TOPIC: Procedural Safeguards – Rule 55

"How often are districts required to provide a copy of Rule 55 to parents? "

Nebraska Statute 79-1162 requires districts to provide a **copy** of the procedures regarding due process hearing and complaints to the parents upon initial consideration of the provision of special education services.

> "A parent, guardian, competent student of the age of majority, or school district may initiate a hearing on matters related to the initiation, change, or termination or the refusal to initiate, change, or terminate the identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education or records relating thereto. <u>A **copy** of the procedures specified in rules and regulations of the State Department of Education for complaints and hearings under this section shall be provided by school districts to all parents and guardians of children with disabilities upon initial consideration of the provision of services for their children with disabilities.</u> Such hearings shall be initiated by filing a petition with the State Department of Education." (Emphasis added)

Rule 51 also contains requirements related to the provision of information regarding the due process system and complaint systems. Specifically, 92 NAC 51-009.06 states:

> 009.06 Procedural Safeguards Notice
>
> 009.06A A copy of the procedural safeguards available to the parents of a child with a disability shall be given by the school district or approved cooperative to the parents only one time a school year, except that a copy shall also be given to the parents:
>
> > 009.06A1 Upon initial referral or parental request for evaluation;
> >
> > 009.06A2 Upon request by a parent;
> >
> > 009.06A3 Upon receipt by the school district or approved cooperative of the first occurrence of the filing of a complaint under 92 NAC 51-009.11 and the first occurrence of filing a special education due process case under 92 NAC 55; and
>
> 009.06B The procedural safeguards notice shall include a full **explanation** of all of the procedural safeguards relating to:
>
> > 009.06B5 Opportunity to present and resolve disputes through the due process hearings and the state complaint procedures including;

009.06B5a The time period in which to file a state complaint or petition for a due process hearing;

009.06B5b The opportunity for the school district or approved cooperative to resolve the dispute; and

009.06B5c The difference between the due process system and the state complaint procedures; including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.

009.06B6 The child's placement during pendency of due process proceedings;

009.06B10 Due process hearings, including requirements for disclosure of evaluation results and recommendations;

009.06B11 Civil actions, including the time period in which to file such actions; and

009.06B12 Attorney's fees.

NDE has developed a sample Parent Rights Pamphlet which contains a full explanation of the parents' right to file for a due process hearing or a complaint. The sample Parents Rights Pamphlet is available on the NDE website at: http://www.education.ne.gov/sped/parentinfo/ParentalRightsEng.pdf
This document is sufficient to meet the requirements of 92 NAC 51 listed above.

Based on the State Statute and Rule 51 districts are required to provide:

1) A **copy** of Rule 55 and Section 009.11 of Rule 51 to parents upon initial consideration for the provision of Special Education services; and

2) A copy of the procedural safeguards (as contained in the Parent's Rights Pamphlet) which includes an **explanation** of the due process and complaint systems. The procedural safeguards must be provided at least one time each school year and additionally in the following three instances: 1) upon the initial referral or parental request for evaluation; 2) upon request by the parent; and 3) upon the receipt by the school district of the first occurrence of the filing of a complaint or due process hearing.