or a removal to an Interim Alternate Educational Setting (IAES) for more than forty-five (45) school days) due to discipline procedures;
- If DCS intends to stop the provision of special education services due to ineligibility based on the results of a comprehensive reevaluation, due to ineligibility due to graduation with a standard high school diploma, or after receiving the parent's written *Revocation of Consent* for special education and related services.

Informed Parental Consent for Evaluation

Informed Parental Consent occurs when a parent has been made aware of all information pertinent to a proposed action and is able to make an informed decision to give permission for that action. DCS must ensure the parent understands:

- What is being proposed or refused; and
- The ramifications of what is being proposed or refused.

A parent must be informed of a proposed action in his/her native language or other mode of communication. The parent must understand that parental consent is voluntary and may be revoked at any time. By Federal guidelines, parental consent by signature is required during the following occurrences:

- Initial assessment for eligibility for special education services;
- Reevaluation of eligibility for special education services.

DCS has the responsibility to ensure the child is evaluated to determine eligibility and to assist in the provision of a Free Appropriate Public Education (FAPE). The MET and IEP Committee determine the appropriate evaluation and reevaluation procedures, respectively. Qualified examiners must be used to administer all assessments for an evaluation or reevaluation.

Parental consent is required before the collecting of any individual assessment data not collected through mass screenings or other allowed educational assessments. The parent has the right to provide or not to provide consent. If the parent refuses to provide consent, DCS may but is not required to use due process procedures to override the parent's refusal; however, a parent refusal to the provision of special education services may not be overridden.

Independent Educational Evaluation (IEE)

An Independent Education Evaluation (IEE) is an evaluation conducted by a qualified examiner who is not employed by DCS responsible for the education of the child. It can be provided at public expense if a parent disagrees with the evaluation conducted by DCS. A parent has the right to an IEE at his/her own expense, at which the IEP Committee must consider the results.

Parents Right to an IEE

If a parent makes a request, DCS must, without delay:

- Provide an IEE at public expense—OR—
- File a request for a due process hearing to demonstrate that DCS evaluation of the child is appropriate.

If DCS requests a Due process hearing and the final decision is the DCS evaluation is appropriate, the parent has a right to an IEE, but not at public expense.

The IEP Committee must consider the results.

- If the hearing officer requests an IEE as part of an impartial Due process hearing, the cost of the evaluation will be at the expense of DCS.
- If a parent requests the IEE, the DCS may ask the reason why he/she objects to DCS evaluation. The parent is not required to provide explanation and DCS shall not delay providing the IEE at public expense or file a request for a Due process hearing to defend its evaluation.
- A parent is entitled to only one (1) IEE at public expense each time DCS conducts an evaluation at which the parent disagrees.

DCS Responsibilities Following an IEE Request

Following a request for an IEE DCS will:

1. File a request for Due process hearing to show that its evaluation is appropriate, or
2. Provide the parent information about where an IEE can be obtained and the criteria applicable for the IEE. The criteria for an IEE must include the following:
 - a) Location of the evaluation
 - b) Qualifications of the examiner
3. DCS may not impose conditions or timelines related to obtaining an IEE at public expense beyond the criteria utilized by DCS.

Informed Parental Consent for Services

Informed parental consent occurs when a parent has been made aware of all information pertinent to a proposed action and is able to make an informed decision to give permission for that action. DCS must ensure that the parent understands:

- What is being proposed or refused; and
- The ramifications of what is being proposed or refused.

A parent must be informed of a proposed action in his/her native language or other mode of communication. The parent must understand that parental consent is voluntary and may be revoked at any time. By Federal guidelines, parental consent by signature is required during the following occurrences:

- Initial assessment for eligibility for special education services;
- Consent for initial service;
- Reevaluation of eligibility for special education services with additional assessment.

DCS has the responsibility to ensure the provision of a Free Appropriate Public Education (FAPE). The IEP Committee determines the services that constitute FAPE for the student. In the event of disagreement over appropriate services among the IEP Committee members, the District Special Education Representative has responsibility to ensure development of an appropriate IEP that confers FAPE. Parental consent is required before the initial provision of special education and related services. This consent is for the provision of special education, not for a specific service(s). If a parent disagrees with the provision of a specific special education or related service, and the parent and DCS agree that the child would still be provided a FAPE without that service, DCS should remove that service from the IEP. If, however, the parent and DCS disagree about whether the child would be provided FAPE if the service was removed, the parent may use the mediation process or due process procedures to resolve the dispute.

Note: Students with disabilities cannot receive a related service listed on the IEP if the parent refuses special education services. The related service listed is a supportive service required to assist a child with a disability to benefit from special education.

Parental Consent for Services Not Provided

If the parent fails to respond to DCS efforts to obtain consent or if the parent refuses to provide consent for special education and related services, DCS is not considered to be in violation of the requirement to provide the child a FAPE. DCS may not use dispute resolution procedures (e.g., mediation or Due process) to obtain consent nor is DCS required to convene an IEP Committee meeting or develop an IEP.

The parent may choose not to sign the IEP at the IEP Committee meeting due to a desire to review the IEP or a disagreement over the disability category (but not disability status). This does not mean the parent is refusing services altogether or the child should no longer be considered a child with a disability.

If the parent participates in the IEP Committee meeting to develop the IEP but is unsure about the content of the IEP document, the parent may take up to seven days as s/he wishes to decide if s/he is comfortable moving forward. As soon as the parent provides DCS written consent, DCS must implement the IEP immediately.

Revocation of Parental Consent for Services

After written parental consent is obtained following initial eligibility, consent for special education services is presumed unless a parent notifies DCS in writing that they would like to revoke all special education and related services. Once the parent revokes special education and related services, DCS must provide a *Prior Written Notice* (Appendix PS. B) before stopping special education and related services. Dispute resolution procedures including mediation and Due Process procedures may not be used to challenge the parent's right to terminate the services. This will not be considered a violation of the DCS obligation to provide a FAPE to the child. DCS is not required to amend the student's educational records to remove any references to the student's receipt of special education and related services because of the revocation of consent.

Note: A parent can not revoke an individual service. Once revoked, special education and related services can't be reinstated at a parent's request.

Access to Records

DCS shall permit parents to inspect and review any educational records relating to their children that are collected, maintained, or used by DCS. DCS will make records available to the parent for review:

- Before any meeting regarding an IEP;
- Before an impartial Due Process Hearing; and
- No later than forty-five (45) days after the request. The parent's rights to inspect and review education records include:
 - A response to reasonable requests for explanations and interpretations of the records;
 - Copies of records containing the information if failure to provide the copies would effectively prevent the parent from exercising the right to inspect and review the records; and

- The ability to have a representative of the parent inspect and review the records after the parent provides written authorization to the agency.

The parent also has a right to receive a copy of the educational records. DCS may charge for these copies but not if the fee would effectively prevent the parent from exercising the right to inspect and review the records. DCS cannot charge to search for or retrieve the records.

Parents have the right to inspect and review all records relating to his/her child unless DCS has been advised that the parent does not have the authority under applicable State laws (i.e., guardianship, separation, or divorce).

Surrogate Parent

A surrogate parent is an individual assigned by DCS to assume the educational rights and responsibilities of a parent in one of the following circumstances:

- A parent cannot be identified;
- The DCS cannot locate a parent after reasonable efforts;
- The student is a ward of the State;
- The student is an unaccompanied homeless youth.

The DCS is required to determine if a student requires a surrogate parent and then assign him/her a surrogate parent. If a student is the ward of the State, the judge overseeing the case may appoint the surrogate parent, provided that the parent meets the criteria below.

Criteria for Selecting a Surrogate Parent

To determine whether a child needs a surrogate parent and to appoint a surrogate to a child, DCS must ensure the following:

1. Identify an individual who meets the following criteria:
 - Has no other vested interest that conflicts with the interest of the child represented;
 - Has knowledge and skills that ensure adequate representation of the child; and
 - Is not an employee of DCS responsible for the education and/or care of the child.
2. Arrange for the proposed surrogate to meet the child;
3. Ascertain whether the individual will serve as a surrogate;
4. Appoint the person as surrogate; and
5. Enter this information in the child's file.

NOTE: DCS may select as a surrogate a person who is an employee of a nonpublic agency that only provides non-educational care for the child and who meets the standards outlined above.

A surrogate parent must be formally trained to advocate for the child in the special education process, including the procedures concerning the identification, evaluation, placement and the provision of a FAPE. The method of training shall be described by the DCS.

Transfer of Parental Rights at Age of Majority

When a child reaches twenty-one (21), the age of majority DCS will ensure that all rights accorded to the parent under IDEA are transferred to the child (except for a child who has been determined to be incompetent under State law). If under State law a child is determined to have a severe or profound disability such that legal guardianship is required beyond the age of majority, DCS upon receipt of a court order regarding the need for such guardianship, will appoint the legal guardian to represent the educational interests of the child through the age of twenty or if the child turns twenty-one (21) during the school year. If a surrogate parent is necessary due to the conditions addressed in Surrogate Parent above, DCS will appoint a surrogate parent in accordance with the above procedures to represent the interests of the child.

DCS must notify the parent and the child of the transfer of rights. When rights are transferred to a child, any notice required under IDEA must be forwarded to the child and to the parent, except for those children who are incarcerated in adult or juvenile, State or local correctional institutions. For incarcerated youth adjudicated as adults, all parental rights, including the notice rights, will be transferred to the youth in accordance with State law.

APPENDICES

Appendix PS.A	Notice of Invitation to Committee Meeting and Reply
Appendix PS.B	Prior Written Notice
Appendix PS.C	Informed Parental Consent
Appendix PS.D	Revocation of Consent
Appendix PS.E	Procedural Safeguards Notice

Notice of Invitation to Committee Meeting

The Notice of Invitation to Committee Meeting is used to notify parents and children with disabilities of a scheduled meeting of the Multidisciplinary Evaluation Team (MET) or Individualized Education Program (IEP) Committee.

1. Record the child's name and information concerning the date, time and location of the meeting.
2. The IEP Committee may review data about the child's performance collaboratively and make minor changes to the IEP without a formal IEP Committee meeting.
 - When conducting a reevaluation the IEP Committee may opt to review existing data without a meeting to determine if there is a need to collect additional data.
 - If the IEP needs corrections or minor changes between annual meetings, the IEP Committee may agree to amend the IEP without a meeting as long as:
 - The parent and the public agency agree to the process and the amendments in writing and,
 - Every member of the IEP Committee which includes the parent is informed of the changes.
3. Either the special education teacher, the agency representative or a member of the MET completes the appropriate sections of the form, depending on whether the meeting is to determine the need for an evaluation or to develop an IEP. Each participant in the meeting including their role is also listed.
4. DCS include a copy of the Notice of Invitation to Committee Meeting Reply or a similar form and the Procedural Safeguards if appropriate.

DESOTO COUNTY SCHOOLS • OFFICE OF SPECIAL EDUCATION

INVITATION TO COMMITTEE MEETING

SCHOOL _____ CONTACT PERSON _____
 PHONE _____
 EMAIL _____

TO _____ DATE _____

You are invited to attend a meeting regarding your child, _____ to be held
 Date _____ Time _____ Location _____. Your participation is very important! This meeting
 must be held at a mutually agreed upon time and place. If you are not able to meet at this time or location or need
 interpreter services to participate in the meeting, please contact _____ using the contact
 listed above to reschedule the meeting at a more convenient time or location or arrange for assistance. You can
 also indicate your preferences on the Invitation to Committee Meeting Reply letter included.

The purpose of this meeting is (check all that apply):

Child Find, Evaluation, and Eligibility Determination

- To determine if your child needs a comprehensive evaluation and to plan the initial evaluation.
- To discuss your child's evaluation and to determine if your child is eligible for special education.
- To determine if your child needs additional assessment for a reevaluation and to plan the reevaluation.
- To discuss your child's reevaluation and to determine if your child continues to be eligible for special education.

Individualized Education Program (IEP)

- To develop an initial or annual IEP for your child.
- To review your child's IEP and to revise it, if necessary.
- To develop or revise your child's transition plan.
- To determine if your child needs Extended School Year (ESY) services.

Other

- To determine your child's most appropriate placement.
- To discuss disciplinary actions.
- To conduct a manifestation determination.
- To develop, review, or revise a Behavior Support plan.
- Other _____

Other people who have been invited to this meeting include:

Agency Representative _____
 General Education Teacher _____
 Special Education Teacher _____
 Other _____
 Other _____
 Other _____

You are an important member of this team. You are welcome to bring anybody with special knowledge or expertise about your child who can assist you at the meeting, or any information (e.g., medical records, results of outside testing, or work samples) that would help with making educational decisions for your child. Your child is also welcome to attend if you wish. You are also able to audio and/or video record this meeting, if you wish; however, you will need to give us a 24-hour notice so that we may record the meeting. Included is the following important information:

- Invitation to Committee Meeting Reply
- Procedural Safeguards Notice
- Other _____

Please respond to this Invitation to Committee Meeting by completing the Invitation to Committee Meeting Reply letter included and return to your child's school or program. If you have any additional questions or concerns, please contact me using the above contact information.

INVITATION TO COMMITTEE MEETING REPLY

SCHOOL _____

CONTACT PERSON _____

PHONE _____

EMAIL _____

TO _____

I have received an invitation to attend a meeting regarding _____
to be held: Date _____ Time _____ Location _____

Attendance (please check all of the boxes that apply):

- I will attend this meeting:
 - In person
 - By phone
 - Other _____
- I will NOT attend this meeting.

I would like to attend the meeting, but this time and/or location is not convenient. I prefer to meet on the following:

_____ _____ _____
Date Time Location

Assistance (please check all the boxes that apply):

- I would like to record this meeting:
 - Audio recording
 - Video recording
- I need an interpreter to participate.
- I plan to invite the following people:

Other comments (please share any additional information you wish to share):

Parent's signature _____ Date _____

Prior Written Notice

The Prior Written Notice Form is used by DCS to notify parents at least seven (7) calendar days prior to any action that DCS proposes or refuses to initiate or change regarding the identification, evaluation, or educational placement of a child or propose or refuse to initiate or change the services and supports provided to a child which constitute a Free Appropriate Public Education (FAPE). This form should be used following the meeting where the proposed action has been discussed and the parent(s) are fully informed as to the proposed action. If appropriate, a copy of the Procedural Safeguards should also be given to the parent(s).

1. Record the date of the meeting and the name of the school.
2. Provide any reason or justification for taking the proposed action or refusing to take the requested action. Also describe any other options that were considered and rejected.
3. Describe any records, evaluations, reports or other data or information that were used as a basis for the decision. Include any other factors that were relevant to the decision.

**DeSoto County Schools
PRIOR WRITTEN NOTICE**

School _____

Contact _____

To: _____

Phone _____

Email _____

Date: _____

Public agencies are required to provide written notice to the parent when they propose or refuse to initiate or change the identification, evaluation, or educational placement of a child or propose or refuse to initiate or change the services and supports provided to a child which constitute a Free Appropriate Public Education (FAPE). This letter is your notice of the following action proposed or refused regarding your child, _____:

REQUEST

On _____, DeSoto County Schools proposed the following action as outlined below:

ACTION PROPOSED

- Conduct an initial comprehensive evaluation of your child.
- Conduct a reevaluation of your child.
- Determine your child's eligibility status and disability category.
- Change your child's eligibility status or disability category based on a comprehensive reevaluation.
- Exit your child from special education.
- Begin new special education and/or related services.
- Develop an Individualized Education Program for your child.
- Change your child's IEP and/or special education and/or related services (e.g., annual goals, participation in State-wide assessments, supplementary aids and services, or supports to school personnel).
- Provide Extended School Year (ESY) services
- Change your child's educational placement.
- Remove your child for disciplinary reasons which results in a change (e.g., a removal for more than 10 days during a school year or removal to an Interim Alternative Educational Setting).
- Other:

Describe the specific action proposed:

This action will go into effect:

- after receiving your informed written consent on the parental consent form enclosed. (for evaluations)
- on: _____

ACTION REFUSED

- Conduct an initial comprehensive evaluation of your child.
- Conduct a reevaluation of your child.
- Change your child's eligibility status or disability category based on a comprehensive reevaluation.
- Change your child's IEP and/or special education and/or related services (e.g., annual goals, participation in State-wide assessments, supplementary aids and services, or supports to school personnel).
- Provide Extended School Year (ESY) services
- Change your child's educational placement.
- Other:

Describe the specific action refused:

REASON/JUSTIFICATION

Provide the reason or justification for taking the proposed action(s) or for refusing to take an action(s) requested.

[Blank area for providing reason or justification]

Describe other options that were considered and rejected.

[Blank area for describing other options]

Describe the evaluations, tests, records, or reports that were used as the basis for the action(s) proposed or refused.

[Blank area for describing evaluations, tests, records, or reports]

Describe any other relevant factors to this situation.

[Blank area for describing other relevant factors]

You and your child have protections under both the Individuals with Disabilities Education Act (IDEA) and State Board of Education Policy 7219. If you are a parent of a child with a disability, at least once per year you will be provided a copy of the Procedural safeguards Notice which describes the rights of you and your child. If you have any questions about your rights and would like assistance in understanding your rights, you may contact me or any of the following:

Mississippi Dept. of Education
Post Office Box 771
Jackson, MS 39205-0771
Phone: (601) 359-3498
Fax: (601) 359-1829
Toll Free Parent Hotline
1-877-544-0408

Disability Rights Mississippi
210 E. Capitol Street Suite 600
Jackson, MS 39201
Phone: (601) 968-0600
Fax: (601) 968-0665
Toll Free Parent Hotline
1-800-772-4057

MS Parent Training & Information Center
2 Old River Place, Ste. M
Jackson, MS 39202
Phone: (601) 969-0601
Fax: (601) 709-0250
Toll Free Parent Hotline
1-800-721-7255

Please contact me if you have any questions regarding this information.

Sincerely,

[Signature line]

Enclosures

Seven Day Notice/Waiver

- I understand that I have 7 days to consider the committee's decision, but I would like to waive the 7 day waiting period so that the committee's action or refusal may begin on _____.
- I understand that I have 7 days to consider the committee's decision as described above. I so not waive the 7 day waiting period so the action or refusal may not begin until after 7 days.

Parent's Signature: _____ Date: _____

Informed Parental Consent

The Informed Parental Consent form is used by DCS to document written permission to conduct an initial comprehensive evaluation of a child suspected of having a disability or a reevaluation of a child with a disability. This is not a required form but is a form that can be used for documentation of informed parental consent as to the type of evaluation that is recommended for their child. This form should only be used after the need for the evaluation and the type(s) of evaluation tools or instruments to be used have been discussed with the parent(s) and the MET or IEP Committee believes that the parent(s) understands the evaluation process and procedures to be used.

1. Check if this is an Initial Evaluation or a Re-evaluation. In section two under Assessment Areas, indicate which areas will be assessed. In the second column on the right, indicate the method for assessing these areas, review of records, observations, interviews or tests. More than one assessment type may be checked.
2. The parent may agree to the evaluation and indicate that a copy of the Procedural Safeguards was given or the parent may disagree with the proposed assessment. At that point, DCS will discuss with the parent the ramifications of the refusal of the evaluation and DCS's rights to proceed to a mediation or due process hearing on the matter.

DESOTO COUNTY SCHOOLS • OFFICE OF SPECIAL EDUCATION

INFORMED PARENTAL CONSENT

SCHOOL _____
 Student Name _____

CONTACT PERSON _____
 PHONE _____
 EMAIL _____

TO _____

DATE _____

This letter is to request your written consent for an evaluation or reevaluation with the following assessments:

INITIAL EVALUATION	REEVALUATION
<input type="checkbox"/> The Multidisciplinary Evaluation Team (MET) requests your consent to conduct an evaluation to determine if he/she is a child with a disability and, if so, his/her educational needs. An initial evaluation will NOT be conducted unless you agree below.	<input type="checkbox"/> The IEP Committee requests your consent to conduct a reevaluation to determine if he/she continues to be a child with a disability and, if so, his/her educational needs. The IEP Committee will conduct a reevaluation unless you refuse below. <input type="checkbox"/> Additional assessment <input type="checkbox"/> No additional assessment
ASSESSMENT AREAS	ASSESSMENT METHODS
PHYSICAL STATUS <input type="checkbox"/> General physical condition, including general health, strength, vitality, and alertness <input type="checkbox"/> Sensory abilities, including hearing and vision acuity <input type="checkbox"/> Fine (small) motor skills, including use of equipment and materials <input type="checkbox"/> Gross (large) motor skills, including mobility and physical fitness <input type="checkbox"/> Sensory processing and/or perceptual-motor function	<input type="checkbox"/> and/or Review of Records <input type="checkbox"/> and/or Observation (s) <input type="checkbox"/> and/or Interview (s) <input type="checkbox"/> and/or Test (s) <input type="checkbox"/> and/or OT evaluation <input type="checkbox"/> and/or PT evaluation
COMMUNICATION STATUS <input type="checkbox"/> Articulation, including an orofacial examination and production of speech sounds <input type="checkbox"/> Voice and Fluency, including quality and smoothness of speech <input type="checkbox"/> Language, including ability to understand others (receptive) and express him/herself	<input type="checkbox"/> and/or Review of Records <input type="checkbox"/> and/or Observation (s) <input type="checkbox"/> and/or Interview (s) <input type="checkbox"/> and/or Test (s)
SOCIAL-EMOTIONAL STATUS <input type="checkbox"/> Social development and skills, including ability to build/maintain social relationships <input type="checkbox"/> Emotional development and skills, including ability to manage moods <input type="checkbox"/> Self-management, ability to demonstrate appropriate behaviors across environments	<input type="checkbox"/> and/or Review of Records <input type="checkbox"/> and/or Observation (s) <input type="checkbox"/> and/or Interview (s) <input type="checkbox"/> and/or Test (s) <input type="checkbox"/> and/or FBA
COGNITIVE AND ACADEMIC STATUS <input type="checkbox"/> Academic Achievement, including school learning on content such as basic reading and comprehension, written and oral expression, and math calculation and reasoning <input type="checkbox"/> Intellectual/Cognitive Functioning, verbal and non-verbal ability to think and learn	<input type="checkbox"/> and/or Review of Records <input type="checkbox"/> and/or Observation (s) <input type="checkbox"/> and/or Interview (s) <input type="checkbox"/> and/or Test (s)
ADAPTIVE STATUS <input type="checkbox"/> Adaptive Behavior, including daily living skills, self-sufficiency, and adjustment <input type="checkbox"/> Other _____	<input type="checkbox"/> and/or Review of Records <input type="checkbox"/> and/or Observation (s) <input type="checkbox"/> and/or Interview (s) <input type="checkbox"/> and/or Test (s)

Please check the boxes of the statements under "agree" or "refuse" that indicate your choice. Please sign and date.

AGREE	REFUSE
<input type="checkbox"/> I understand the proposed evaluation and DO give my consent to conduct the evaluation as described above. <input type="checkbox"/> I understand that my consent is voluntary and can be revoked at any time. <input type="checkbox"/> I was provided a copy of the Procedural Safeguards Notice, and it was explained to me.	<input type="checkbox"/> I understand the proposed evaluation and DO NOT give my consent to conduct the evaluation as described above. <input type="checkbox"/> I understand Desoto County Schools may request mediation or a Due Process Hearing to override my refusal. <input type="checkbox"/> I was provided a copy of the Procedural Safeguards Notice, and it was explained to me.
Parent's Signature _____ Date _____	Parent's Signature _____ Date _____

Revocation of Consent

The Revocation of Consent form is used by DCS to document a parent's revocation of consent for special education services for his/her child. It is a Prior Written Notice letter that DCS will send to the parent to inform him/her about the consequences of the decision to revoke consent. It informs the parent(s) that the child will be subject to all requirements that apply to general education students including, but not limited to, district and statewide assessments, graduation requirements, extracurricular activities, and discipline. This form should be used following a discussion with the parent(s) where they have been fully informed of the consequences of the decision to revoke consent. It is documentation of the consequences of the decision, not the vehicle to inform the parent(s) of the consequences of the decision.

DESOTO COUNTY SCHOOLS • OFFICE OF SPECIAL EDUCATION

REVOCATION OF CONSENT

SCHOOL _____
Student Name _____

CONTACT PERSON _____
PHONE _____
EMAIL _____

TO _____

DATE _____

Public agencies are required to provide written notice to the parent when they propose or refuse to initiate or change the identification, evaluation, or educational placement of a child or propose or refuse to initiate or change the services and supports provided to a child which constitute a Free Appropriate Public Education (FAPE).

On (Date) _____, Desoto County Schools received your written Revocation of Consent for your child, _____, to receive special education and related services. This letter is to inform you that, although Desoto County Schools believes that your child continues to need special education services, Desoto County Schools will stop providing these services on (Date) _____ based on your written Revocation of Consent for services.

When you revoke special education and related services, Desoto County Schools cannot use mediation or due process procedures to challenge your decision to terminate services. Desoto County Schools must honor your request within a reasonable time after receipt of your letter.

Once your revocation of consent is effective, your child will no longer be considered as a child with a disability for educational purposes and will lose all of the protections and procedural safeguards afforded to him/her by the Individual with Disabilities Education Act of 2004 (IDEA). Your child will no longer be eligible for a Free Appropriate Public Education (FAPE) as defined by IDEA. Desoto County Schools will not reconvene an IEP meeting, conduct a reevaluation, or develop an IEP. Your child will be subjected to all requirements that apply to general education students including, but not limited to, district and state-wide assessments, graduation requirements, extracurricular activities, and discipline.

Revocation of consent for special education and related services is not retroactive. The district will not amend your child's records to remove any references of special education and related services. However, if you wish to have your child receive special education and related services in the future, an initial comprehensive evaluation must first be conducted (as if your child was never a child with a disability). If you do wish to have your child considered for special education and related services in the future, please contact the Special Education Director for DeSoto County Schools to make a request for an initial evaluation.

Please contact me if you have any questions regarding this information.

I understand consequences for revoking consent for special education and related services.

Parent's signature _____ Date _____

Procedural Safeguards

The Procedural Safeguards Notice is also available on the Mississippi Department of Education, Office of Special Education website:

<http://www.mde.k12.ms.us/OSE/parents>

Desoto County School District

Receipt of Procedural Safeguards

Student Name: _____

The Procedural Safeguards document is required under the Individual with Disabilities Education Act (IDEA) and to be given to parent(s)/guardian(s) of a child with special needs at minimum, at least once a year, but generally at initial placement and yearly IEP meetings.

The Safeguard outlines parent's right of a student with a disability to:

- Be made aware of Special Education and related services through the Child Find process;
- Written prior notices pertaining to evaluations, eligibility, and placement;
- Parental consent in matters pertaining to evaluations, eligibility, and placement;
- Participate in and receive a copy of the Individualized Education Plan (IEP) designed to meet the specific needs of the student;
- Have input on programming matters and review and revise the IEP as needed to accommodate the student's needs;
- Appropriate evaluations in a timely manner;
- Request an independent evaluation;
- Record meetings;
- Confidentiality and access of records;
- Examine student's records and have a copy of the student's information;
- Investigation of a complaint with possible mediation;
- Due process in the event that there is a question/concern about services provided for a student;
- Appeal a due process decision;
- Appropriate disciplinary action;
- Appropriate private school placement and services procedures;
- Appropriate extended school year services;

Overall outcome is to fully benefit and service the needs of the student with the disability. I have received a copy of the Procedural Safeguards regarding the rights of my child under the Individuals with Disabilities Education Act (IDEA). My rights and those of my child regarding procedural safeguards have been explained.

- Procedural Safeguards were given to me and I understand my parental rights.
- Procedural Safeguards were offered to me and I declined receipt. I understand my parental rights.

Parent/Guardian Signature: _____

Date: _____

Teacher Signature: _____

Date: _____

A copy of the Procedural Safeguards can be electronically accessed via:

www.mde.k12.ms.us/special-education/special-education-for-parents

CHAPTER 8: DISPUTE RESOLUTION

Desoto County Schools (DCS) is responsible for providing education to children with disabilities including the Mississippi Department of Education (MDE), Educational Service Agencies (ESAs), and nonprofit public charter schools not a part of an LEA or ESA.

Dispute Resolution

If a parent of a child with a disability and representatives of Desoto County Schools (DCS) or other members of the child's Multidisciplinary Evaluation Team (MET) or Individualized Educational Program (IEP) Committee, of which the parent is a member, disagree on any decisions regarding the identification, evaluation, placement, or provision of a Free Appropriate Education (FAPE) or the determination of whether a behavior was a manifestation of the child's disability, there are several options for resolution of the dispute. The parent may file a Formal State Complaint or the parent or DCS may request a due process hearing. However, prior to filing a Formal State Complaint or requesting a due process hearing, the parent and DCS may first resolve the dispute through a mediation process. Mediation is the first official step in due process and is designed to be less confrontational than a hearing in that its goal is to assist both the parents and DCS in reaching a compromise.

Mediation

The mediation process must be voluntary on the part of the parent and DCS. It cannot be used to deny or delay a parent's right to a hearing on the parent's due process complaint. A qualified and impartial mediator who has been trained in effective mediation techniques by the Mississippi Department of Education (MDE), Office of Special Education (OSE) must conduct the mediation. The OSE maintains a list of such qualified mediators and the mediator for each dispute is selected on a rotational basis. The mediator may not be an employee of the MDE or OSE nor DCS that is involved. The mediator must not have a personal or professional interest that conflicts with the person's objectivity. The mediator has no authority to impose a decision but instead is to assist the parent(s) and DCS to reach a mutually agreed upon decision with regards to the dispute.

The Mississippi Department of Education/Office of Special Education (MDE/OSE) bears the cost of the mediation process, including the costs of any meeting(s) related to the process. All sessions for mediation must be scheduled in a timely manner and be held in a location this is convenient to the parties of the dispute.

Resolution of Dispute through Mediation

If the dispute is resolved through the mediation process, DCS and parent must execute a legally binding agreement that specifies the resolution. This agreement must include a statement that all

discussions that occurred during the process and any evidence presented must remain confidential. These confidential matters may not be used in any subsequent due process hearing or civil proceeding in a State or Federal court regardless of whether the parties resolve the dispute. The parent and a representative of DCS, who has the authority to bind DCS, must sign this agreement. A written, signed Mediation Agreement is enforceable in any State court of competent jurisdiction or in a District Court of the United States. The mediation process can benefit both the parent(s) and DCS by allowing the opportunity to understand each party's reasoning and point of view without being in an adversarial environment. It also helps to maintain a relationship between the parent(s) and DCS. Mediation is frequently low cost and does not usually require the involvement of an attorney.

Formal State Complaints

Filing a Formal State Complaint

An organization or individual may file a signed written Formal State Complaint with the MDE/OSE. The written complaint may be in a letter or on a form provided upon request by the MDE/OSE or DCS. The violation described in the complaint must have occurred not more than one year prior to the date that the complaint is received. A copy of the complaint must be forwarded to DCS at the same time the organization or individual files the complaint with the MDE/OSE. The complaint must include:

- A statement that the school district has violated a requirement of Part B of Individuals with Disabilities Education Act (IDEA), State Board Policy 74.19 or a statement that DCS is not implementing a due process hearing decision;
- The facts on which the statement is based, including copies of any documentation that support the allegation and general dates if possible;
- A description of the nature of the problem of the child, including facts relating to the problem;
- A proposed resolution of the problem to the extent known and available at the time the complaint is filed.
- The signature and contact information for the complainant; and
- If the violations concern a specific child:
 - The name of the child and the resident address;
 - The name of the school the child is attending;
 - In the case of a homeless child (defined by the McKinney-Vento Homeless Assistance Act), the available contact information for the child and the school attending.

MDE/OSE Response

The MDE/OSE will forward a copy of the complaint to DCS within 3 business days of receipt. At that time, DCS must provide a copy of the Procedural Safeguards to the Complainant. DCS and parent may choose to use mediation to resolve the complaint or to resolve the complaint through more formal methods. DCS must be given the opportunity to submit a written response

to the allegations in the State complaint within the timelines specified by the MDE/OSE. DCS must send a copy of its written response to the complainant. The school district's response:

- Must include a statement about the issues in the complaint
- May include a proposal for resolution of the complaint
- May include a proposal to mediate

The MDE/OSE may conduct an additional investigation by reviewing documentation provided by both parties or by conducting an on-site visit. The MDE/OSE will issue a written Findings and Decision within sixty (60) calendar days of receiving the Formal State Complaint containing all of the required information. The MDE/OSE does not investigate matters that are currently the subject of a due process hearing or matters that have been previously resolved by a Hearing Officer in a due process hearing decision. If a due process hearing request is filed on the same issues and between the same parties as a pending Formal State Complaint, the MDE/OSE will set aside any part of the Formal State Complaint that is being addressed in the due process hearing. However, any issue(s) in the Formal State Complaint that is not part of the due process request will be resolved by the MDE/OSE within the 60-day timeline.

Findings and Decision

The MDE/OSE will issue a written decision (Findings and Decision) to the complainant and to DCS which includes:

- A statement of the allegation(s) investigated; and,
- Findings of fact and a conclusion for each allegation investigated, including a statement of whether or not a violation of requirement of Part B of the Individuals with Disabilities Education Act (IDEA), State Board Policy 74.19, or its implementing regulations occurred, and the reasons for the conclusion;
- The corrective actions DCS must implement including the correction of all identified cases of noncompliance, including any noncompliance discovered during the investigation unrelated to the original complaint;
- Additional corrective action of specific regulatory requirements to ensure continued compliance for any findings of systemic or substantive violations;
- Timelines for completing the corrective actions; and
- Assignment of an MDE/OSE contact person for technical assistance in completing the corrective actions.

Upon receipt of the Findings and Decision document, DCS will be required to submit an Improvement Plan. On receipt of notification that the Formal State Complaint has been satisfactorily addressed by DCS or has been withdrawn by the complainant, the MDE/OSE will consider the Formal State Complaint resolved. This includes when a school district (DCS) offers to provide the remedy proposed by the complainant.

Due Process Complaints

Filing a Due Process Complaint

A parent may file a due process complaint if DCS:

- Proposes to initiate or change the identification, evaluation or educational placement of the child or the provision of FAPE to the child;
- Refuses to initiate or change the identification, evaluation or educational placement or the provision of a FAPE;
- Proposes a placement as a result of a disciplinary action; or
- Has made a decision that the child's behavior is a manifestation of the child's disability.

DCS may also request an expedited due process hearing if DCS believes that maintaining the child's current placement is substantially likely to result in injury to the child or to others. The violation must have occurred not more than two (2) years before the date the parent or DCS knew or should have known about the alleged action that forms the basis of the due process complaint.

This two-year timeline does not apply if DCS has misrepresented the resolution of the problem forming the basis of the dispute or if DCS withheld required information from the parent. DCS must inform the parent of any free or low-cost legal and other relevant services available in the area if the parent requests the information or if the parent or DCS filed a due process complaint. DCS must also provide the parent with the Procedural Safeguards Notice document and the procedures regarding mediation services.

The party filing the complaint must provide to the other party the due process complaint, which must remain confidential. The parties involved may be DCS, the parent or the attorney representing the parent or DCS. The party filing the complaint must also forward a copy of the complaint to the MDE/OSE. The complaint must include:

- The name of the child and the resident address;
- The name of the school the child is attending and the district;
- In the case of a homeless child (defined by the McKinney-Vento Homeless Assistance Act), the available contact information for the child and the school attending;
- A description of the nature of the problem of the child, including facts relating to the problem; and
- A proposed resolution of the problem to the extent known and available at the time the complaint is filed.

No party may have a hearing on the due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements specified above. Once the due process complaint has been filed the following timelines apply:

- Within five (5) days of receiving the complaint, the Hearing Officer must make a decision as to whether the due process complaint meets the criteria described above and notify the parties in writing of his/her decision.

- The due process complaint is deemed to be sufficient unless the receiving party notifies the hearing officer and the filing party in writing within fifteen (15) days of receipt that the due process complaint does not meet the requirements specified above.

Basic Timelines for the Complaint and Resolution Process

If DCS has not sent a Prior Written Notice (PWN) to the parent(s) regarding the subject matter contained in the parent's due process complaint, within ten (10) days of receiving a Due process complaint, filed by a parent, DCS must send a response that includes the following:

- An explanation of why DCS proposed or refused to take the action raised in the complaint;
- A description of other options considered by the Individualized Education Program (IEP) committee and why these options were rejected;
- A description of each evaluation procedure, assessment, record or report on which DCS based their decision; and
- A description of the other factors that are relevant to DCS's proposed or refused action.

This response does not negate DCS's option of declaring the due process complaint as insufficient, if appropriate. If the due process complaint is received by a party other than DCS, the receiving party must respond within ten (10) days to address the issue raised in the complaint.

Resolution Meeting

DCS must convene a meeting with the parent and relevant members of the IEP Committee as determined by the parent and DCS, within fifteen (15) days of receiving notice of the due process complaint and prior to the initiation of a due process hearing. The purpose of this meeting is to discuss the due process complaint and the facts that form the basis of the complaint so that DCS has the opportunity to resolve the dispute. The meeting must include an agency representative who has decision-making authority on behalf of DCS. DCS may not include an attorney unless the parent is accompanied by an attorney. The parent and DCS may agree in writing to waive the meeting or the parent and DCS may agree to use the mediation process. If a resolution to the dispute is reached at the meeting, the parties must execute a legally binding agreement that is signed by both the parent and the DCS agency representative. This agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States. Either party has three (3) business days to void the binding agreement.

If DCS has not resolved the due process complaint to the satisfaction of the parent within thirty (30) days of receipt of notice, the due process hearing may proceed. The process for issuing a final decision begins at the expiration of the thirty (30) day resolution period. The failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the due process hearing until the meeting is held. If DCS is unable to obtain the participation of the parent in the resolution meeting after making reasonable efforts and documenting those efforts, DCS may request dismissal of the due process complaint. If DCS fails to hold the resolution meeting within fifteen (15) days of receiving notice of the complaint, the parent may ask the hearing officer to proceed with the due process hearing.

The forty-five (45) day timeline for the due process hearing starts the day after one of the following occurs:

- Both parties agree in writing to waive the resolution meeting.
- After either the mediation or resolution meeting starts but before the end of the thirty (30) day period, the parties agree in writing that no agreement is possible.
- Both parties agree in writing to continue the mediation at the end of the thirty (30) day period, but later, the parent or DCS withdraws from the mediation process.

NOTE: If DCS files a due process complaint, the regulations do not require DCS to convene a resolution meeting. However, DCS and the parent(s) may choose to voluntarily engage in mediation to resolve the issue. Since the resolution process is not required under the regulations when a public agency files a complaint, the forty-five (45) day timeline for issuing a written decision begins the day after DCS's due process complaint is received by the other party and the MDE/OSE. If the complaint is determined to be insufficient and is not amended, the complaint could be dismissed.

Hearing Officer

An impartial hearing officer is assigned to the complaint by the MDE/OSE. This officer cannot be an employee of the MDE or the public agency (DCS) that is involved in the education or care of the child. This person cannot have a personal or professional interest that conflicts with the person's objectivity in the hearing. The hearing officer must possess knowledge of and the ability to understand the provisions of Individuals with Disabilities Education Act (IDEA) Amendments of 2004, State Board Policy 74.19 and legal interpretations of IDEA by Federal and State courts. The officer must also possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

Hearing Officer's Authority and Duties

A hearing officer has the authority and the duty to:

- Conduct a fair hearing;
- Ensure that the rights of all parties are protected;
- Define issues;
- Receive and consider all relevant and reliable evidence;
- Ensure an orderly presentation of the evidence and issues;
- Ensure a record is made of the proceedings; and
- Reach a fair, independent and impartial decision based on the issues and evidence presented at the hearing and in accordance with applicable law as well as Federal regulations under IDEA and State policies.

In order to perform these duties, the hearing officer has the authority to:

- Hold pre-hearing conferences in a timely manner for the purpose of clarifying the matters in dispute or resolving the dispute without the necessity of a hearing;
- Dismiss a hearing request when the issue(s), once clarified, is one that does not pertain to the identification, evaluation, educational placement and/or provision of a free appropriate public education (FAPE);

- Dismiss a hearing request when the requesting party fails to proceed to a hearing within six (6) months from the date of the hearing request;
- Decide the matter in dispute without a hearing upon submission of written documents and with the agreement of the parties;
- Schedule a mutually convenient date, time and place for the hearing consistent with the rights of the parties under these regulations;
- Receive, rule on, exclude or limit evidence;
- Order additional evaluations by DCS or an independent evaluation at public expense when necessary in order to determine the appropriate special education and related services for the child;
- Administer the oath of affirmation to anyone who will testify at the hearing;
- Assist all those present in making a full and free statement of the facts;
- Determine if the hearing will be opened or closed to the public based on the decision of the parent;
- Ensure that all parties have a full opportunity to present all their claims orally, or in writing, and to issue a subpoena to compel the attendance of witnesses or the production of documents specifically relevant to the resolution of the issues presented in the hearing; and
- Take such steps as appropriate to assure the orderly presentation of evidence and protection of the rights of the parties of the hearing.

If the hearing officer determines that the due process complaint is insufficient, the hearing officer's decision will identify how the notice is insufficient so that the filing party can amend the notice if appropriate. A party may amend its due process complaint only if the other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a resolution meeting or through mediation. The hearing officer may also grant permission to amend the complaint at any time not later than five (5) days before the due process hearing begins. If a party files an amended due process complaint, the timelines for the resolution meeting and resolution period begin again with the filing of the amended due process complaint. If the hearing officer determines that the complaint is insufficient and the complaint is not amended, the complaint may be dismissed. A party may re-file a due process complaint if the complaint remains within the applicable timelines for filing – generally, within the two (2) year period that the alleged action occurred.

No *ex parte* communication between the appointed hearing officer and either party to the hearing will be conducted. When communication with the hearing officer by either party is necessary, the hearing officer must ensure both parties are involved in the requested communication. No communication will be conducted between the appointed hearing officer and the MDE personnel or between either party and MDE personnel regarding any substantive issue(s) of the hearing.

Due Process Hearing

The due process hearing is conducted by an impartial due process hearing officer appointed by the MDE/OSE at a time and place that is reasonable and convenient to the parents of the child involved. The party requesting the hearing may not raise issues at the hearing other than those

specified in the complaint unless the other party agrees. At least five (5) business days prior to the hearing, each party must disclose to all other parties, any evaluations completed and recommendations based on the evaluations. The hearing officer may bar any introduction of relevant evaluations or recommendations that have not been disclosed. Any party to a hearing or an appeal has the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities. Unless determined under State law, non-attorneys may not represent the parents in the due process hearing. Both parties have the right to present evidence, confront, cross-examine and compel the attendance of witnesses. Both parties also have the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) business days before the hearing. A written or, at the option of the parents, an electronic verbatim record of the hearing may be obtained by either or both parties as well as a written or electronic record of the findings of fact and opinion.

The parent involved in the hearing has the right to have the child who is the subject of the hearing present. They have the right to open the hearing to the public and to have a record of the hearing and the findings of fact and decisions provided at no cost.

Hearing Decisions

A hearing officer's decision of whether a child received FAPE must be made on substantive grounds. In matters alleging a procedural violation, the violation must have impeded the child's right to FAPE; the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE; or caused a deprivation of educational benefit. This does not preclude a hearing officer from ordering DCS to comply with procedural requirements. A copy of the final decision must be mailed to each of the parties.

The due process hearing decision does not limit the parent from filing a separate due process complaint on an issue unrelated to the current due process complaint. All due process hearing decisions must be transmitted to the State Special Education Advisory Panel but all personally identifiable information must be deleted. These findings and decisions must also be made available to the public.

A decision made in a due process hearing is final and binding on all parties unless either party brings a civil action.

Civil Action

Either party who disagrees with the hearing officer decision has the right to bring a civil action. The civil action may only address the due process complaint and the facts surrounding the complaint. Before filing a civil complaint, all due process procedures must be exhausted. The civil action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. The civil action must be filed within ninety (90) days from the date of the hearing officer decision. In any civil action, the court:

- Receives the records of the administrative proceedings;

- Hears additional evidence at the request of a party;
- Bases its decision on the preponderance of the evidence; and
- Grants the relief that the court determines to be appropriate.

Child's Status During Proceedings

During the pendency of any administrative or judicial proceeding regarding a due process complaint, the child involved in the complaint must remain in his or her public agency and the parent may agree to a change in placement if determined to be in the best interest of the child. The hearing officer in a due process hearing may agree with the child's parents that a change in placement is appropriate. If the complaint involves an application for initial admission to a DCS school, the child, with the consent of the parent, must be placed in a DCS school until the completion of all the proceedings.

In the case of a complaint that involves a three (3) year old child transitioning from Part C to Part B who is no longer eligible for Part C services, DCS is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent gives consent for services, then DCS must provide those special education and related services that are not in dispute.

Attorneys' Fees

In any action or proceeding as a part of dispute resolution, if the parent is the prevailing party, the court may award the parent reasonable attorneys' fees as part of the costs awarded. The fees awarded must be based on rates prevailing in the community in which the action or proceeding was filed. These rates must also be consistent with the kind and quality of services provided. No bonus or multiplier may be used in calculating the fees awarded.

Funds under Part B of IDEA may not be used to pay attorneys' fees or costs of either party that are related to an action or proceeding related to a due process hearing. The prohibited reimbursement of costs would include depositions, expert witnesses and settlements or costs related to settlements.

Part B under IDEA funds may be used for conducting an action or proceeding. These costs may include paying a hearing officer, provision of the location for the hearing and the transcript of the hearing.

If the public agency is the prevailing party, the court may also award reasonable attorneys' fees against the attorney of a parent in the following circumstances:

- The complaint is frivolous, unreasonable or without foundation;
- The parent continued to litigate after the litigation clearly became frivolous, unreasonable or without foundation; or
- Against the parent if the parent's request for a due process hearing was presented for any improper purpose such as:
 - To harass;
 - To cause unnecessary delay; and

- To needlessly increase the cost of litigation.

Award of Fees

No attorneys' fees may be awarded or related costs reimbursed for services performed after the time of a written offer of settlement to the parent:

- If the offer was made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure;
- In the case of an administrative proceeding, the offer is made at any time more than ten (10) days before the proceeding begins;
- The offer is not accepted within ten (10) days; and
- The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

Attorneys' fees may not be awarded relating to any meeting of the IEP Committee unless the meeting is convened as a result of an administrative proceeding or judicial action or at the discretion of the MDE for mediation.

An award of attorneys' fees and related costs may be made to the parent who is the prevailing party and who was substantially justified in rejecting the settlement offer. The court may reduce the amount of attorneys' fees awarded if the court finds that:

- The parent, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;
- The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonable comparable skill, reputation and experience;
- The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
- The attorney representing the parent did not provide to DCS the appropriate information in the request notice for the impartial Due process hearing.

These provisions do not apply in any action or proceeding if the court finds that DCS has unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of the law which addresses Procedural Safeguards for children with disabilities and their parents.

REGULATORY REFERENCE

§§300.506-300.518; 300.151-300.153

APPENDICES

Appendix DR.A	Top 20 Highlights for Dispute Resolution
Appendix DR.B	Dispute Resolution Comparison Chart
Appendix DR.C	Due Process Timeline
Appendix DR.D	Request for Due Process Hearing
Appendix DR.E	Formal State Complaint Form

Top 20 Highlights for Dispute Resolution

1. The mediation process must be voluntary on the part of the parent and Desoto County Schools (DCS) may not be used to deny or delay a parent's right to a hearing on the parent's due process complaint.
2. If the dispute is resolved through the mediation process, DCS and parent must execute a legally binding agreement that specifies the resolution including a statement of confidentiality of all discussions and any evidence presented.
3. An organization or individual may submit a signed written Formal State Complaint to the Mississippi Department of Education, Office of Special Education (MDE/OSE) alleging that DCS has violated a requirement of Part B of Individuals with Disabilities Education Act (IDEA).
4. When a Formal State Complaint is submitted to the MDE/ OSE, an investigation and written decision will be completed within sixty (60) calendar days.
5. A parent may file a due process complaint if DCS proposes to initiate or change the identification, evaluation or educational placement of the child or the provision of FAPE to the child. A due process complaint may also be filed if the public agency refuses to initiate or change the identification, evaluation or educational placement or the provision of a FAPE.
6. If a parent disagrees with an evaluation and requests an independent educational evaluation (IEE), the school district may file a request for a due process hearing. If the due process hearing determines that the school district's evaluation was appropriate, the parent is still entitled to have an IEE but not at public expense.
7. Within ten (10) days of receiving a due process complaint, filed by a parent, DCS must send a response that includes the following:
 - An explanation of why the agency proposed or refused to take the action raised in the complaint;
 - A description of other options considered by the Individualized Education Program (IEP) Committee and why these options were rejected;
 - A description of each evaluation procedure, assessment, record or report on which the agency based their decision; and
 - A description of the other factors that are relevant to the agency's proposed or refused action.
8. DCS must convene a meeting to discuss the due process complaint and the facts that form the basis of the complaint with the parent and relevant members of the IEP Committee as determined by the parent and the public agency, within fifteen (15) days of receiving

- notice of the due process complaint and prior to the initiation of a due process hearing. DCS may not include an attorney unless the parent is accompanied by an attorney.
9. If a resolution to the dispute is reached at the meeting, the parties must execute a legally binding agreement this is signed by both the parent and the public agency representative. This agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States. Either party has three (3) business days to void the binding agreement.
 10. If DCS has not resolved the due process complaint to the satisfaction of the parent within thirty (30) days of receipt of notice, the due process hearing may proceed.
 11. If DCS is unable to obtain the participation of the parent in the resolution meeting after making reasonable efforts and documenting those efforts, DCS may request dismissal of the due process complaint.
 12. If DCS fails to hold the resolution meeting within fifteen (15) days of receiving notice of the complaint, the parent may ask the hearing officer to proceed with the due process hearing.
 13. An impartial hearing officer is assigned to the complaint by the MDE/OSE. This officer has the authority and the duty to:
 - Conduct a fair hearing;
 - Ensure that the rights of all parties are protected;
 - Define issues;
 - Receive and consider all relevant and reliable evidence;
 - Ensure an orderly presentation of the evidence and issues;
 - Ensure a record is made of the proceedings; and
 - Reach a fair, independent and impartial decision based on the issues and evidence presented at the hearing and in accordance with applicable law as well as Federal regulations under IDEA and State policies.
 14. No ex parte communication between the appointed hearing officer and either party to the hearing will be conducted. When communication with the hearing officer by either party is necessary, the hearing officer must ensure both parties are involved in the requested communication. No communication will be conducted between the appointed hearing officer and the MDE personnel or between either party and the MDE personnel regarding any substantive issue(s) of the hearing.

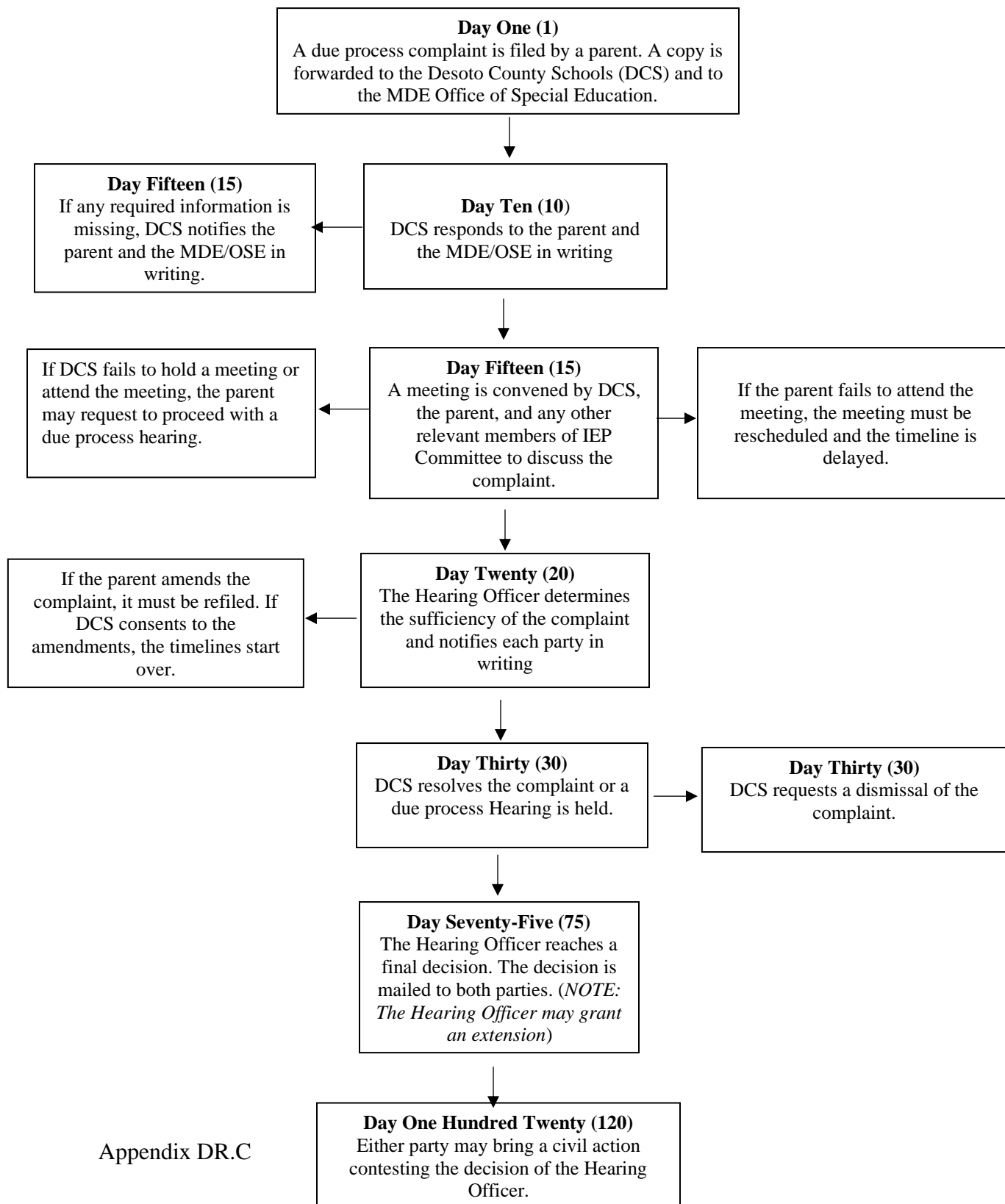
15. A hearing officer's decision of whether a child received a FAPE must be made on substantive grounds. In matters alleging a procedural violation, the violation must have impeded the child's right to FAPE; the parent's opportunity to participate in the decision making process regarding the provision of a FAPE; or caused a deprivation of educational benefit.
16. All due process hearing decisions must be transmitted to the State Special Education Advisory Panel with personally identifiable information deleted. These findings and decisions must also be made available to the public.
17. A decision made in a due process hearing is final and binding on all parties unless either party brings a civil action. Before filing a civil complaint, all due process procedures must be exhausted. The civil action must be filed within ninety (90) days from the date of the hearing officer decision.
18. During the pendency of any administrative or judicial proceeding regarding a due process complaint, the child involved in the complaint must remain in DCS unless the parent agrees to a change in placement.
19. Funds under Part B of IDEA may not be used to pay attorneys' fees or costs of either party that are related to an action or proceeding related to a due process hearing. The prohibited reimbursement of costs would include depositions, expert witnesses and settlements or costs related to settlements. Part B under IDEA funds may be used for conducting an action or proceeding. These costs may include paying a hearing officer, provision of the location for the hearing and the transcript of the hearing.
20. In any action or proceeding as a part of dispute resolution, if the parent is the prevailing party, the court may award the parent reasonable attorneys' fees as part of the costs awarded. If DCS is the prevailing party, the court may also award reasonable attorneys' fees against the attorney of a parent if the complaint was frivolous, unreasonable, or without foundation or if the parent's request for a due process hearing was presented to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

Dispute Resolution Comparison Chart

	Mediation	Due Process	State Complaint	Resolution Session
<i>Initiation of the process</i>	Both the Parent and Desoto County Schools (DCS) must participate voluntarily	Either the Parent or DCS can initiate due process	Any individual or organization may initiate a State complaint	DCS may schedule a resolution session upon receipt of a due process hearing request from a parent
<i>Time limit for initiating the process</i>	None specified	Two (2) years from learning of an issue (or when either party should have learned of the issue)	One (1) year from the alleged violation	Convened within fifteen (15) days of receipt of the due process hearing request unless both parties agree in writing to waive the resolution session or agree to mediation.
<i>Issues that may be addressed</i>	Any matter concerning IDEA, Federal regulations, or State Board Policy 74.19	Any matter concerning identification, evaluation, placement, or provision of FAPE	Any alleged violations of IDEA, Federal regulations, or State Board Policy 74.19	Any matter concerning identification, evaluation, placement, or provision of FAPE
<i>Timeline for resolving the issues</i>	None specified	None specified	Sixty (60) days from receipt of the complaint, may be extended due to exceptional circumstances	The resolution period may last for no more than thirty (30) days.
<i>Party that resolves the issue</i>	Both the Parent and the DCS must agree to the solution in writing (assisted by a Mediator)	Hearing Officer	MDE Office of Special Education	Both the Parent and DCS must agree to the solution in writing

Appendix DR.B

DUE PROCESS TIMELINE



Appendix DR.C

Request for Due Process Hearing

The Request for Due Process Hearing form may be used by parents, an individual authorized to represent the parent, or representatives of Desoto County Schools (DCS), to make an official request for a hearing.

1. Complete the first line of the form by filling in the name of the person requesting the due process hearing. This may be the parent or the public agency representative.
2. Complete the family information section of the form. The section of the form which concerns the reason for the request for the due process hearing must indicate the proposal or refusal to address one of the four reasons stated below:
 - Identification
 - Evaluation
 - Educational placement
 - FAPE
3. Describe in detail the nature of the disagreement concerning the reason for the due process request. Provide as much information including dates if possible. Provide facts rather than opinions.
4. Provide a proposed resolution to the situation with as much detail as possible.

MISSISSIPPI DEPARTMENT OF EDUCATION • OFFICE OF SPECIAL EDUCATION

REQUEST FOR DUE PROCESS HEARING UNDER PART B
OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT 2004 AMENDMENTS

I, _____ am requesting a hearing before a State Level Hearing Officer.
Parent's or Public Agency Representative's Name

FAMILY INFORMATION		
Parent's Name and Address:		Child's Name and Address (if different):
Parent's Email:	Parent's Phone:	School District/Agency:
REASON FOR DUE PROCESS REQUEST		
I disagree with a proposal to initiate or change: <input type="checkbox"/> The identification of my child <input type="checkbox"/> An evaluation of my child <input type="checkbox"/> The educational placement of my child <input type="checkbox"/> The provision of a free appropriate public education (FAPE) to my child		I disagree with a refusal to initiate or change: <input type="checkbox"/> The identification of my child <input type="checkbox"/> An evaluation of my child <input type="checkbox"/> The educational placement of my child <input type="checkbox"/> The provision of a free appropriate public education (FAPE) to my child
DISAGREEMENT DESCRIPTION		
Describe the nature of the disagreement indicated above and any important facts about this situation. Use additional sheets of paper if more space is needed:		
PROPOSED RESOLUTION		
Describe your proposed resolution of the disagreement.		
Would you agree to participate in a Mediation process? <input type="checkbox"/> Yes <input type="checkbox"/> No NOTE: Checking "yes" will <u>not</u> delay your opportunity to receive a due process hearing.		
REQUESTER'S INFORMATION		
Signature:		Date:
*Address and phone number (if not the parent):		*Position/role (if not the parent):
*If another individual representing the parent (e.g., attorney) completes this form on the parent's behalf, this form must be submitted with written authorization for representation signed by the parent.		

Formal State Complaint

The Formal State Complaint Form may be used by parents or an individual authorized to represent the parents to make an official complaint when the parent believes Desoto County Schools (DCS) has violated a requirement of Part B of the Individuals with Disabilities Education Act (IDEA) or State Policies Regarding Children with Disabilities (State Board Policy 74.19) or that DCS is not implementing a due process hearing decision. Prior to filing a Formal State Complaint, the parent(s) should seek to provide the district personnel opportunities to discuss and resolve any concerns and issues and suggest possible solutions prior to filing a formal state complaint.

1. Fill out the form as completely as possible. Provide factual information with dates if possible. Provide copies of any supporting data or information. If the form is not completed accurately and as completely as possible, the MDE/OSE will notify the complainant in writing that the complaint has been determined to be insufficient and what additional information is needed in order for the complaint to meet the requirements of the regulations.
2. If the Formal State Complaint is filed on behalf of an individual student and the complainant is not the child's parent, a consent or authorization to disclose confidential information that is signed by the parent must be submitted in order for the MDE/OSE to provide the findings and decision to the complainant. The consent or authorization must be signed by the parent and specifically authorize the MDE/OSE to release information about the child to the complainant.
3. Mail or hand-deliver a copy of the completed Formal State Complaint form to the appropriate district personnel. Mail or hand-deliver the original completed complaint form to:

Parent Consultant Mississippi Department of Education
Office of Special Education
Post Office Box 771
Jackson, MS 39205-0771

MISSISSIPPI DEPARTMENT OF EDUCATION • OFFICE OF SPECIAL EDUCATION

FORMAL STATE COMPLAINT
 UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT 2004 AMENDMENTS

A complaint process can be used when you believe a district **violated a requirement** of Part B of the Individuals with Disabilities Education Act (IDEA) or State Policies Regarding Children with Disabilities (State Board Policy 74.19) or the district is not implementing a due process hearing decision.

Please fill out this form as completely as possible. Use additional paper if more space is needed.

FAMILY INFORMATION		
Parent's Name and Address:		Child's Name and Address (if different):
Parent's Email:	Parent's Phone:	School District/Agency:
COMPLAINT DESCRIPTION		
<p><i>Please provide a detailed summary of the situation including any key dates and important facts about what happened. Use additional sheets of paper if more space is needed. Please provide copies of any documentation that supports the allegation, if possible:</i></p> <p><i>List the regulation(s) you believe the school district or educational agency has violated?</i></p>		
<p>This violation occurred less than one (1) year before the date of this complaint? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If so, do you believe the violation is continuing? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
EFFORTS TO RESOLVE COMPLAINT		
<p>Have you talked with school/program personnel about this issue? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If so, list the name of the person with whom you spoke: _____</p> <p>Have you met with school/program personnel about this issue? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If so, list the name of the person with whom you met: _____</p> <p>When was the meeting held: _____</p>		
PROPOSED RESOLUTION		
<p><i>Describe your proposed resolution of the complaint.</i></p> 		
REQUESTER'S INFORMATION		
Signature		Date
*Address and phone number (if not the parent)		*Relationship to child (if not the parent)
<p><i>*If another individual representing the parent (e.g., attorney) completes this form on the parent's behalf, this form must be submitted with written authorization for representation signed by the parent.</i></p>		

Mail or deliver original to: Parent Consultant, MDE Office of Special Education, P.O. Box 771, Suite 301, Jackson, MS 39205

Revised 7/8/16

D.R.E

CHAPTER 9: CONFIDENTIALITY

Desoto County Schools (DCS) in this document is responsible for providing education to children with disabilities including the Mississippi Department of Education (MDE), Local Education Agencies (DCS), Educational Service Agencies (ESAs), and nonprofit public charter schools not a part of an LEA or

Desoto County Schools (DCS) has policies and procedures in effect to ensure the confidentiality of any personally identifiable information collected, used or maintained relative to preschool, elementary and secondary students as required under IDEA and the Family Education Rights and Privacy Act (FERP A).

Definitions

Personally identifiable means information that contains:

- The name of the child, the child’s parent, or other family member(s);
- The address of the child or the child’s family;
- A personal identifier, such as the child’s social security number or student ID number;
- A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty;
- Other information that would make the child’s identity easily traceable including information recorded in any way, such as computer media, video or audio materials, digital materials or photographs;
- Any indirect identifier such as the child’s date of birth, place of birth or mother’s maiden name;
- Other information that, alone or in combination, is linked or linkable to a specific child that would allow a reasonable person in the state agency’s community, who does not have personal knowledge of the relevant circumstances, to identify the child with reasonable certainty; or
- Information requested by a person who the state agency reasonably believes knows the identity of the child to whom the education record relates.

Education records mean the type of records covered under the definition of “education records” in 34 CFR §99 of the Family Rights and Privacy Act of 1974. Under FERPA, the term means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution.

Participating agency means any agency or institution that collects, maintains or uses personally identifiable information or from which information is obtained, under Part B of IDEA.

Responsibilities of DCS for Confidentiality of Records

DCS must protect the confidentiality of personally identifiable information at:

- Collection

- Storage
- Disclosure
- Destruction

DCS must appoint one official to assume responsibility for ensuring the confidentiality of personally identifiable information. Responsibilities of this individual would include:

- Maintaining the data in a locked storage facility;
- Determining who has access to the records;
- Maintaining records of all individuals who had access to the records except parents and appropriate DCS staff; and
- Securing parental consent prior to disclosure of personally identifiable data, unless allowed by law.

All DCS personnel collecting or using personally identifiable information must receive training or instruction regarding MDE's policies and procedures for protecting the confidentiality of personally identifiable information.

Access Rights to Personally Identifiable Information and Required Procedures

- DCS must permit parents to inspect and review any education records relating to their children that are collected, maintained or used by DCS. The rights of parents regarding education records are transferred to the adult student at age twenty-one (21), taking into consideration the type or severity of the disability.
- DCS must comply with a request without unnecessary delay and before any meeting regarding an Individualized Education Program (IEP), any due process hearing or resolution session and in no case more than forty-five (45) days after the request has been made.
- DCS may presume that the parent has authority to inspect and review the records relating to his or her child unless DCS has been advised that parent does not have the authority under applicable State laws governing such matters as guardianship, separation and divorce.
- If any education record includes information on more than one child, the parents have the right to inspect and review only the information relating to their child or to be informed of that specific information.
- Upon request, DCS must provide the parents with a list of the types and locations of education records collected, maintained or used by DCS.
- DCS must respond to reasonable requests for explanations and interpretations of the records.
- DCS must comply with the parent's request for copies of the records containing the information if failure to provide these copies would effectively prevent the parents from exercising the right to inspect and review the records.
- The parent must provide written authorization to DCS if a representative of the parent inspects and reviews the records.

Notice to Parents

Annually, DCS must give notice to parents concerning the confidentiality regulations using various methods of communication (e.g., website, brochures, newspapers, etc.). Notices must be available in the native language of the children and/or the families of those served by DCS.

This notice must include:

- A description of the children for whom personally identifiable information is maintained;
- The types of information sought;
- The methods used to gather the information including sources from whom the information is gathered;
- The uses to be made of the information;
- A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention and destruction of personally identifiable information; and
- A description of all of the rights of parents and children regarding this information, including the rights under IDEA and the Family Educational Rights and Privacy Act (FERPA).

Record of Access and Disclosure of Personally Identifiable Information

DCS must keep a record of parties obtaining access to, or requests for disclosure of, education records collected, maintained or used under Part B of IDEA. Record of access by parents and authorized employees of DCS does not need to be maintained. DCS must maintain, for public inspection, a current listing of the names and position of those employees within DCS who may have access to the information. For all other parties who obtain access to education records collected and maintained by DCS, DCS must keep a record which includes:

- The name of the party;
- The date access was given; and
- The purpose for which the party is authorized to use the records.

DCS maintains the record of access with the education records of the student as long as the records are maintained. DCS requires a signed authorization by the parent to use or disclose information. The form the district uses is an *Authorization to Use or Disclose Educational and Protected Health Information* (Appendix C.A)

Fees for Copies of Records

DCS may charge a fee for copies of records that are made for parents. However, the charge cannot effectively prevent the parents from exercising their right to inspect and review those records. Fees cannot be charged for the time required to search for or retrieve the records.

Consent for Disclosure of Personally Identifiable Information

Consent for the release of personally identifiable data means that the parent has been fully informed in his or her native language or other mode of communication of all information that will be released. The parent must consent in writing to the disclosure. The parent should understand that the granting of consent is voluntary and may be revoked at any time. If the parent revokes consent, this action does not negate any disclosure that occurred prior to the revocation of the consent.

The written consent must include:

- A specification of the records to be disclosed;
- The purpose of the disclosure; and
- Identification of the party or parties to whom the disclosure may be made.

The consent must be signed and dated by the parent. Parental consent must be obtained before personally identifiable information is disclosed. At the parent request, DCS must provide a copy of the records disclosed.

Refusal to Give Consent

In a situation where DCS is seeking consent for the release of records (e.g., educational, medical, psychological, etc.), but the parent refuses to give consent, DCS may, but is not required to, initiate mediation or due process procedures (refer to Chapter 8: Dispute Resolution).

Consent is Not Required for Disclosure

Consent is not required to disclose personally identifiable information to or for the purpose of:

- Other school officials, including teachers, within DCS whom DCS has determined to have legitimate educational interests.
- Authorized Federal, State or local representatives in connection with an audit or evaluation of the Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements which relate to those programs. The information must be protected in a manner that does not permit personal identification of individuals by anyone except the officials referred to above and must be destroyed when no longer needed.
- A financial aid application if the information is necessary for the completion of the application for which the student has applied or which the student has received.
- State and local officials or authorities to whom this information is allowed to be disclosed under State statute concerning the juvenile justice system and the system's ability to effectively serve the student whose records are released.
- Organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate or administer predictive tests; administer student aid programs; or improve instruction. Information may only be disclosed if the study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization and the information is destroyed when no longer needed.

- Accrediting organizations to carry out their accrediting functions.
- A judicial order or a lawfully issued subpoena. DCS must make a reasonable attempt to notify the child's parents of the judicial order or subpoena before releasing the records. Notice to the parents is not required if the disclosure is in compliance with a Federal grand jury subpoena or any other subpoena issued for law enforcement purposes and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished not be disclosed.

Destruction of Personally Identifiable Information

DCS must inform parent when personally identifiable information collected, maintained or used under this part is no longer needed to provide educational services to the child.

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

The information must be destroyed at the request of the parents. The parents have the right to request a copy of the information at no cost.

However, DCS must keep a permanent record of the student's name, address, telephone number, grades, attendance record, classes attended, grade level completed and year completed.

Amendments of Records at Parent Request

If a parent believes that information in the education records collected, maintained, or used is inaccurate or misleading or violates the privacy or other rights of the child, the parent may request DCS to amend the information. DCS must decide whether to amend the information in accordance with the request. This decision must be made within a reasonable period of time of receipt of the request. If DCS decides to refuse to amend the information in accordance with the request, it must inform the parents of the refusal and advise the parent of the right to a hearing. If DCS agrees to amend the information in accordance with the request, it must notify the parent within a reasonable time period from when the amendment has been completed.

Opportunity for a Hearing

If the parent requests a hearing, DCS provides an opportunity for a hearing to challenge information in educational records to ensure that it is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the child. DCS must hold the hearing within a reasonable time after it has received the request for the hearing from the parent. The parents must be given a notice (within a reasonable amount of time) of the date, time and place of the hearing. Any individual, including an official of the educational agency who does not have direct interest in the outcome of the hearing, may conduct the hearing. The parent must have a full and fair opportunity to present evidence relevant to the issue raised. The parent may, at their own expense, be represented by an attorney(s) licensed to practice law in Mississippi and one or more individuals of their choice. The public agency must make its decision in writing within a reasonable period of time after the hearing. The decision must be based solely on the evidence

presented at the hearing and must include a summary of the evidence and the reasons for the decision.

Result of the Hearing

If, as a result of the hearing, DCS determines that evidence presented in the hearing substantiates the parents' charge, the student's record will be amended to correct the error and the parent shall be informed in writing that this amendment has been made.

If, as a result of the hearing, DCS determines that the records are not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the parent shall be informed of this decision and their right to place in their child's record a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the hearing. The statement shall be maintained with the contested part of the record for as long as the record is maintained. If the records of the child or the contested portion are disclosed by DCS to any party, the explanation must also be disclosed to the party.

Referral To and Action by Law Enforcement and Judicial Authorities

If DCS has reported a crime committed by a child with a disability, DCS may forward copies of the special education and disciplinary records of the child for consideration by the appropriate authorities to whom the agency reported the crime. Parental consent will be required when releasing personally identifiable information except in certain limited circumstances. These circumstances would include:

- DCS initiates legal action against a parent or student. DCS may disclose to the court the education records of the student that are relevant for DCS to proceed with the legal action as plaintiff.
- A parent initiates legal action against DCS. DCS may disclose to the court the education records of the student that are relevant for the agency to defend itself.
- The disclosure is in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. Appropriate information concerning disciplinary action taken against the student may also be included if the student's conduct posed a significant risk to the safety or well-being of that student, other students or other members of the school community.
- The student is an alleged perpetrator of a crime of violence or non-forcible sex offense.
- The student has committed a violation of the institution's rules or policies.

REGULATORY REFERENCE

§§300.611-300.612; 300.615-300.626

Appendices

Appendix C.A	Confidentiality Access List
Appendix C.B	Access to Confidential Records
Appendix C.C	Authorization to Use and/or Disclose Educational and Protected Health Information

Confidentiality Access List

- DCS Procedure is that this list is updated annually and placed on the file cabinets that hold all SPED files.
- Only individuals listed on this form will have access to Special Education Files.



**Special Education Department
Confidentiality Access List**

The confidentiality Officer (MET Chairperson) determines who has access to the records and ensures that no file is reviewed by anyone that is not on the access list. The confidentiality list which lists who has access to the files, must be firmly attached to each filing cabinet which has SPED student files inside. Please list appropriate names below, laminate and adhere to cabinet in a prominent place.

Only those listed below may have access to these files

Name	Title
Elisa Goss	Director of Special Education
Mandy Lindsey	Assistant Director of Special Education
Sarah Grace	Special Education Supervisor
Monika Newson	Special Education Supervisor
Kimberley Sandlin	Special Education Supervisor
Carla Respass	Special Education Supervisor
Ashley Privett	Special Education Supervisor
Shannon Hall	Special Education Supervisor
Tanya Keck	SPED curriculum Coordinator
Stacie Mathis	Lead SLP
Anna Lyons	SPED Social Worker
Amber Melton	504 Supervisor
Candence Johnson	Alternate Placement Case manager
	SPED Data clerk
	MET Chair
	SPED Teacher
	SPED Teacher
	Sped Teacher
	SPED Teacher
	SPED Teacher
	SPED Teacher
	SPED Teacher
	Principal
	Assistant Principal
	Assistant Principal
	Speech Therapist
	OT/COTA
	PT/PTA
	PBS
	Therapeutic interventionist
	Audiologist
	Visually Impaired Teacher
	Psychologist/Psychometrist

DESOTO COUNTY SCHOOLS

Access to Confidential Records

PERSON(S) REVIEWING _____'s Record

Date	Name/Position of Person Reviewing Record	Purpose

Authorization to use and/or Disclose Educational and Protected Health Information

- The provided medical form allows DCS to send or receive important Medical and Educational information about a student.
- This form can be found in Edplan under District Documents.
- When completing the form, be sure to include:
 - Student's name and Date of Birth
 - The name, address, phone number and fax number of the agency requesting the records or sending records.
 - The name, address, phone number, and fax number of the of the school requesting records or sending records.
 - Mark the purpose the information will be utilized for and types of records being requested.
 - Write the name of the person to contact in case the parent were to revoke the authorization on #6.
 - On #7, have the parent/guardian sign, indicate their relationship to the student and date.
 - Write the expiration date, 1 year from the date it was signed, at the bottom of the form.

DC-27

Authorization to Use and/or Disclose Educational and Protected Health Information

<p>1. I authorize the following provider(s) to use and/or disclose educational and/or protected health information regarding my child.</p>					
<p>_____ (Student/Child's Name)</p> <p>_____ (Date of Birth)</p> <p>_____ (Other Names Used by Student/Child)</p> <p>_____ (School or Program Name)</p> <p>Name and address of health care provider authorized to:</p> <p><input type="checkbox"/> Send/disclose protected health information</p> <p><input type="checkbox"/> Receive/use educational information</p> <p>_____</p> <p>_____</p>	<p>Name and address of school program authorized to:</p> <p><input type="checkbox"/> Send/disclose educational information</p> <p><input type="checkbox"/> Receive/use protected health information</p> <p>_____</p> <p>_____</p>				
<p>2. I understand that this information will be used for the following purposes (check all that apply):</p> <p><input type="checkbox"/> Determining eligibility for Special Education or other services</p> <p><input type="checkbox"/> Determining student/child's current levels of performance</p> <p><input type="checkbox"/> Developing an individualized health plan</p> <p><input type="checkbox"/> Developing an appropriate Individualized Education Program, Section 504 plan or academic/behavior interventions</p> <p><input type="checkbox"/> Other (specify): _____</p>					
<p>3. By marking the boxes below, I authorize the use/disclosure of the following specific medical and/or educational records:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Physician's Eligibility Statement <input type="checkbox"/> Health Assessment Statement <input type="checkbox"/> History and physical exam <input type="checkbox"/> Entire medical record <input type="checkbox"/> Prenatal information </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Educational information <input type="checkbox"/> IFSP/IEP document <input type="checkbox"/> Clinic records <input type="checkbox"/> Communicable disease(s) <input type="checkbox"/> Progress notes </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Psychological evaluations <input type="checkbox"/> Social work reports <input type="checkbox"/> Other: _____ </td> </tr> </table>			<input type="checkbox"/> Physician's Eligibility Statement <input type="checkbox"/> Health Assessment Statement <input type="checkbox"/> History and physical exam <input type="checkbox"/> Entire medical record <input type="checkbox"/> Prenatal information	<input type="checkbox"/> Educational information <input type="checkbox"/> IFSP/IEP document <input type="checkbox"/> Clinic records <input type="checkbox"/> Communicable disease(s) <input type="checkbox"/> Progress notes	<input type="checkbox"/> Psychological evaluations <input type="checkbox"/> Social work reports <input type="checkbox"/> Other: _____
<input type="checkbox"/> Physician's Eligibility Statement <input type="checkbox"/> Health Assessment Statement <input type="checkbox"/> History and physical exam <input type="checkbox"/> Entire medical record <input type="checkbox"/> Prenatal information	<input type="checkbox"/> Educational information <input type="checkbox"/> IFSP/IEP document <input type="checkbox"/> Clinic records <input type="checkbox"/> Communicable disease(s) <input type="checkbox"/> Progress notes	<input type="checkbox"/> Psychological evaluations <input type="checkbox"/> Social work reports <input type="checkbox"/> Other: _____			
<p>4. By <u>initialing</u> the spaces below, I authorize the use/disclosure of the following information. Specific records requested <u>must</u> be listed below, e.g., assessment, treatment plan, discharge plan.</p> <p>Drug/alcohol diagnosis, treatment or referral information requested: _____</p> <p>HIV/AIDS related records requested: _____</p> <p>Mental health related information requested: _____</p> <p>Genetic testing information requested: _____</p>					
<p>5. By <u>initialing</u> the space below, I agree that:</p> <p>The _____ may communicate with MS Medical Assistance Programs to determine eligibility for Medicaid reimbursement for Medicaid-covered services my child may receive in the educational setting.</p> <p style="text-align: center; font-size: small;">(School/Program Name)</p>					
<p>6. I understand that:</p> <p>a. This authorization is voluntary and I may refuse to sign it without affecting my child's health care.</p> <p>b. I have the right to request a copy of this form after I sign it as well as inspect or copy any information to be used and/or disclosed under this authorization (if allowed by state and federal law. See 45 CFR § 164.524).</p> <p>c. I may revoke this authorization at any time by notifying _____ in writing. However, it will not affect any actions taken before the revocation was received or actions taken based on the previously shared information.</p> <p>d. Federal privacy rules for <u>protected health information</u> apply only to health plans, health care clearinghouses or health care providers. If I authorize disclosure of medical information to other agencies or individuals the disclosed information may no longer be protected by federal privacy regulations.</p> <p>e. Federal privacy rules for <u>education information</u> apply only to schools programs. If I authorize disclosure of educational information to other agencies or individuals the disclosed information may no longer be protected by federal privacy regulations.</p>					
<p>7. I consent to the use/disclosure of the above information. I understand that the use of this information for any reasons other than the expressed reasons stated above is prohibited. This consent is subject to revocation at any time, except to the extent that action has been taken based on information that has already been disclosed.</p> <p>_____ (Signature of Parent, Legal Guardian, Student/Child)</p> <p>_____ (Relationship)</p> <p>_____ (Date)</p>					
<p>8. This authorization expires on _____ (not to exceed one year from date of signature above).</p> <p style="text-align: center; font-size: small;">(Month/Day/Year)</p>					



Every Student
Every Employee
Every School
#TeamDCS

Our Vision

The DeSoto County School District will be regionally and nationally recognized as a system of superior-performing schools that ignite a passion for learning, while inspiring student success through instructional excellence and exemplary leadership.

Our Mission

The DeSoto County School District is dedicated to ensuring world-class academic excellence within a safe learning environment, while providing a variety of exceptional extracurricular programs that foster the physical, social, and emotional growth of all students.