

# Introduction to Procedural Safeguards Bureau of Indian Education



**BIE SUMMER INSTITUTE,  
RENO NEVADA  
PRESENTERS: JUDY WILEY AND  
NARCY KA'WON**

# Workshop will cover:



- **PARENT PARTICIPATION**
- **WRITTEN NOTICE**
- **OVERVIEW OF OPTIONS  
FOR RESOLVING CONFLICTS**

# Parent Participation with access to educational records



PARENTS HAVE THE RIGHT TO INSPECT AND REVIEW EDUCATIONAL RECORDS THAT PERTAIN TOO:

- **THEIR CHILD'S IDENTIFICATION, EVALUATION, AND EDUCATIONAL PLACEMENT; AND**
- **THE PROVISION OF FAPE TO THEIR CHILD**

# Educational Records



- The right to a response from the school to the parents' reasonable request for explanations and interpretations of the records;
- The right to request copies of records; and
- The right to have a representative inspect and review the records

# Parent Rights Educational Records



- REQUEST THAT THEIR CHILD'S RECORDS BE AMENDED; OR
- ATTACH THEIR EXPLANATION TO THEIR CHILD'S RECORDS IF NOT AMENDED

# Parent Participation in Meetings



**PARENT HAVE THE RIGHT TO PARTICIPATE IN MEETINGS RELATING TO:**

- **IDENTIFICATION, EVALUATION, AND EDUCATIONAL PLACEMENT OF THEIR CHILD; AND**
- **THE PROVISION OF FAPE TO THEIR CHILD, INCLUDING IEP MEETINGS**

# Parents are Members of:



- The group that determines whether their child is a “child with a disability”
- The IEP Team of their child
- Any group that makes educational placement decisions for their child

Public agencies must:

- Provide parents with appropriate notice of a meeting
- Use other methods to ensure parent participation in IEP meetings and placement meetings

# Appropriate notice of Meetings Parents



- Must be early enough to ensure parents have opportunity to attend
- Must include the purpose, time, and location of the meeting
- Must include who will attend meeting
- Must tell parents they may invite individuals with knowledge or special expertise about the child
- Must include certain early childhood transition information, if appropriate

# Written Notices



- 1. PRIOR WRITTEN NOTICE**
- 2. PROCEDURAL SAFEGUARDS**

# Written Notice -



## **Prior Written Notice Under Part B of IDEA**

- Description of the action that the school proposes or refuses to take:
- Explanation of why the school is proposing or refusing to take that action:
- Description of each evaluation procedure, assessment, record, or report school used in deciding to propose or refuse the action:
- Description of any other choices IEP Team considered and the reason why these choices were rejected:

# Prior Written Notice



- Description of other reasons why school proposed or refused the action:
- **Resources for the parents to contact for help in understanding Part B of the IDEA:**
- If this notice is not an initial referral for evaluation, the parent can obtain a copy of the BIE procedural safeguards on the BIE website:

# Prior Written Notice



Written notice must be:

written in language understandable to  
general public

provided in native language of parent or other mode of  
communication used by parent\*

*\* Unless it is clearly not  
feasible to do so*

# Procedural Safeguards Notice



## Must explain:

- ✓ Independent educational evaluations (IEE)
- ✓ Prior written notice
- ✓ Parental consent
- ✓ Access to education records
- ✓ Availability of mediation
- ✓ Child's placement during pendency of any due process hearing
- ✓ Opportunity to present and resolve complaints through due process complaint and State complaint procedures including certain specific information

*And there's more .....*

# Procedural Safeguards Notice



## Must explain:

- ✓ Procedures for students subject to placements in an interim alternative educational setting (IAES)
- ✓ What's required if parents are seeking a unilateral private school placement at public expense
- ✓ Hearings on due process complaints, including required disclosures

# Options for Dispute Resolution



- **Informal approaches**
- **State complaints**
- **Mediation**
- **Resolution process**
- **Due process hearings**

# Website



- Model forms for may be downloaded at the following website:
- <http://www.bie.edu/Programs/SpecialEd/Dispute/index.htm>

# Informal Approaches



- **IEP Review**
- **IEP Facilitation**
- **Others?**

# Mediation is for



- **Parents**
- **Educators**
- **People who need a third party to help solve difference**
- **Finding a solution that works for all parties and helps the child**

# Benefits of Mediation



- Offers an informal, effective way to share differences
- Effective in improving relationships
- Mutual problem solving
- Less stressful
- Less time consuming

# State Complaints



- **What is a State complaint?**
- **Who may file one?**
- **What information must be included?**
- **What are the DPA's procedures for handling the complaint?**
- **Are there time limits?**

# Letter of Complaint



**Complaint-** A claim of a violation of federal laws or rules regarding special education.

- **Who can file?** Any person or organization.
- **Is there a deadline to start it?** The BIE will investigate violations that are up to one year old.

# Letter of Complaint



- *How do you start the process?* Send a letter to the Supervisory Education Specialist, Division of Performance and Accountability, and the school the complaint is against. It must include facts or details of the violation under IDEA. BIE/DPA has model forms for use and can be obtained at the following website:
- Mediation will be offered at this time.

# Letter of Complaint



- **How can a complaint resolve my disagreement?**

If your complaint is substantiated, It could result in correction of policies/procedures, training for personnel, order an IEP meeting or evaluations, provide compensatory education, take other actions to bring school into compliance.

# Due Process Hearing



- **What is a due process complaint?**
- **Who may file one?**
- **Are there time limits?**
- **What information must be included?**
- **How does a school respond?**

# Due Process Hearing



- **Who can file?** Either the Parent or school may request a hearing.
- **How do you start the Process?** A Hearing request sent to the Bureau of Indian Education/Division of Performance & Accountability BIE/DPA, Supervisory Education Specialist.
- The party requesting the hearing cannot raise issues not in hearing request unless the other party agrees.

# Resolution meeting



**A Resolution Session** is a meeting for discussing the facts and possible resolution of issues in the hearing request.

Parties may agree, in writing, to waive such meeting or to use mediation in lieu of the resolution session.

**Resolution session participants include:** the parents, relevant IEP team members, and school with decision-making authority.

- May not include an attorney for the school unless parent's attorney is present. Attorneys' fees for "resolution sessions" are not recoverable.

# Resolution Agreement



If agreement is reached to resolve the dispute at a resolution session, the parties execute a legally binding agreement that is:

- Signed by both the parents and a representative of the school; and
- Enforceable in state or federal court

# Developing Successful Partnerships



- **Mutual respect**
- **Effective communication**
- **Shared problem solving**
- **Common vision and goals**
- **Conflicts, when present, are openly acknowledged and addressed**
- **Focus on the child**