

**CHAPTER 7: PROCEDURAL SAFEGUARDS**

REVISION DATES: 07/01/2021, 12/14/2018

EFFECTIVE DATES: 04/01/2022, 07/01/2019

INTENDED USER(S): All ADES/AzEIP personnel, AzEIP Service Providing Agencies including all employees, contractors, subcontractors, and volunteers.

REFERENCES: 20 U.S.C. §1401(23); 34 C.F.R. Part 99; 34 C.F.R. §303.7, -.27, 123, -.400, -.403, and -.449; 34 C.F.R. §99.3, 20 U.S.C. §§1232g, 1439(a)(2), and 1442; 34 C.F.R. §303.401-402, 34 C.F.R. 303.404, 20 U.S.C. §1232, et seq. (FERPA) and 34 C.F.R. §303.405 - 413., 34 C.F.R. §303.405-409, 34 C.F.R. §303.410-411, 34 C.F.R. §303.401(d)(1), -.414-.415; 34 C.F.R. 99.30(d), 34 C.F.R. §303.416; 20 U.S.C. 1232f; 34 C.F.R. Parts 76 and 80, 34 C.F.R. §420, 20 U.S.C. §§1439(a)(6) and (7); 34 C.F.R. §§303.21 and 303.421, 20 U.S.C. §1439(a)(5); 34 C.F.R. §§303.27; -.422, 20 U.S.C. §1439; 34 C.F.R. §§303.401-449, 20 U.S.C. §1415(e); 34 C.F.R. §303.431, 34 C.F.R. §303.438, 34 C.F.R. §§303.430; 435. 34C.F.R. §§303.432-434

**7.3 Amendment to Records**

- 7.3.1 Requests to amend records may be submitted if a parent believes the information in their child's record is inaccurate, misleading, or violates privacy or other rights of their children.
- 7.3.2 If a parent wishes to amend a child's early intervention records, the service coordinator lets the parent know that s/he must submit a request in writing, if possible, to the EIP that maintains the information, setting forth the specific parts of the child's records that the parent requests be amended and what the desired amendment is. If the parent is unable to make the request in writing, the service coordinator shall assist the parent in making the request in another acceptable manner, such as braille, sign language, etc.
- 7.3.3 The EIP receiving the request shall review the request and determine within 14 (fourteen) calendar days whether or not to amend the record as requested.
- 7.3.4 If the EIP agrees to amend the record, it shall amend the child's record by replacing the old record, which shall be destroyed.
- 7.3.5 If the EIP determines not to amend the record as requested, it will notify the parent in writing of the reasons for denying the request. It shall also notify the parent of his/her right to request a hearing, which must be submitted in writing to ADES/AzEIP within 30 days from the date of the letter of denial from the EIP, unless an exception is granted by ADES/AzEIP.
- 7.3.6 Upon receipt of a parent's request for a hearing, ADES/AzEIP will contact the

parent to ask which of the two hearing options they would like as outlined in the AzEIP Policy Manual, Chapter 7: *Procedural Safeguards*. Depending on which hearing is chosen, either the ADES/AzEIP or the due process hearing office will provide the parent notice of the date, time, and place reasonably in advance of the hearing.

- 7.3.7 The hearing shall be conducted by the Part C Coordinator of ADES/AzEIP, or designee, or through the due process hearing officer, as long as that person does not have a direct interest in the outcome of the hearing.
- 7.3.8 ADES/AzEIP or the due process hearing officer shall make its decision in writing within a reasonable period of time after the hearing. The decisions must be based solely on the evidence presented at the hearing and must include a summary of the evidence and the reasons for the decision.
- 7.3.9 If the decision is that the record should be amended, AzEIP will direct the service coordinator or his/her supervisor to amend the record.
- 7.3.10 If the decision is that the record shall not be amended, the parent shall be notified within a reasonable time in writing along with notification of the parents' right to prepare a statement of disagreement to be kept in the child's record. The service coordinator maintains the statement in the child's record for as long as the record is maintained per retention policy.
  - A. If the early intervention record or the contested portion are disclosed to any party, the statement of disagreement must also be disclosed.