

# Parent and Child Rights in Special Education

## Procedural Safeguards Notice

An Explanation of Procedural Safeguards Available Under Provisions of the Individuals with Disabilities Education Act (IDEA) and the Colorado Rules for the Administration of the Exceptional Children's Educational Act (ECEA)

### **Requirements for Unilateral Placement by Parents of Children in Private Schools at Public Expense**

#### **GENERAL**

34 CFR §300.148

Part B of the IDEA does not require an administrative unit to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the administrative unit made a free appropriate public education (FAPE) available to your child and you choose to place the child in a private school or facility. However, the administrative unit where the private school is located must include your child in the population whose needs are addressed under the Part B provisions regarding children who have been placed by their parents in a private school under 34 CFR §§300.131 through 300.144.

#### **Reimbursement for private school placement**

If your child previously received special education and related services under the authority of an administrative unit, and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the administrative unit, a court or a hearing officer may require the administrative unit to reimburse you for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education (FAPE) available to your child in a timely manner prior to that enrollment and that the private placement is appropriate. A hearing officer or court may find your placement to be appropriate, even if the placement does not meet the State standards that apply to education provided by the Colorado Department of Education and administrative units.

#### **Limitation on reimbursement**

The cost of reimbursement described in the paragraph above may be reduced or denied:

1. If: (a) At the most recent individualized education program (IEP) meeting that you attended prior to your removal of your child from the public school, you did not inform the IEP Team that you were rejecting the placement proposed by the administrative unit to provide FAPE to your child, including stating your concerns and your intent to enroll your child in a private school at public expense; or (b) At least 10 business days (including any holidays that occur on a business day) prior to your removal of your child from the public school, you did not give written notice to the administrative unit of that information;
2. If, prior to your removal of your child from the public school, the administrative unit provided prior written notice to you, of its intent to evaluate your child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but you did not make the child available for the evaluation; **or**
3. Upon a court's finding that your actions were unreasonable.

However, the cost of reimbursement:

1. Must not be reduced or denied for failure to provide the notice if: (a) The administrative unit prevented you from providing the notice; (b) You had not received notice of your responsibility to provide the notice described above; or (c) Compliance with the requirements above would likely result in physical harm to your child; **and**
2. May, in the discretion of the court or a hearing officer, not be reduced or denied for the parents' failure to provide the required notice if: (a) The parent is not literate or cannot write in English; or (b) Compliance with the above requirement would likely result in serious emotional harm to the child