

2021 Kansas Statutes

72-3430. Parental rights. (a) The rights of parents of exceptional children shall include, but not be limited to, the rights specified in this section.

(b) The parents of exceptional children shall have the right to:

(1) Examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

(2) written prior notice in accordance with K.S.A. 72-3432, and amendments thereto, whenever an agency: (A) Proposes to initiate or change; or (B) 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;

(3) receive the notice required by provision (2) in their native language, unless it clearly is not feasible to do so;

(4) present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child, subject to the requirements in K.S.A. 72-3415, and amendments thereto;

(5) request mediation in accordance with this act;

(6) consent, or refuse to consent, to the evaluation, reevaluation or the initial placement of their child and to any substantial change in placement of, or a material change in services for, their child, unless a change in placement of their child is ordered pursuant to the provisions of K.S.A. 72-3433, and amendments thereto, or the agency can demonstrate that it has taken reasonable measures to obtain parental consent to a change in placement or services, and the child's parent has failed to respond. If the parent fails to respond to the request for parental consent to a substantial change in placement or a material change in services, the agency must maintain detailed records of written and verbal contacts with the parent and the response, if any, received from the parent;

(7) be members of any group that makes decisions on the educational placement of their child;

(8) demand that their child remain in the child's current educational placement pending the outcome of a due process hearing, except as otherwise provided by federal law and this act;

(9) subject to the requirements of this act, request a due process hearing in regard to any complaint filed in accordance with provision (4) of this subsection, or as authorized in K.S.A. 72-3434, and amendments thereto;

(10) appeal to the state board any adverse decision rendered by a hearing officer in a local due process hearing;

(11) appeal to state or federal court any adverse decision rendered by a review officer in a state-level due process appeal; and

(12) recover attorney fees, as provided in the federal law, if they are the prevailing parties in a due process hearing or court action; however, only a court shall have the authority to award attorney fees, and such fees may be reduced or denied in accordance with federal law.

(c) The state board shall develop a model form to assist parents in filing a complaint and due process complaint notice.

(d) The state board shall develop, and thereafter amend as necessary, and distribute for use by agencies, a notice of the rights available to the parents of exceptional children under

the federal law and this act. The notice shall include a full explanation of the rights and be made available in various languages and be written so as to be easily understandable by parents.

(e) A list of the rights available to the parents of exceptional children shall be given to the parents only one time each school year, except a copy also shall be given to the parents: (A) Upon initial referral or parental request for evaluation; (B) upon request of a parent; and (C) upon the initial filing of a complaint under subsection (b)(4).

History: L. 1999, ch. 116, § 17; L. 2005, ch. 171, § 15; July 1.