

PROFESSIONAL STAFF SHORT-TERM LEAVES AND ABSENCES

Consistent contact with students and staff is important to the learning environment and district operation and therefore is an essential duty of a professional staff member's position. When a professional staff member is routinely tardy, frequently absent or is absent for an extended period of time, the learning environment and district operations deteriorate and the students suffer.

Professional staff employees may be terminated for excessive absences or tardiness. Unless authorized by the Board or the superintendent or otherwise by law, an employee's absence or tardiness is considered excessive if it:

- *** Is for a reason not granted as paid or protected leave under Board policy.
- *** Exceeds the number of days allotted by the Board for that particular leave.
- *** Is for a reason authorized by Board policy but exceeds five (5) days a month, 20 days in a semester or 40 days per school year, unless otherwise authorized by law.

Even if the absence or tardiness is authorized by the Board or the superintendent, if the absence or tardiness occurs for a reason not granted as paid leave under Board policy or if it exceeds the number of days the employee has been granted under a designated leave, the employee's salary will be docked.

No employee will be disciplined or terminated for absences qualifying for protection under the Family and Medical Leave Act (FMLA) or other applicable law.

The district may require an employee to present a certification of fitness to return to work whenever the employee is absent from work due to the employee's health.

The following leaves with pay will be accorded full-time professional staff employees:

Professional Leave—Professional staff employees whose assignments call for 12 months of full-time employment will be entitled to 12 days of professional leave. Professional staff employees whose assignments call for full-time employment only during the regular school term will be entitled to ten (10) days of professional leave. Any absences beyond 12 days for a 12 month employee or ten (10) days for employees that are employed during the regular school term will be considered sick leave and the employee must present a doctor's excuse upon returning to work. Professional leave days may be used for illness, jury duty, to attend funerals or other personal business, at the discretion of the employee. An employee may use professional leave days for three

(3) consecutive days without giving a reason for the absence, unless taken in conjunction with a holiday. An employee may only take professional leave in conjunction with a professional development day or a scheduled day(s) off (i.e., first day of school, last day of school, holiday) if he or she is able to prove the leave was needed for reasons related to an illness, verified with a note from the physician or with prior approval of the superintendent. An employee may only use more than three (3) consecutive days for the following reasons related to illness or with prior approval of the superintendent or Board of Education.:

- a. Illness, temporary disability or permanent disability of the employee. The board reserves the right to require a physician's certification attesting to the illness or disability of the claimant and/or inclusive dates of the employee's incapacitation if the absence is for more than ten (10) consecutive days. FMLA health certification procedures apply to FMLA qualifying absences, even if such absences are paid sick leave. The district need not wait ten (10) days before requesting an FMLA Certification of Health Care Provided form in conjunction with a preliminary designation that FMLA applies to an absence.
- b. Illness or injury to a member of the immediate family. The Board defines "immediate family" to include spouse, parents, children, mother-in-law, father-in-law, grandparents, grandchildren, brothers and sisters of an employee or employee's spouse. (Note: "Family" for FMLA purposes is more limited.)
- c. Illness or injury of other relatives, with permission granted by the Superintendent.

Any unused days will be accumulated and may be used in following years. However, accumulated days may only be used for reasons related to illness detailed above and verified with a note from the physician.

An absence of over one (1) through four (4) hours shall be counted as half-day of professional leave. Donation of professional leave days to any individual for any reason will not be permitted.

A district employee shall not be entitled to use professional leave days during the period the employee receives Workers' Compensation for time lost to work related incidents.

Any certificated employee who is a member of a retirement system shall remain a member during any period of leave under sick leave provisions of the district or under Workers' Compensation. The employee shall also receive creditable service credit for such leave time if the employee makes contributions to the system equal to the amount of contributions that he or she would have made had he or she been on active service status.

To be paid for any professional leave days accumulated, the employee must notify their direct supervisor in writing their intention to retire prior to April 15.

Whenever possible, it is expected that requests for leave will be made in writing to the designated administrator at least 48 hours in advance of the time leave is requested. However, 30 days' notice is required by law if the leave qualifies as FMLA leave. The Administrator will respond promptly to the employee's written request.

Vacation—All professional staff employed on a 12-month basis will receive vacation as follows:

- 1-10 years service in the district-two (2) weeks.
- 11-15 years service in the district-three (3) weeks.
- 16 years and beyond service in the district-four (4) weeks.

The superintendent will receive four (4) weeks vacation regardless of years of service in the district.

An employee must submit a written request for vacation to the superintendent and receive written authorization before taking vacation days. If the employee's absence may disrupt district operations, the superintendent has the discretion to deny a request for vacation or to limit the time of year the employee may take his or her vacation.

A district employee shall not be entitled to use vacation days during the period the employee receives Workers' Compensation for time lost to work-related incidents.

Military Leave—The Board shall grant military leave as required by law.

Election Leave—Any employee who is appointed as an election judge pursuant to State law may be absent on any election day for the period of time required by the election authority. The employee must notify the district at least seven (7) days prior to any election in which the employee will serve as an election judge. No employee will be terminated, disciplined, threatened or otherwise subjected to adverse action based on the employee's service as an election judge.

Leave to Vote—Employees who do not have three (3) successive hours free from work while the polls are open will be granted a leave period of three (3) hours for the purpose of voting. Requests for such leave must be made prior to election day. And the employee's supervisors will designate when during the workday the leave should be taken. Any employee who properly requests leave to vote and uses the leave for that purpose will not be subject to discipline, termination or loss of wages or salary.

Pregnancy, Childbirth and Adoption Leave

A pregnant employee shall continue in the performance of her duties as long as she is able to do so, as long as her ability to perform duties is not impaired, based on medical opinion.

The employee may use accrued professional leave or vacation leave during periods of pregnancy-related disability and, if necessary, an unpaid leave of absence to begin at the time recommended by her physician. The employee shall return to duty when she is physically able, based on medical opinion, except that this paragraph creates no rights extending beyond the contacted period of employment.

Pregnant employees shall be treated the same as other employees who are similar in their ability or inability to work for all purposes under this policy.

An employee who is primary caretaker of an adopted child will be provided the same leave opportunities afforded employees for pregnancy-related leave for the purpose of arranging for the child's placement or caring for the child after placement.

An employee must notify the district of the need for and anticipated duration of the leave At least 30 days before leave is to begin, if foreseeable. If 30 days' notice is not practicable, the employee must give as much notice as possible.

These rules are subject to pre-emption by the FMLA as necessary for FMLA-eligible employees.

Family/Medical Leave

Family and Medical Leave Act cases will be administered in accordance with federal law.

For all FMLA purposes, the district adopts a 12-month leave year beginning July 1 and ending the following June 30. All eligible employees are entitled to family/medical leave for a period not to exceed 60 workdays per leave year. When an employee has an absence (taken as paid or unpaid leave) AND the absence meets the criteria to be an FMLA-qualified absence, the district may designate such absence as part of the employee's total annual FMLA entitlement. If any employee is on Workers' Compensation absence due to an injury or illness that would also qualify as a serious health condition under the FMLA, the same absence may also be designated as FMLA-Qualifying and charged against the employee's FMLA-protected time entitlement.

The district shall apply paid leave, including professional leave and vacation time, to an FMLA absence to the extent allowed by law, giving proper notice to the employee. If an employee's accrued paid leave is exhausted but an FMLA-qualifying reason for absence persists, or a new FMLA-qualifying reason for absence occurs, the resulting absences will continue to be protected FMLA leave until the aggregate of 12 work weeks of designated FMLA leave has been reached, but such absences will be unpaid.

Employees who take leave without pay under the provisions of this section shall be entitled to continued participation in the district's health plan. However, an employee who fails to return to work after the expiration of his or her allowed leave time will be expected to reimburse the district for those benefits paid, as required by law

To be eligible for unpaid family/medical leave, the employee must have:

1. Been employed in the district for at least 12 months (but not necessarily consecutively),
2. Been employed for at least 1,250 hours of service during the 12-month period immediately preceding the leave (full-time teachers are deemed to meet this requirement), and
3. Given at least a 30-day notice for foreseeable circumstances.

FMLA-qualified leave includes the following reasons:

1. Birth and first-year care of the employee's child.
2. Adoption or foster placement of a child with the employee.
3. Serious health condition of the employee or the employee's spouse, child or parent.

Additional Provisions—Leave for Health-Related Reasons

The district reserves the right to require certification of the serious health condition of the employee or employee's family member. Employees on FMLA-designated leave must periodically report on their status and intent to return to work. The district may also require that an employee present a certification of fitness to return to work.

FMLA leave may be taken intermittently as required for the health of the employee or family member or as reduced schedule leave in hourly increments. Under circumstances allowed by law, the district may require instructional employees who request intermittent leave due to medical reasons to take block leave or to find an alternate placement for the period of planned medical treatment. However, if the intermittent leave equals more than 20 percent of instructional time special rules apply as set forth by law. When an instructional employee on FMLA leave is scheduled to return close to the end of a school term, the district may elect to use a special rule to prolong the employee's leave until the beginning of the next school term, thus extending the leave beyond the period where an FMLA-qualifying reason exists. In such an instance, the prolonged leave time is unpaid and is not charged against the employee's annual FMLA entitlement. In cases where the special rules for instructional employees apply, the superintendent may apply those special rules or the general FMLA rules as better serves the interest of the district.

Notice

Information concerning the employee's rights under this act will be posted in accordance with law and will be provided in any employee handbooks that are distributed.

For any employee who is not eligible for the FMLA leave, including any employee who has exhausted available FMLA time, requests for leave and the use of benefits time shall proceed according to the district's established policies, and the procedural requirements of the FMLA shall not apply where they are not mandated by law.

Note: The reader is encouraged to review administrative procedures and/or forms for related information in support of this policy area.

Adopted: 05/17/1999

Last Revised 07/21/2003

Cross Refs: DLB, Salary Deductions
GCBC, Professional Staff Fringe Benefits
GCBDB, Professional Staff Long-Term Leaves and Absences
GCL, Professional Staff Development Opportunities

Legal Refs: SS 105.102, .270, .271, 115.639, 168.122, 169.595, RSMo.
Title VII, Civil Rights Act of 1964 as Amended by the Pregnancy
Discrimination Act, 42 U.S.C. SS2000 e(k)
29 C.F.R. S1604.10
Family and Medical Leave Act of 1993, 29 U.S.C. SS2611-2619
Aubuchon v. Gasconade County R-1 School Dist., 541 S.W. 2d 322
(Mo. App. 1976)
Stewart v. Bd. Of Ed. Of Ritenour, 574 S.W. 2d 471 (Mo. App. 1978)
Willis v. School Dist. Of Kansas City, 606 S.W. 2d 189 (Mo. App. 1980)

Central R-III School District, Park Hills, Missouri

SUPPORT STAFF LEAVES AND ABSENCES

Consistent staffing is important to the learning environment and district operation and therefore is an essential duty of all employees. When an employee is routinely tardy, frequently absent or is absent for an extended period of time, the learning environment and district operations deteriorate and the students suffer.

Employees may be terminated for excessive absences or tardiness. Unless authorized by the Board or superintendent, or otherwise authorized by law, an employee's absence or tardiness is considered excessive if it:

- Is for a reason not granted as paid or protected leave under Board policy.
- Exceeds the number of days allotted by the Board for that particular leave.
- Is for a reason authorized by Board policy but exceeds five (5) days a month, 20 days in a semester or 40 days per school year, unless otherwise authorized by the Board.

The employee's salary will be docked if the absence or tardiness occurs for a reason not granted as paid leave under Board policy or if it exceeds the number of days the employee has been granted under a designated leave, even if the absence or tardiness is authorized by the Board or the superintendent.

No employee will be disciplined or terminated for absences qualifying for protection under the Family and Medical Leave Act (FMLA) or other applicable law.

The district may require an employee to present a certification of fitness to return to work whenever the employee is absent from work due to the employee's health.

Leave with pay will be provided full-time support staff employees in accordance with the following guidelines.

Any support staff employees whose assignments call for 12 months of full-time employment will be entitled to 12 days of leave. Support staff employees whose assignments call for full-time employment only during the regular school term will be entitled to ten (10) days of leave. Any absences beyond 12 days for a 12 month employee or ten (10) days for employees that are employed during the regular school term will be considered sick leave and the employee must present a doctor's excuse upon returning to work. Leave days may be used for illnesses, jury duty, to attend funerals or other personal business, at the discretion of the employee. An employee may use leave

days for three (3) consecutive days without giving a reason for the absence, unless taken in conjunction with a holiday. An employee may only take leave in conjunction with a professional development day or a scheduled day(s) off (i.e., first day of school, last day of school, holiday) if he or she is able to prove the leave was needed for reasons related to an illness, verified with a note from the physician or with prior approval of the superintendent. An employee may only use more than three (3) consecutive days for the following reasons related to illness:

- a. Illness, temporary disability or permanent disability of the employee. The Board reserves the right to require a physician's certification attesting to the illness or disability of the claimant and/or inclusive dates of the employee's incapacitation if the absence is for more than ten (10) consecutive days. The FMLA health certification procedures apply to FMLA-qualifying absences, even if such absences are paid sick leave. The district need not wait ten (10) days before requesting an FMLA Certification of Health Care provider form in conjunction with a preliminary designation that FMLA applies to absence.
- b. Illness or injury to a member of the immediate family. The Board defines "immediate family" to include spouse, parents, children, mother-in-law, father-in-law, grandparents, grandchildren, brothers and sisters of an employee or employee's spouse. (Note: "Family" for FMLA purpose is more limited.)
- c. Illness or injury or other relatives, with permission granted by the Superintendent.

Any unused days will be accumulated and may be used in following years. However, accumulated days may only be used for reasons related to illness detailed above and verified with a note from the physician. An absence of over one (1) through four (4) hours shall be counted as a half-day of leave.

To be paid for any professional leave days accumulated, the employee must notify their direct supervisor in writing their intention to retire prior to April 15.

A district employee shall not be entitled to use leave days during the period the employee receives Workers Compensation for time lost to work-related incidents.

Whenever possible, it is expected that requests for leave will be made in writing to the designated administrator at least 48 hours in advance of time leave is requested. However, 30 days' notice is required by law if the leave qualifies as FMLA leave. The administrator will respond promptly to the employee's written request.

Vacation—All support staff employed on a 12-month basis will be entitled to two (2) weeks of vacation for years one (1-15). Three (3) weeks of vacation will be awarded to employees who have 16-20 years of employment. Four (4) weeks of vacation will be

awarded to employees who have over 20 years of employment. An employee must submit a written request for vacation to his or her supervisor and receive written authorization before taking vacation days. If the employee's absence may disrupt operations, the supervisor has the discretion to deny a request for vacation or to limit the time of year the employee may take his or her vacation. A district employee shall not be Entitled to use vacation days during the period the employee receives Workers Compensation for time lost to work-related incidents.

Holidays--Thanksgiving Day, Christmas Eve, Christmas Day, New Year's Day, President's Day, Good Friday, Memorial Day, July 4th and Labor Day.

Military Leave—The Board shall grant military leave as required by law.

Election Leave—Any employee who is appointed as an election judge pursuant to state law may be absent on any election day for the period of time required by the election authority. The employee must notify the district at least seven (7) days prior to any election in which the employee will serve as an election judge. No employee will be terminated, disciplined, threatened or otherwise subjected to adverse action based on the employee's service as an election judge.

Leave to Vote—Employees who do not have three (3) successive hours free from work while the polls are open will be granted a leave period of three (3) hours for the purpose of voting. Requests for such leave must be made prior to election day, and the employee's supervisors will designate when during the workday the leave should be taken. Any employee who properly requests leave to vote and uses the leave for that purpose will not be subject to discipline, termination or loss of wages or salary.

Pregnancy, Childbirth and Adoption Leave

A pregnant employee shall continue in the performance of her duties as long as she is able to do so, and as long as her ability to perform duties is not impaired, based on medical opinion.

The employee may use accrued professional leave or vacation leave during periods of pregnancy-related disability and, if necessary, an unpaid leave of absence to begin at the time recommended by her physician. The employee shall return to duty when she is physically able, based on medical opinion, except that this paragraph creates no rights extending beyond the contracted period of employment.

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An employee must notify the district of the need for any anticipated duration of the leave at least 30 days before leave is to begin, if foreseeable. If 30 days' notice is not practicable, the employee must give as much notice as possible.

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The district shall apply paid leave, including leave and vacation time, to an FMLA absence to the extent allowed by law, giving proper notice to the employee. If an employee's accrued paid leave is exhausted but an FMLA-qualifying reason for absence persists, or a new FMLA qualifying reason for absence occurs, the resulting absences will continue to be protected FMLA leave until the aggregate of 12 work weeks of designated FMLA leave has been reached, but such absences will be unpaid.

Employees who take leave without pay under the provisions of this section shall be entitled to continued participation in the district's health plan. However, an employee who fails to return to work after the expiration of his or her allowed leave time will be expected to reimburse the district for those benefits paid, as required by law.

To be eligible for unpaid family/medical leave, the employee must have:

1. Been employed in the district for at least 12 months (but not necessarily consecutively), and
2. Been employed for at least 1,250 hours of service during the 12 month Period immediately preceding the leave (full-time teachers are deemed to Meet this requirement), and
3. Given at least a 30-day notice for foreseeable circumstances.

FMLA -qualified leave includes the following reasons:

1. Birth and first-year care of the employee's child.
2. Adoption or foster placement of a child with the employee.
3. Serious health condition of the employee or the employee's spouse, child or parent.

The district reserves the right to require certification of the serious health condition of the employee or employee's family member. Employees on FMLA-designated leave must periodically report on their status and intent to return to work. The district may also require that an employee present a certification of fitness to return to work. FMLA leave may be taken intermittently as required for the health of the employee or family member or as reduced schedule leave in hourly increments.

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For any employee who is not eligible for the FMLA leave, including any employee who has exhausted available FMLA leave, including any employee who has exhausted available FMLA time, requests for leave and the use of benefits time shall proceed according to the district's established policies, and the procedural requirements of the FMLA shall not apply where they are not mandated by law.



Note: The reader is encouraged to review administrative procedures and/or forms for related information in support of this policy area.

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 Discrimination Act, 42 U.S.C. SS2000 e(k)
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Central R-III School District, Park Hills, Missouri

NONDISCRIMINATION

A. Anti-Discrimination Law Compliance

As a political subdivision, employer, recipient of federal funds and educational institution, the Board of Education is prohibited from, and hereby declares a policy against, engaging in unlawful discrimination, including harassment creating a hostile environment.

B. Collateral Prohibitions

As part of this obligation, the Board is also prohibited from, and declares a policy against:

- (1) Retaliatory actions based on making complaints of prohibited discrimination or participation in an investigation, formal proceeding or informal resolution concerning prohibited discrimination.
- (2) Aiding, abetting, inciting, compelling or coercing discrimination, and
- (3) Discrimination against any person because of such person's association with a person protected from discrimination due to one or more of the above-stated characteristics.

C. Compliance Officer Appointment

To ensure that these obligations are met, the Board designates the following individual to act as the district's nondiscrimination laws compliance coordinator, who shall also be the appointee for all laws specifically mandating such an appointment, and who shall have the duty of keeping the superintendent informed of the state of compliance with This policy district wide:

**Director, Special Services, 200 High Street, Park Hills, Mo. 63601
Phone (573) 431-2713; fax (573) 431-2107**

D. Reporting and Complaint

Complaints and reports regarding discharge of the duties summarized in this policy should be addressed to the compliance coordinator. Any employee of the district or a member of the Board of Education who becomes apprised of a possible violation of this policy must report the matter to the coordinator. In the event the compliance coordinator is the subject of a report that would otherwise be made to the compliance coordinator, reports should instead be directed to: (Superintendent, 200 High Street, Park Hills, Mo. 63601, Phone 573-431-2616, Fax 573-431-2107), who will assume the coordinator's duties for the purpose of that complaint.

E. Grievance Procedure and Resolution of Complaints

The administration will establish an effective grievance procedure and take any other actions necessary to carry out this policy, with due regard for the substantive and procedural rights of all parties concerned.

F. Confidentiality and Records

To the extent permitted by law, any public record held by this district that is generated or received pursuant to this policy shall be closed and available only to the Board acting as a quorum, a committee appointed by the Board to carry out this policy on a permanent or ad hoc basis, the compliance coordinator and other administrators whose duties require access to the record in order to carry out this policy. Such persons may share access, on an individual basis, to such records with complainants or participants in a grievance or other resolution, only to the extent such disclosure promotes the purposes of this policy and is not prohibited by FERPA or any other law. Certain other limited disclosures may be required when material in the records is integral to an action affecting a constitutionally recognized property or liberty interest

G. Public Notice and Dissemination

A copy of this policy will be posted in a public area of each building used for instruction and/or administrative offices. A copy of this policy will also be distributed annually to employees, parents or guardians, and students. The administration is directed to further publicize this policy and provide for such training or instruction as necessary to ensure district-wide compliance with anti-discrimination laws, including instruction in recognizing behavior indicative of a violation of this policy.

H. Limitations

Nothing in this policy shall be construed as creating a cause of action. neither the proscriptions of, nor actions taken under this policy shall on that basis stop the Board from fully arguing for or against the existence of any fact and the scope or meaning of any law in any forum.

**FILE: GBEB
CRITICAL**

DRUG FREE WORKPLACE

Student and employee safety is of paramount concern to the Board of Education. Employees under the influence of alcohol, drugs, or controlled substances are a serious risk to themselves, to students and to other employees. Therefore, the Board of Education shall not tolerate the manufacture, use, possession, sale, distribution or being under the influence of controlled substances or alcoholic beverages on any school property or on any school-approved vehicle used to transport students to and from school or school activities; off school property at any school-sponsored or school-approved activity, event or function, such as a field trip or athletic event, where students are under the jurisdiction of the school district; or during any period of time such employee is supervising students on behalf of the school district or is otherwise engaged in school district business. Any employee who violates this policy will be subject to disciplinary action which may include employment suspension, termination, and referral for prosecution/ Employees may be required to satisfactorily participate in rehabilitation programs. Each employee of this school district is hereby notified that, as a condition of employment, the employee must abide by the terms of this policy, and will notify the superintendent of any criminal drug statute conviction for a violation occurring in or on the premises of this school district, or while engaged in regular employment. Such notification must be made by the employer to the superintendent in writing no later than five calendar days after conviction. The superintendent will provide notice in writing of such violation to the United States Department of Education, or other appropriate federal agency within 10 calendar days after the superintendent receives such notification, if the district receives any federal grants directly from such agency, as opposed to federal grants received through the Department of Elementary and Secondary Education.

The district will take appropriate disciplinary action within 30 days.

The district will institute a drug-free awareness program, to inform employees of the dangerous and harmful nature of drug and alcohol abuse in the workplace, of this policy of maintaining a drug-free workplace, of available counseling and rehabilitation, and of the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

The Board of Education recognizes that employees who have a drug abuse problem should be encouraged to seek professional assistance. An employee who requests assistance shall be referred to a treatment facility or agency in the community if such facility or agency is available.

When it is evident that a staff member has consumed alcoholic beverages or controlled substances off school property during and/or before a school activity, the staff member will not be allowed on school property, or to participate in school activities. Staff members who violate this regulation will be subject to the same penalties as for possession or consumption on school property.

The Board of Education hereby commits itself to a continuing good-faith effort to maintain a drug free workplace.

Upon the request of the Department of Elementary and Secondary Education or an agency of the United States, the district shall certify that it has adopted and implemented the drug prevention program described in this policy, in the form required by such agency. The district shall conduct a biennial review of this policy to determine its effectiveness, implement necessary changes, and to ensure that the disciplinary sanctions are consistently enforced.

This policy shall be communicated in writing to all present and future employees. Compliance with this policy is mandatory.

EMPLOYEE ALCOHOL AND DRUG TESTING

The Central RIII School District, which employs operators of commercial motor vehicles, is required to implement a drug and alcohol-testing program that fulfills Federal requirements. This comprehensive program shall include conducting pre-employment drug testing and reasonable suspicion, random and post-accident testing for use of alcohol and drugs by such operators, notify employees of the requirements and consequences of the program, maintaining appropriate records and complying with Missouri Department of Revenue's reporting requirements.

Definitions

For the purpose of this policy, the following terms are defined:

Driver-Any person who operates a commercial motor vehicle. This includes full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operated contractors.

Safety-Sensitive feature-includes such responsibilities as time on duty waiting to be dispatched, driving time, assisting or supervising loading or unloading, repairing, obtaining assistance or remaining in attendance upon a disabled vehicle. All time spent providing drug and alcohol samples, including travel time to and from the collection or testing site as needed to comply with random, reasonable suspicion, post-accident or follow-up testing will also be considered as safety-sensitive functions.

Alcohol-Intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl and isopropyl alcohol.

Drug-Any controlled substance listed under section 102(6) of the Controlled Substances Act (21 U.S.C. 802 (6) as specified by the administrator of the federal department of transportation.

Medical Review Officer-A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who meets the qualifications as listed in 49 C.F.R. 40.3

Substance Abuse Professional-A licensed physician or certified psychologist, social worker, employee assistance professional or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

Exceptions may be made for drivers who have participated in the drug-testing program required by law within the previous 30 days, or participated in a random selection program for the previous 12 months, provided that the district has been able to make all verifications required by law.

Post-Accident Tests

Alcohol and drug tests shall be conducted on a driver as soon as practicable after any accident is such driver:

- Was performing safety-sensitive functions with respect to the vehicle and the accident involved loss of human life; or
- Receives a citation under state or local law for a moving traffic violation arising from the accident, if the accident involved bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
- Receives a citation under State or local law for a moving traffic violation arising from the accident, if one (1) or more motor vehicles incurs disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

All post-accident alcohol and drug testing shall be conducted within the required time periods. If a test is not conducted within the appropriate period then the test will not be given, and the program coordinator shall prepare and maintain a file documenting the reasons the test was not promptly administered.

Post accident testing requirements may be fulfilled by properly administered tests conducted by federal, state and/or local law enforcement officials as long as the results of these tests are provided to the district.

Random Testing

Alcohol and drug testing shall be conducted on a random basis at unannounced times throughout the year in accordance with federal regulations. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. Drivers shall be selected by a scientifically valid random process, and each driver shall have an equal chance of being tested each time selections are made.

Reasonable Suspicion Tests

Any qualified supervisor or district administrator who has reasonable suspicion to believe that a bus driver has violated the alcohol or drug prohibitions of the district shall require the driver to submit to the appropriate testing. A qualified supervisor or administrator must be an employee who has been properly trained, in accordance with federal regulations; to make a determination that reasonable suspicion exists. Reasonable suspicion must be based on specific, contemporaneous, articulate observations concerning the appearance, behavior, and speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of drugs.

Alcohol testing is authorized for reasonable suspicion only if the required observations are made just before, during or just after the period of the workday when the driver must comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines reasonable suspicion exists to concur such a test. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the district shall prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests shall terminate after eight hours, and the district will state in the record the reasons for not administering the test.

Drug testing shall include documentation by a qualified supervisor or district administrator who makes a finding of reasonable suspicion. He or she shall create and sign a written record of his or her observations leading to a reasonable suspicion drug test within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier.

Return to Duty Tests

An alcohol or drug test shall be conducted when a driver who has violated the district's alcohol or drug prohibition returns to performing safety-sensitive duties.

Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty test produces a verified result that meets federal and

District standards. Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return-to-duty test produces a verified negative result.

Follow-Up Tests

A driver who violates the district's alcohol or drug prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving an alcohol or drug problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up testing shall be conducted just before, during or just after the time when the driver is performing safety sensitive functions.

Refusal to Submit to Tests

No driver shall refuse to submit to any of the tests. An employee refuses to submit when he or she fails to provide adequate breath or urine for testing when notified of the need to do so, or who engages in conduct that clearly obstructs the testing process. Such refusal is treated as if the district received a positive test.

Consequences

Employees whose conduct involved alcohol or drugs cannot return to duty in a safety-sensitive function until the return-to-duty test produces the required result. A driver who is tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform or continue to perform safe-sensitive functions until the start of the driver's next regularly scheduled duty period but not less than 24 hours after the test was administered. Further employment actions up to and including termination may be instigated in accordance with the Drug Free Workplace Act of 1988 (P.L. 101-226) and other state and federal laws.

The program coordinator shall notify the director of the Missouri Department of Revenue of any driver who has failed to pass any drug, alcohol or chemical test administered pursuant to this policy. Notification shall consist of the driver's name and any other relevant information required by the director of the Missouri Department of Revenue. Such notification shall be made within ten (10) days of discovering that the driver has failed to pass the test (s) .

Rehabilitation

An employer shall provide for the identification and opportunity for treatment of covered employees who are determined to have used, in violation of federal law or regulations, alcohol and drugs. This information shall include the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.

Employee Records

Employees' alcohol and drug test results and records shall be maintained under strict confidentiality and released only in accordance with law. Upon the written request, a driver shall receive copies of any records pertaining to his or her use of alcohol or drugs, including any records pertaining to his or her tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver. Test records shall be maintained with the separate medical files of each employee.

District Records and Reports

The district shall maintain records and reports of its alcohol and drug prevention program as required by federal law in 49 C.F.R. 382.401, 403.

Notification to Employees

The district shall provide educational materials that explain the general requirements and district's policies and procedures. The program coordinator shall ensure that all covered employees receive written materials explaining the district's drug and alcohol misuse prevention program requirements including:

1. Identity of the program coordinator, a contact person knowledgeable about the materials, policy, administrative regulations and the Omnibus Act;
2. Categories of employees covered;
3. Information about the safety-sensitive functions and what period of the work day the employee is required to be in compliance;
4. Specific information concerning prohibited conduct;
5. Circumstances under which employees will be tested;
6. Procedures used in the testing process;
7. Requirement that driver submit to alcohol and drug test administered in accordance with federal law;
8. Explanation of what constitutes a refusal to submit to a drug and/or alcohol test.
9. Consequences of violations (e.g. discipline up to and including dismissal), removal from safety sensitive functions as required by the Omnibus Act, referral to substance abuse professional for evaluation, treatment and follow-up testing as required);
10. Consequences of drivers found to have an alcohol concentration of 0.02 or greater, but less than 0.04.

11. Information on the effects of drug use and alcohol misuse on personal life, health and safety in the workplace.

Employees shall sign statements certifying that they have received the materials.

FILE: JO-R

STUDENT RECORDS

Definitions

For the purposes of this policy, the following terms are defined:

Student-Any person who attends or has attended a school in the school district and regarding for whom the district maintains education records.

Eligible Student-A student or former student who has reached the age of 18 or is attending a post-secondary school.

Parent-either natural parent of a student, a guardian, or an individual acting as a parent or guardian in the absence of the student's parent or guardian.

Education Records-Any record (in handwriting, print, tapes, film, computer, or other medium) maintained by the school district or an agent of the district which contains information directly related to a student, except:

1. Records kept in the sole possession of the maker of the record, used only as a personal memory aid, and not accessible or revealed to any other person except a temporary substitute for the maker of the record.
2. Records created and maintained by the school district law enforcement unit for law enforcement purposes.
3. An employment record which relates exclusively to an individual in his or her capacity as an employee of the school district and which is not available for use for any other purpose.
4. Alumni records which contain information about a student after he or she is no longer in attendance at the district and which do not relate to the person as a student.

Education Records-Provisions and Guidelines

A. General

1. Education records shall be retained according to the guidelines set forth in the Missouri Public Schools Records Manual.
2. Teacher and staff comments on student records will be confined to matters related to student performance.
3. It is the responsibility of the principal and the professional staff of the school to see that such records are kept in the proper manner and are utilized in accordance with the law.

B. Review of Education Records by Parents or Eligible Students

1. Education records shall be open for inspection by parents of a student or an eligible student. Both parents have access to their child's school records until and unless a court orders otherwise. Therefore, a copy of any applicable court order that restricts any parent's access to the student's education records must be filed with the school principal in order to certify to the district that a parent's access rights are limited or denied pursuant to the court's decision.
2. Parents or eligible students should submit to the student's school principal a written request which identifies as precisely as possible the record or records he or she wishes to inspect. The principal (or appropriate school official) will make the needed arrangements for access as promptly as possible and notify the parent or eligible student of the time and place where the records may be inspected. Access must be given in 45 days or less from the date of receipt of the request. When a record contains information about students other than a parent's child or the eligible student, the parent or eligible student may not inspect and review the portion of the record which pertains to other students.
3. If a parent or eligible student believes the education records related to the student contain information that is inaccurate, misleading or in violation of the student's privacy, he or she may ask the district to amend the record by following the appeals procedure outlined in Section G of this regulation.

C. Transfer of Education Records

1. The district will respond to a request for records from another school district enrolling a student within five (5) business days of receiving the request. However, if the student's record has been marked pursuant to notification by the highway patrol that the student has been

classified as a missing child, the record shall not be forwarded to the requesting district and the district will notify the missing persons unit of the highway patrol of the record request.

2. Upon notification that a student has transferred to any other school District, the district will forward any written notification the district has received from a juvenile officer, sheriff, chief of police, or other appropriate law enforcement authority that a petition has been filed in juvenile court alleging that the student has committed an offense listed in 167.115.1, RSMo., and the notification of disposition of such case, to the superintendent of the new school district in which the student has enrolled.

D. Annual notification of Rights of Parents and Students

1. The district shall annually notify parents and students currently in attendance, or eligible students in attendance of their rights under the Family Educational Rights and Privacy Act (FERPA) and FERPA regulation by publication in the student handbook(s) or by distributing notification to the parents of eligible students at the beginning of the school year.
2. Parents and/or students may request that the district not use a student's Social security number at the time of enrollment.

E. Annual Notification of Directory Information

1. "Directory Information" is information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. The school district designates the following items as "Directory Information": student's name, parent's name, participation in officially recognized activities and sports including audiovisual or photographic records of the openly visible activities thereof (e.g., artistic performances, sporting contests, assemblies, service projects, awards ceremonies, etc.) weight and height of members of athletic teams, degrees, honors and awards received, and photograph including photographs of regular school activities that do not disclose specific academic information about the child and/or would not be considered harmful or an invasion of privacy.
2. The district shall annually notify parents of students currently in attendance and eligible students currently in attendance of the "Directory Information" the district will release. Parents or eligible students will have ten (10) school days after the annual public notice to view the student's "Directory Information" and to provide notice in writing to the school district that they choose not to have this

information or any portion of the “Directory Information” released. Unless notified to the contrary in writing within ten (10) school day period, the school district may disclose any of those items designated as “Directory Information” without the parent’s or eligible student’s written consent, including in print and electronic publications of the school district.

3. “Directory Information” is considered a “public record” which must be released by the district to any person who requests it under the Missouri Sunshine Law, 610.010-.030, RSMo.

F. Release of Education Records

1. Disclosure of information from a student’s education records will be made only with the written consent of the parent or eligible student, subject to the following exceptions:
 - a. The District may disclose education record information without consent when the disclosure is:
 1. To school officials who have a legitimate educational Interest in the records.

A school official is:

- * A person employed by the district as an administrator, supervisor, instructor, or support staff member, including health or medical staff.
- * A person elected to the School Board.
- * A person employed by or under contract to the district to perform a special task, such as an attorney, auditor, medical consultant, therapist, etc.
- * A person who is employed by the school district’s law enforcement unit.
- * A student serving on an official committee, such as disciplinary or grievance committee, or who is assisting another school/official in performing his/her tasks.

A school official has a legitimate educational interest if the

official is:

- * Performing a task that is specified in his or her position description or by a contract agreement.
 - * Performing a task related to a student's education.
 - * Performing a task related to the discipline of a student.
 - * Providing a service or benefit relating to the student or student's family, such as health care counseling, job placement, or financial aid.
 - * Maintaining the safety and security of the campus.
- 2) To officials of another school, upon request, in which a student seeks or intends to enroll.
 - 3) To authorized representatives of state and local educational activities.
 - 4) School districts may report or disclose education records to law enforcement and juvenile justice authorities if the disclosure concerns law enforcement's or juvenile justice authorities ability to effectively serve, prior to adjudication, the student whose records are released. The officials and authorities to whom such information is disclosed must comply with applicable restrictions set forth in 20 U.S.C. 1232g (b) (1) (E).
 - 5) To accrediting organizations to carry out their accrediting functions.
 - 6) To parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1954.
 - 7) To parents of a student who is not an eligible student or to the student.
 - 8) To comply with a judicial order or a lawfully issued subpoena.
 - 9) In connection with a student's request for or receipt of financial aid to determine the eligibility amount,

or conditions of the financial aid, or to enforce the terms and conditions of the aid.

10) To the Comptroller General of the United States, the

Attorney General of the United States, the Secretary of the United States Department of Education or an official employee of the Department of Education acting for the secretary under a delegation of authority, or state and local education authorities in connection with an audit or evaluation of federal or state supported education programs or for the enforcement of or compliance with federal legal requirements relating to these programs.

11) To appropriate parties in a health or safety emergency.

12) To other persons authorized to receive education records pursuant to FERPA and 34 C.F.R., Part 99.

2) The school district will maintain a record of all requests for and/or disclosures of information from a student's education records. The record will indicate the name of the party making the request, any additional party to whom the information may be disclosed, and the legitimate interest the party had in requesting or obtaining the information. The record may be reviewed by the parents of eligible students. This paragraph does not apply if the request was from or the disclosure was to:

- * the parent or eligible student,
- * school officials within the district who have a legitimate educational interest in the student's education record,
- * a party with written consent from the parent or eligible student,
- * a party seeking "Directory Information", or
- * a party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agent had ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

G. Appeals Procedure

Parents or eligible students have the right to ask to have education records corrected that they believe are inaccurate, misleading, or in violation of their privacy rights. Following are the procedures for the correction of education records.

1. Parents of the eligible student must ask the school district to amend a record. In so doing, they should identify the part of the record they want changed and specify why they believe it is inaccurate, misleading or in violation of the student's privacy rights. The request should be made to the custodian of records, as designated in Section H of this regulation.
2. A school district will decide whether it will amend the record as requested within a reasonable time after receiving the request. If it decides not to amend the record as requested, the district will notify the parents or eligible student of the decision and inform them of their rights to a hearing to challenge the content of the student's education records on the grounds that the information included is inaccurate, misleading, or in violation of the student's privacy rights.
3. Upon request, the school district will hold a hearing within a reasonable time after the request is received. The district will notify the parents or eligible student, reasonably in advance, of the date, place, and time of hearing.
4. The hearing will be considered by a hearing officer who is a disinterested party; however, the hearing officer may be an official of the district. The parents or eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records. The parents or student may be assisted by one or more individuals of his or her choice, including an attorney.
5. The school district will prepare a written decision based solely on the evidence presented at the hearing within a reasonable period of time after the hearing. The decision will include a summary of the evidence presented and the reasons for the decision.
6. If the school district decides that the information is inaccurate, misleading, or in violation of the student's right of privacy, it will amend the record and notify the parents or eligible student of the amendment in writing.
7. If the school decides that the challenged information is not inaccurate, misleading, or in violation of the student's right of privacy, it will notify the parents or eligible student that they have a right to place in the record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.

8. The statement will be maintained as part of the student’s education records as long as the contested portion is maintained. If the school district discloses the contested portion of the record, it must also disclose the statement.

H. Types, Locations and Custodians of Education Records

The following is a list of the types of school records that the district maintains, their location, and their custodian:

TYPES	LOCATION	CUSTODIAN
Cumulative School Records, Including discipline records (current students).	School Principal	School Principal
Cumulative School Records Including discipline records (former students)	School Principal	School Principal
Health Records	School Principal	School Principal
Occasional Records	As Appropriate	School Principal

Student education records not identified above, such as those in Superintendent’s office, in the school attorney’s office, or in possession of teachers.

Note: the reader is encouraged to review administrative procedures and/or forms for related information in support of this policy.

Approved 05/17/1999

Last Revised 06/18/2001

CENTRAL RIII SCHOOL DISTRICT, PARK HILLS, MISSOURI

Standard Complaint Resolution Procedure

For Improving America's Schools Act Programs

This complaint resolution procedure applies to all programs administered by the Department of Elementary and Secondary Education under the Goals 2000: Educate America Act and the Improving America's Schools Act (IASA).

A complaint is a formal allegation that a specified federal or state law or regulation has been violated, misapplied, or misinterpreted by school district personnel or by Department of Education personnel.

Any parent or guardian, surrogate parent, teacher, administrator, school board member, or other person directly involved with an activity, program, or project under the general supervision of the Department may file a complaint. Such a complaint must be in writing and signed; it will provide specific details of the situation and indicate the law or regulation that is allegedly being violated, misapplied, or misinterpreted.

The written, signed complaint must be filed and the resolution pursued in accordance with local district policy: AC: Nondiscrimination & AC-R: Nondiscrimination Compliance Grievance Procedure.

If the issue cannot be resolved at the local level, the complainant may file a complaint with the Missouri Department of Education. If there is no evidence that the parties have attempted in good faith to resolve the complaint at a local level, the Department may require the parties to do so and may provide technical assistance to facilitate such resolution.

Any persons directly affected by the actions of the Department may file a similarly written complaint if they believe state or federal laws or regulations have been violated, misapplied, or misinterpreted by the Department itself.

Anyone wishing more information about this procedure or how complaints are resolved may contact local district or Department personnel.

NO CHILD LEFT BEHIND: PARENT LETTER

Our district is required to inform you of certain information that you, according to the No Child Left Behind Act of 2001 (Public Law 107-110), have the right to know:

Upon your request, our district is required to provide to you in a timely manner, the following information:

- Whether the teacher has met state qualifications and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
- Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
- Whether your child is provided services by paraprofessionals and, if so, their qualifications.
- What baccalaureate degree major the teacher has and any other graduate certification or degree held by the teacher, and the field of discipline of the certification.

In addition to the information that parents may request, districts must provide to each individual parent-

- Information on the achievement level of the parent's child in each of the state academic assessments as required under this part, and
- Timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks, by a teacher who is not highly qualified.

PROVIDING EDUCATIONAL SURROGATES FOR CHILDREN WITH DISABILITIES

Congress mandated surrogate-parent programs under the Individuals with Disabilities Education Act, Part B and Part H (Public Law 94-142). The law requires states to assign a surrogate parent to any child with a disability who needs special education or who is in the Part H First Steps program for infants and toddlers, and who is a ward of the state, has no identified parent or guardian, or has parents the public agency cannot locate after reasonable efforts.

WHAT IS A SURROGATE PARENT?

A surrogate parent is, in the simplest of definitions, an educational advocate for a child with a disability. A surrogate parent is the person appointed through a program administered by the State Board of Education on behalf of the child to ensure that he or she receives a free and appropriate public education in the least restrictive environment.

A surrogate parent is the legal designee who will be involved in many aspects of the child's education. This would typically involve participation in the child's Individual Education Program (IEP) meetings, classroom observations of the child and the review of the child's educational records.

A surrogate parent is not responsible for care and custody of the child, nor for foster-home placement of the child. The surrogate parent's responsibilities are focused on the child's educational needs.

The Department of Elementary and Secondary Education will appoint surrogate parents who have attended a training session and who have been placed on the registry of available surrogate parents. The state will reimburse surrogates for mileage and other reasonable expenses incurred as a result of their work.

Surrogate parents will be appointed for children with disabilities who do not have a parent or guardian to act on their behalf or who are wards of the state. Local school officials, social service workers and other interested individuals are asked to contact the Department of Elementary and Secondary Education when they identify a child who they believe may be eligible for surrogate parent representation.

WHO IS ELIGIBLE TO BECOME A SURROGATE PARENT?

Anyone who is 18 years old or older and has no conflict of interest concerning the child's education may serve as a surrogate parent. Also, a surrogate parent may not be an employee of a public agency providing care, custody or educational services to the specified child in need of surrogate parent representation.

Please contact Barbara Bouchard, Special Education & Federal Programs Director if you are interested in being a Surrogate Parent.

Barbara Bouchard

573-431-2713 (phone) 573-431-2107 (fax)

Central RIII School District, 200 High Street, Park Hills, Missouri 63601

Procedural Safeguards for Children and Parents
as required by Public Law *105-17*,
The Individuals with Disabilities Education Act (IDEA)
Amendments of 1997

Written Notice and Consent

You must be given written notice a reasonable time before the district: (1) proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child; or (2) refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. This notice will include the following information: (1) a description of the action proposed or refused, and an explanation of why the agency proposes or refuses to take the action, (2) a description of any other options the district considered and the reasons why any of those options were rejected, (3) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposal or refusal, (4) a description of any other factors relevant to the proposal or refusal, and (5) a statement that the parents of a child with a disability have procedural safeguards protection and if this notice is not an initial referral for evaluation the means by which a copy of the description of the procedural safeguards can be obtained; and (6) sources for parents to contact to obtain assistance in understanding their procedural safeguards.

In addition, the notice must be written in language understandable to the general public, in language you understand and provided in your native language or your primary mode of communication unless it is clearly not feasible.

If your native language or primary mode of communication is not a written language, the district must document what steps were taken to insure that the notice was translated orally or by other means to you in your native language or primary mode of communication, and that you understand the content of the notice. The district will have to document in writing that this notice was provided.

A copy of the procedural safeguards shall be given to you, at a minimum (1) upon initial referral for evaluation; (2) upon notification of individualized education program (IEP) meetings; (3) upon reevaluation of your child; and (4) upon request for a due process hearing.

The district must obtain your written consent before conducting an evaluation or the initial provision of special education and related services to a child with a disability. Consent for initial evaluation may not be construed as consent for initial placement. Reviewing existing data as part of evaluation or reevaluation

and subsequent placements do not require consent and consent for additional testing need not be obtained if the school district can demonstrate that it had taken reasonable measures to obtain your consent and you failed to respond. "Reasonable measures" include a minimum of two attempts documented such as: detailed records of telephone calls made and the results of those calls; copies of correspondence sent to you and responses received; and detailed records of visits to your home or work place and the results of those visits. In order to obtain your consent, the district will make every effort to explain its position and hear your concerns. Your consent is not required before administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

If you refuse consent for initial evaluation or reevaluation, the district may continue to pursue those evaluations by using the due process hearing procedures or mediation procedures.

A school district may not use your refusal to consent to one service or activity to deny you or your child any other service, benefit, or activity of the district.

"Consent" means that: (1) you have been fully informed of all information relevant to the activity for which consent is sought, in your native language, or other mode of communication; (2) you understand and agree in writing to the carrying out of the activity for which your consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and (3) you understand that the granting of consent is voluntary on the part of the parent and may be revoked at any time. If you revoke consent, that revocation is not retroactive.

"Evaluation" means procedures used to determine whether a child is disabled and the nature and extent of the special education and related services that the child needs to be involved in and progress in the general curriculum. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade, or class.

Independent Evaluation

You have a right to an independent educational evaluation at public expense if you disagree with the evaluation conducted by the district. The term "independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question. "Public expense" means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent. The district must provide you, if you request it, information about where independent educational evaluations may be obtained. The district may initiate a hearing to show that the district's evaluation is appropriate (see "Due Process Procedures"). If the district does initiate such a hearing and the hearing decision is that the evaluation is appropriate, you still have the right to an independent evaluation, but not at public expense.

You may obtain an independent evaluation without notifying the school district of your disagreement. A copy of your district's policy regarding independent evaluations (if one exists) will be provided to you upon request. Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner must be the same as the criteria which the district uses when it initiates an evaluation to the extent those criteria are consistent with the parent's right to an independent evaluation. Except for those criteria, the district may not impose any other conditions or timelines. If you request an independent evaluation, the district may ask you why you object to the district's evaluation. However, the district may not require an explanation and may not unreasonably

delay either providing the independent evaluation at public expense or initiating a due process hearing to defend the district's evaluation. The district will respond to any independent evaluation and consider it in any decision made with respect to the identification, evaluation, or placement of your child, or the provision of a free and appropriate public education for your child. The district is required to consider the independent evaluation information but it is not obligated to modify your child's program/placement based on the contested portions. Whether your child's program/placement should be modified based on the independent evaluation, is an IEP team decision. Results of this evaluation may be presented as evidence at any hearing regarding your child. If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

If you obtain an independent evaluation at private expense, the results of the evaluation must be considered by the school district, if it meets district criteria, in any decision made with respect to the provision of a free appropriate public education to your child, and may be presented as evidence at a due process hearing.

Access to Records

You have the right to inspect and review all of the records, collected, maintained or used by the district regarding your child and to have them clearly explained to you. You have the right to obtain copies of the records if failure to provide copies effectively prevents you from exercising your right to inspect and review them. The district may charge a fee for copies of the records if the fee does not prevent you from inspecting and reviewing the records. The district may not charge a fee to search for or to retrieve information regarding your child. You also have the right to have your representative inspect and review the records. Additionally, the district must presume that you have authority to inspect and review records relating to your child unless the district has been advised that you don't have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

The district shall comply with a request to access records without unnecessary delay and before any meeting regarding an individualized education program or hearing related to the identification, evaluation, or placement of the child, and in no case more than 45 days after the request has been made.

Confidentiality of Information

Information collected, maintained or used by the district regarding your child must be kept confidential. You have the right to request a list of the types and locations of your child's educational records and a list of any parties who have accessed information in that record. The district must keep a record of parties obtaining access except access by parents and authorized employees of the district, including the name of the party, the date of access, and the purpose for the access. The district must maintain, for public inspection, a current listing of the names and positions of the authorized employees, if any record includes information on more than one child, you have the right to inspect and review only that information which relates to your child.

Information will be maintained and released in accordance with the regulations in the Family Educational Rights and Privacy Act (FERPA) of 1974 and the school district may not disclose, without your consent, information from your child's records unless authorized to do so under the FERPA regulations. Your consent must be obtained before such information is disclosed to anyone other than officials of participating agencies collecting or using such data or used for any purpose other than meeting a requirement under IDEA. If you refuse to give your consent the district may invoke due process hearing procedures. If your failure to give consent constitutes neglect under Missouri's Child Abuse and Neglect Laws, the district shall report same to the proper authorities. The school district is not required to obtain

your written consent before records are released to a school district to which you plan to transfer your child, to officials in your local district if they need them for educational reasons, or to officials of the Missouri Department of Elementary and Secondary Education. Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures on protection of confidentiality. If you believe that information in these records is inaccurate or misleading, or violates the privacy or other rights of your child, you may request that the district amend the information. The district must decide whether to amend the information within a reasonable period of time. You will be informed of that decision and the district shall advise you of the right to a hearing.

The district, upon your request, will provide an opportunity for a hearing to challenge information in the educational records. This type of hearing is conducted according to procedures under the Family Educational Rights and Privacy Act (FERPA) at 34 C.F.R. 99.22, not under the special education due process hearing system. If, as a result of the hearing, the district decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it will amend the information accordingly and inform you in writing.

If the district decides not to amend the information, it will inform you of the right to place a statement in the record documenting on the information or giving reasons for disagreeing with the district's decision. This explanation must be maintained by the district and if the information is disclosed to any party, the explanation must also be disclosed.

All rights of privacy and educational records indicated herein with regard to parents shall pass to the child upon reaching age 18, except in the case of a child with a disability who is legally determined to be incompetent to make such decisions for himself/herself and for whom legal guardianship or conservatorship is required beyond the age of 18. In those instances, the legally established guardian or conservator shall maintain the rights to privacy as outlined above. The parent and child will be notified of the transfer of rights.

The school district is to include in the child's records a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of non disabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the child transfers from one school to another, the transmission of any of the child's records must include both the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child.

Destruction of Records

The district must inform you when personally identifiable information collected, maintained, or used, is no longer needed to provide educational services. "Personally identifiable" means that information includes: the name of the child, the child's parent, or other family member; the address of the child; a personal identifier, such as the child's social security number or student number; or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty. You have the right to request that information maintained or used by the district regarding your child be destroyed five years after it is no longer needed to provide educational services. Be aware, however, that the information may be needed at some time for Social Security benefits or other services. The district may

maintain a permanent record of a student's name, address and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed.

Parent Participation

You will be given an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of your child and the provision of a free appropriate public education.

Discipline

1. **Ten school days or less:** Your child may be removed from his current placement for ten school days or less by the school district, to an appropriate interim alternative educational setting, another setting, or suspension without providing services, unless the conduct involves drugs or weapons, in which case the change may be for 45 days and would require services in an alternative setting as explained below or the conduct involved is unrelated to your child's disability, in which case the change may involve a long-term suspension or expulsion and would require services in an alternative setting as explained below.
2. **45 days:** Your child's placement may be changed to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but not for more than 45 days if your child possessed a dangerous weapon at school or to a school function or your child knowingly possessed or used illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function. On the date on which the decision to take that action is made, you must be notified of the decision and provided the Procedural Safeguards statement.
3. **Behavioral Assessment:** On or before the end of the tenth business day of a disciplinary action which for the first time that school year exceeds 10 days cumulatively, if the school district did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the discipline action, the school district must convene an IEP meeting to develop an assessment plan to address that behavior. If your child already has a behavioral intervention plan, the IEP team shall review the plan and modify it, as necessary, to address the behavior involved in the disciplinary action. If your child does not already have such a plan, the IEP team shall develop one and shall implement those interventions. Any subsequent removals, which do not constitute a disciplinary change of placement, require that the IEP team review the behavior intervention plan and its implementation to determine if modifications are necessary. If one or more of the IEP team members believe that modifications are needed, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary.
4. **Access to Services:** Any interim alternative educational setting determination involving a long-term suspension or disciplinary change of placement shall be made by the IEP team, must be selected to enable your child to continue to participate in the general curriculum and to continue to receive services required by the IEP, and must include services and modifications designed to address the behavior involved in the disciplinary action so that it does not recur. Services for short-term suspensions which exceed 10 days cumulatively are only required if the school determines this necessary for the child to appropriately progress.
5. **Manifestation Determination:** Immediately, if possible or at the same time the IEP team meets to address functional behavioral assessment and behavior intervention plan, but no later than ten school days after the date on which the decision to implement a disciplinary change of placement (long-term removal such as removal in excess of 10 consecutive days, or series of removals in excess of 10 days

cumulatively where a pattern has been created due to the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another), the IEP team and other qualified personnel shall determine whether there is a relationship between the child's disability and the behavior subject to the disciplinary action. If the conduct is determined unrelated to your child's disability, disciplinary procedures applicable to children without disabilities may be applied to your child in the same manner in which they would be applied to children without disabilities. However, in that event your child must still receive a free appropriate public education. If the school district initiates disciplinary procedures applicable to all children, the special education and disciplinary records of the child shall be transmitted for consideration by the person or persons making the final determination regarding the disciplinary action. If you disagree with a determination that your child's behavior was not a manifestation of his disability, or with any decision regarding placement in a disciplinary situation involving a disciplinary change of placement (long-term suspension), you have the right to request an expedited due process hearing. The IEP team may determine that the behavior of the child was not a manifestation of the child's disability only if the IEP team first considers all relevant information, including evaluation and diagnostic results (including results or other relevant information provided by you), observations of the child, the child's IEP and placement, and then determines that:

- the IEP and placement were appropriate and special education services, supplementary aids and services and behavior intervention strategies were provided consistent with the child's IEP and placement
- the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to the disciplinary action
- the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

In the absence of any of these factors being considered or determinations made, the IEP team must consider the behavior a manifestation of his disability, if the team identified deficiencies in the child's IEP or placement or in the implementation, it must take immediate steps to remedy those deficiencies.

In reviewing a manifestation determination decision, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of the child's disability consistent with the listed factors being considered and the listed determinations being made.

6. **Dangerous Students:** if the school district believes your child will injure himself or others, the school district has the right to obtain an expedited due process hearing to seek a 45 day interim alternative educational setting. You must be notified of the decision to seek this order on the day the decision is made and provided the procedural safeguards statement. At that hearing, the hearing officer may order a change in placement to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer:

- determines the school district has demonstrated by substantial evidence (i.e. beyond a preponderance of the evidence) that maintaining the current placement of such child is substantially likely to result in injury to your child or others;
- considers the appropriateness of your child's current placement;
- considers whether the school district has made reasonable efforts to minimize the risk of harm in the child's current placement including the use of supplementary aids and services; and
- determines that the interim alternative educational setting enables your child to continue to progress in the general curriculum and continue to receive services required by his current IEP.

This procedure may be repeated as necessary.

7. “Stay-put” under disciplinary actions: if you request a due process hearing regarding the discipline action to challenge the interim alternative educational setting or the manifestation determination and when your child is disciplined for weapons, drugs, or because they are a danger to themselves or others, your child will remain in that interim alternative educational setting pending the hearing decision or until expiration of the time period of the interim alternative educational setting, whichever comes first (unless the parties agree otherwise). If school personnel maintain that it is dangerous for the student to be in the current placement (the placement prior to removal to the interim alternative educational setting) during the pendency of the due process proceedings, the school district may request an expedited hearing.
8. Protection for children not yet eligible for special education and related services: Students who have not been identified as disabled may be subjected to the same disciplinary measures applied to children without disabilities if the district did not have prior knowledge of the disability. If the school district is deemed to have knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action, the child may assert any of the protections for students with disabilities in the area of discipline. The district has knowledge of the disability when:
 - the parent has expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) that the student needs special education services; or
 - the student’s behavior or performance has demonstrated a need for services; or
 - the parent has requested an evaluation; or
 - the student’s teacher or other school staff have expressed concern about the student’s behavior or performance to the director of special education or other school staff.

A school district would not be deemed to have knowledge that the child is a child with a disability, if the school district conducted an evaluation and determined that the child was not a child with a disability, or determined that an evaluation was not necessary and provided proper Notice of Action Refused.

If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation will be expedited. Until the evaluation is completed, the child remains in the educational placement determined by the school district, which can include suspension or expulsion without educational services. If the child is determined to be a child with a disability, the school district shall provide special education and related services and follow all required procedures for disciplining students with disabilities.

9. Reporting crimes committed by students with disabilities: School districts reporting crimes, to appropriate law enforcement and judicial authorities, committed by students with disabilities, shall ensure copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.
10. Definitions:
 - Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 USC 812 (c)).
 - Illegal drug means a controlled substance but does not include such a substance that is legally possessed or used under the supervision of a licensed healthcare professional or that is legally

possessed or used under any other authority under that Act or under any other provision of Federal Law.

- Substantial evidence means beyond a preponderance of the evidence.
- Weapon means dangerous weapon as defined under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

Private School Placement by Parents:

1. Services

To the extent consistent with their number and location in each local district, provision must be made for participation of private school children with disabilities. However, no private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. If your child is designated by the school district to receive special education and related services, the school district must develop a services plan for your child.

To determine which private school children will be designated to receive services, the school district must conduct an annual count of the number of private school children with disabilities. The school district must spend on providing special education and related services to private school children with disabilities an amount that is the same proportion of the IDEA federal funding the school district receives as the number of private school children with disabilities lives in its jurisdiction is to the total number of children with disabilities in its jurisdiction.

2. Limitation on Reimbursement

If you enroll your child in a private school without consent of or referral by the school district, a court or a due process hearing panel may require the school district to reimburse you for the cost of that enrollment if the school district did not offer a free appropriate public education to your child in a timely manner and that the private placement is appropriate. A parent placement may be found to be appropriate by a hearing officer or court even if it does not meet state standards as an approved private agency. However, the amount of reimbursement may be reduced or denied:

- if at the most recent IEP meeting you attended prior to removal of the child you did not inform the IEP team you were rejecting the placement proposed by the school district, and stated your concerns and intent to enroll your child in private school at public expense; OR
- if ten business days (including any holidays that occur on a business day) prior to the removal of your child, you did not give written notice to the school district that you were rejecting the placement proposed by the school district, stated your concerns and intent to enroll your child in private school at public expense.
- if, prior to your removal, the school district provided you a notice of intent to evaluate, but you did not make your child available for such evaluation; OR
- if there has been a court decision that your actions have been unreasonable.

The cost of reimbursement may not be reduced or denied for your failure to provide notice prior to removal if:

- you are illiterate and cannot write in English
- compliance with the prior notice requirement would likely result in physical or serious emotional harm to the child

- the school prevented you from providing the notice
- you had not received notice, through the Procedural Safeguards statement, of the prior notice requirement.

**Due Process Hearing Procedures -
Resolution Conference (Optional)**

If agreement regarding the identification, evaluation, educational placement or free appropriate public education for your child cannot be reached through discussions, you will be advised in writing of the district's position which will clearly indicate the action which they propose or refuse to initiate or change. After you receive this notice, you may send a written request to the district for an informal resolution conference with district administrators OR you may waive the right to resolution conference and request, in writing, the Missouri Department of Elementary and Secondary Education empower a 3-member hearing panel.

The resolution conference will be conducted and a decision rendered within 10 days of receipt of your request unless you agree to a later time. The conference must be held at a time and place that is convenient to you. It will be conducted by the school district superintendent or someone designated by the superintendent. The resolution conference is informal. If you waive your right to a resolution conference, and request a 3-member hearing panel by contacting the Missouri Department of Elementary and Secondary Education's Special Education Division in writing, the State will proceed with the empowerment of the panel. During the time period in which the panel is being empowered, the district has two options: (1) conduct the resolution conference, or (2) waive the resolution conference. If the district chooses to conduct the resolution conference, despite your waiver of the right to a resolution conference, you will be advised of the district's finding(s).

At the resolution conference:

- (1) The district will tell you about and permit you to review all of the infuriation it has about your child.
- (2) The district will fully explain to you each reason for the action it proposes or refuses.
- (3) You or your representative may present any information you have which pertains to the proposed action.
- (4) Questioning of witnesses shall be permitted.

Impartial Due Process Hearings .General

You or the district may initiate a due process hearing at any time you do not agree with any action proposed or refused concerning the identification, evaluation, reevaluation, educational placement or the provision of a free appropriate public education for your child. The Missouri Department of Elementary and Secondary Education shall inform you of any free or low-cost legal and other relevant services available in the area if you request it or if you or the district initiates a hearing. Except in the case of an expedited hearing stemming from a disciplinary action, the hearing panel must reach its decision and mail a copy of the decision to all parties within 45 days of the date of receipt of request for the due process hearing, unless the chair of the hearing panel grants an extension at the request of either party. In an expedited hearing, the process will be completed within 45 days. No extensions are permitted for expedited hearings.

The Missouri Department of Elementary and Secondary Education will provide you a list of the persons who serve as hearing officers, including a statement of the qualifications of each of these persons, upon your request.

During the period of time pending an administrative or judicial proceeding regarding a complaint, the

child involved in the complaint must remain in his/her present educational placement, except as provided above under the Discipline section, unless the district and the parents agree otherwise. If the complaint involves an application for initial admission to public school, the child, with the consent of the parent, must be placed in the public school program until the completion of all proceedings. If the due process hearing decision results in a ruling in favor of the parent on the issue of whether a change of placement is appropriate, that placement must be treated as an agreement between the state or local agency and the parents for purposes of “stay-put.”

Impartial Due Process Hearings .Filing requests, mediation rights, hearing rights

If you decide to proceed with the resolution conference and a satisfactory agreement is not reached through the resolution conference conducted by the district, you or your attorney may appeal to the Missouri Department of Elementary and Secondary Education by requesting, in writing, a due process hearing. The written request for a due process hearing can be mailed or faxed to the Missouri Department of Elementary and Secondary Education:

MO DESE
P.O. Box 480
Attention: Legal Section/Special Education
Jefferson City, MO 65102
Fax: (573) 526-4404

If the hearing request is for an expedited due process hearing based on a discipline action, the request should so indicate. The written request, which shall remain confidential, shall include Notice of: the child’s name; the child’s address; the name of the school and district that the child is attending; a description of the nature of the problem including facts relating to such problem; and, your proposed resolution of the problem if known. The Missouri Department of Elementary and Secondary Education has a form you can use to provide this information. To request the form, call the Special Education Division, Legal Services Section, at (573) 751-0602, or RELAY MISSOURI 1-800-735-2966 (Telecommunication device for the Deaf). Your right to a due process hearing may not be denied or delayed for failure to provide the required Notice. If you have waived the resolution conference and wish to proceed directly to a due process hearing, the Missouri Department of Elementary and Secondary Education will honor that request, pay the cost of mediation, and follow the procedures explained below:

1. Mediation will be offered to both you and the school district, and if both parties agree to try mediation you will be given a list of trained impartial mediators and must mutually agree upon one. Mediation shall not be used to deny or delay your right to a due process hearing or any other rights under the Individuals with Disabilities Education Act. A mediator is an impartial person who may not be an employee of the school district or any state agency involved in the education or care of the child, and must not have a personal or professional conflict of interest. A person who otherwise qualifies as a mediator is not an employee of an LEA or SEA solely because he or she is paid by the agency to serve as a mediator. The mediator must be knowledgeable in laws and regulations relating to the provision of special education and related services and must be trained in effective mediation techniques.

a. A mediation session will be scheduled within 15 days of the agreement to mediate, held in a location convenient to the parties, and mediation will be completed within 30 days of the agreement to mediate.

b. Both you and the district have the right to end the mediation at any time.

c. Both you and the district will receive a copy of the written agreement reached as a result of mediation.

d. Both you and the district can each be accompanied by up to three persons. Any additional persons must be by mutual agreement.

e. Neither you nor the district may bring an attorney to the mediation session.

f. Discussions during mediation shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and you and the district may be required to sign a confidentiality pledge prior to beginning mediation.

2. Form the 3-member panel within 15 days of receipt of your request (or in the case of an expedited due process hearing appoint a hearing officer immediately). One member will be selected by you, one by the district and one will be selected by the Missouri Department of Elementary and Secondary Education from a list of contract attorneys, and will serve as the Chair. If you do not successfully select your panel member within 10 days, the department will select the panel member. No member of the panel (or in the case of an expedited hearing, no hearing officer):

a. can have a personal or professional interest which would conflict with his/her objectivity; or

b. can be an employee of the school district or any state agency involved in the education or care of the child. A person is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

3. The panel will have 45 days from the date of the state's receipt of the written due process request to set the date and location of the hearing, give notice to all involved, conduct the hearing and render and mail findings and decision to you and the board of education in writing.

At the 3-member panel, you and the district both have the right:

(1) to be represented by legal counsel and by individuals with knowledge or training in problems of children with disabilities;

(2) to present evidence, cross-examine witnesses and compel attendance of witnesses;

(3) to prohibit the introduction of evidence, evaluations and recommendations based on the evaluations which have not been disclosed to you at least 5 business days before the hearing;

(4) to obtain a written or at the option of the parents, electronic verbatim record of the hearing at no cost;

(5) to obtain written, or at the option of the parents, electronic findings of fact and decisions of the hearing (copies, with personally identifiable information deleted, will be provided to the State PL 94-142 Advisory Panel and made available to the public);

Additionally, at the hearing, you have the right:

(1) to have the child present who is the subject of the hearing; and

(2) to open the hearing to the public.

Note: A hearing officer may grant specific extensions of time beyond the periods stated, at the request of either party, except where the case involves an expedited hearing. Each hearing must be conducted at a time and place which are reasonably convenient to the parents and child involved. A hearing officer may bar any party that fails to comply with the requirement to disclose evidence, evaluations and recommendations based on the evaluations within five business days, from introducing such information at the hearing without the consent of the other party.

decisions in either state or federal court. A hearing decision is final unless a party to the hearing appeals. If an appeal is filed, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party and, based on the preponderance of the evidence shall grant the relief the court deems appropriate.

Civil Action

If you or the district do not agree with the hearing decision, including decisions rendered in expedited due process hearings pursuant to the Discipline section of this document, you may appeal the findings and decisions in either state or federal court. A hearing decision is final unless a party to the hearing appeals. If an appeal is filed, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party and, based on the preponderance of the evidence shall grant the relief the court deems appropriate.

The district courts of the United States have jurisdiction of such actions without regard to the amount in controversy.

Before filing a civil action based on the U.S. Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other federal laws protecting the rights of children with disabilities, due process hearing procedures must be exhausted if the relief sought is also available under the Individuals with Disabilities Education Act (IDEA).

Child Complaints

If you or an organization believe the district has violated any state or federal regulation implementing IDEA, you or the organization may file a signed, written child complaint with the Missouri Department of Elementary and Secondary Education. The complaint must include a statement that the school district has violated a requirement of IDEA and the facts on which the statement is based. The complaint must allege a violation that occurred not more than one year prior to the date that the complaint was received unless a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint is received. Your complaint will be investigated and resolved within 60 days and you will receive a written decision that addresses each allegation in the complaint and contains findings of fact and conclusions and the reason's for the Department's final decision. During the 60 day time-period the Department will conduct an independent on-site investigation if the Department determines necessary, give the complainant an opportunity to submit additional information, either orally or in writing, and review all relevant information and make an independent determination as to whether the public agency is violating IDEA.

The Department will extend the time-line only if exceptional circumstances exist with respect to a particular complaint.

In resolving a complaint in which it has found a school district out of compliance, the Department shall address within its decision how to remediate the compliance violation, including as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child; and appropriate future provision of services for all children with disabilities. If needed technical assistance activities and negotiations will be undertaken.

If a written complaint is received that is also the subject of a due process hearing or contains multiple issues of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing.

If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding and the State must so inform the complainant. A complaint alleging a school district's failure to implement a due process decision must be resolved by the Department.

Attorney's Fees

In any action or proceeding brought under Part B of the IDEA, the court may award reasonable attorneys' fees to the parents or guardians of a child or youth with disabilities who is the prevailing party. IDEA funds may not be used to pay attorneys' fees or costs of a party related to a due process hearing or resulting litigation, even though such funds can be used to conduct such proceedings.

A court award for reasonable attorney's fees is subject to the following:

- (1) The award must be based on prevailing rates in the community in which the action arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fee award.
- (2) Attorney fees and related costs may not be reimbursed for services performed subsequent to the time of a written offer of settlement to a parent if:
the offer is made within the time prescribed by the Federal Rules of Civil Procedure or in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins; the offer is not accepted within 10 days; and the court or hearing officer finds that the relief finally obtained is not more favorable to the parents than the offer of settlement. However, if the parent prevails and was substantially justified in rejecting the settlement
- (3) Attorney fees may not be awarded related to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action.
- (4) The court may reduce the amount of attorney fees awarded if: the parent unreasonably protracted the final resolution of the controversy; the amount unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation and experience; the time spent and legal services furnished were excessive considering the nature of the action/proceeding; or, the attorney representing the parent did not provide to the school district the appropriate information in the due process hearing request required by regulation.

NOTE: Attorney fees may not be reduced if the court finds the state or local agency unreasonably protracted the final resolution, or there was a violation of the Procedural Safeguards.

This information regarding procedural safeguards has been compiled from the Individuals with Disabilities Education Act (IDEA), the Missouri State Plan for Special Education, your local district's Compliance Plan for Special Education, and the Family Educational Rights and Privacy Act of 1974 (FERPA).

