

Sec. 1. PROCEDURAL SAFEGUARDS

The Superintendent shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (“FAPE”). 20 U.S.C. 1415(a)–(b).

The Texas Education Agency has created the Notice of Procedural Safeguards, a copy of which is available through the Legal Framework hosted by ESC Region 18: https://framework.esc18.net/documents/pro_safeguards_eng.pdf. 34 CFR §300.508.

Texas College Preparatory Academies shall provide a copy of the procedural safeguards created by the Texas Education Agency to each parent of a student with a disability, or an adult student, annually, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

Texas College Preparatory Academies may also place a current copy of the procedural safeguards notice on its Internet website. 34 CFR §300.504.

Sec. 2. CONSENT

Consent means that:

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
2. The parent understands and agrees in writing to the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. A revocation of consent is not retroactive.

If the parent revokes consent in writing for his or her child’s receipt of services after the child is initially provided special education and related services, Texas College Preparatory Academies is not required to amend the child’s education records to remove any references to the child’s receipt of services because of the revocation of consent.

34 CFR 300.9

Sec. 3. LANGUAGE OF NOTICES

The procedural safeguards and prior notices described in this policy must be written in a language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. 34 CFR 300.503(c), 300.504(d).

a) *Electronic Delivery of Notices*

A parent of a child with a disability may elect to receive required notices by electronic mail, if Texas College Preparatory Academies makes that option available. 34 CFR 300.505.

Sec. 4. PRIOR NOTICE AND CONSENT

Whenever Texas College Preparatory Academies proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education to the student, Texas College Preparatory Academies must provide prior written notice as required in 34 CFR, §300.503, including providing the notice in the parent's native language or other mode of communication. This notice must be provided to the parent at least five school days before the school district proposes or refuses the action unless the parent agrees to a shorter time frame. 19 T.A.C. § 89.1050(h).

a) *Contents of Notice*

The notice must include:

1. A description of the action proposed or refused by Texas College Preparatory Academies;
2. An explanation of why Texas College Preparatory Academies proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report Texas College Preparatory Academies used as a basis for the proposed or refused action;
4. A statement that the parents have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained;
5. Sources for parents to contact to obtain assistance in understanding the IDEA rules;
6. A description of other options the admission, review and dismissal (“ARD”) committee considered and the reasons why those options were rejected; and
7. A description of other factors relevant to Texas College Preparatory Academies’s proposal or refusal.

34 CFR 300.503(b)

Sec. 5. CONSENT TO INITIAL EVALUATION

Before Texas College Preparatory Academies conducts an initial evaluation, it shall provide prior written notice, including a description of any evaluation Texas College Preparatory Academies proposes to conduct, and obtain informed consent for the evaluation from the parents. 20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.304(a).

Sec. 6. CONSENT TO SERVICES

Texas College Preparatory Academies shall obtain informed consent from the parent before providing special education and related services to a child. 20 U.S.C. 1414(a)(1)(D). Texas College Preparatory Academies shall maintain documentation of reasonable efforts to obtain the parent's consent for initial evaluations, to provide special education and related services for the first time, for a reevaluation, and to locate parents of wards of the State for initial evaluations. 34 CFR §300.300.

Sec. 7. CONSENT TO REEVALUATION

Texas College Preparatory Academies shall obtain informed parental consent before conducting any reevaluation of a child with a disability. If a parent revokes (cancels) consent in writing at any point after the student is first provided special education and related services, then Texas College Preparatory Academies shall not continue to provide such services, but shall provide the parent with prior written notice before discontinuing those services. 34 CFR §300.300.

Sec. 8. CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING

A Texas College Preparatory Academies member of the ARD committee may be excused from attending an individualized education program ("IEP") meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and Texas College Preparatory Academies consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

Sec. 9. PSYCHOLOGICAL EXAMINATIONS AND TESTS

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, Texas College Preparatory Academies shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

If Texas College Preparatory Academies determines that an additional examination or test is required for the evaluation of a child's need for special education, Texas College Preparatory Academies shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test. Education Code 29.0041(a), (b).

Sec. 10. PARENTAL CONSENT TO ACCESS PUBLIC BENEFITS

Texas College Preparatory Academies shall obtain informed consent from the parent each time that access to a parent's private insurance proceeds or to public benefits or an insurance program is sought. (34 CFR §300.154(d)(2)(iv)(A))

Sec. 11. PARENTAL CONSENT FOR TRANSFER OF ASSISTIVE TECHNOLOGY DEVICES

Texas College Preparatory Academies shall obtain informed consent from the parent, or the adult student if the adult student has the legal capacity to enter into a contract before transferring an assistive technology device through a transfer agreement that incorporates the standards of the state.

Sec. 12. OTHER CONSENT REQUIREMENTS

Parental consent is not required before Texas College Preparatory Academies may:

1. review existing data as part of the student's evaluation or a reevaluation; or
2. give the student a test or other evaluation that is given to all students unless, before that test or evaluation, consent is required from parents of all students. 34 CFR 300.300(d).