

Consent

CONSENT FOR SERVICES

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Model operating procedures created by



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CONSENT FOR SERVICES

What is Required

Once a student has been identified as a student with a disability in need of special education services, the ARD Committee must develop the student's IEP and determine the special education and related services the student will receive from the District. However, before initially providing special education and related services to a student, Campus Special Education Personnel must obtain informed consent for initial services from the parent or adult student. See [PARENT] and [ADULT STUDENT AND TRANSFER OF RIGHTS]. Such written consent for initial services may be obtained only after the Campus Special Education Personnel provide to the parent or adult student Prior Written Notice of the ARD Committee's decisions regarding services. See [PRIOR WRITTEN NOTICE].

Elements of Informed Consent for the Initial Provision of Services

To constitute informed consent for the initial provision of special education and related services, the following must be communicated to the parent:

- Campus Special Education Personnel have fully informed the parent of all information related to the initial provision of special education and related services in the parent's native language or other mode of communication;
- The parent is provided consent that describes the initial provision of special education and related services and lists any records that will be released and to whom;
- The parent understands and agrees in writing to the District providing the initial provision of special education and related services;
- The parent understands and agrees in writing that consent is voluntary and may be revoked at any time, but understands that the revocation is not retroactive (i.e. it does not negate an action that has occurred after the consent was given and before the consent was revoked); and
- The parent understands that if the parent revokes consent in writing for their student's receipt of special education services after services have been initiated, the District is not required to amend the student's educational records to remove any references to the student's receipt of special education and related services because of the revocation of consent.

When Consent Is Not Obtained for the Initial Provision of Services

Campus Special Education Personnel must make reasonable efforts to obtain informed consent for the initial provision of special education and related services. Despite

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reasonable efforts, the parent may refuse to respond or refuse to consent to the initial provision of services. Unlike with consent for an initial evaluation, Campus Special Education Personnel may not use mediation, due process procedures or other procedural safeguards available under the IDEA, to obtain agreement or a ruling that services may be provided to the child where the parent refuses to respond or refuses to consent to the initial provision of services. However, the District will not be liable for failure to provide a FAPE to the child where the parent refuses to provide consent for the provision of services and is not required to convene an ARD meeting to develop an IEP for the child. See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING] and [RULE OF CONSTRUCTION].

When Consent for the Continued Provision of Services Is Revoked

According to the Department of Education, a parent has a right to remove his/her student from special education programs unilaterally. The Campus must grant the parent's request to revoke consent for the continued provision of special education and related services, so long as the parent has revoked consent in writing. If the parent revokes consent for the continued provision of special education and related services at any time after the initial provision of services, Campus Special Education Personnel must stop providing special education and related services to the student. However, Campus Special Education Personnel must provide Prior Written Notice to the parent before discontinuing the provision of special education and related services. See [PRIOR WRITTEN NOTICE]. The Prior Written Notice must explain the change in the educational program that will result from the parent's revocation of services and give the parent the information and time to consider fully the ramifications of the revocation of consent.

Likewise, District Special Education Administration may not use procedural safeguards, including the mediation or due process procedures, to obtain agreement or a ruling that the services may be provided to the student. However, the District will not be liable for failing to provide FAPE to the student if the District does not provide the student with further special education and related services where the parent revoked consent. Further, Campus Special Education Personnel are not required to convene an ARD meeting to develop an IEP where consent for services has been revoked. See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING] and [RULE OF CONSTRUCTION].

If the parent revokes consent, the revocation is not retroactive. Thus, it does not negate any action occurring after the consent was given but before the consent was revoked. Furthermore, if the parent revokes consent in writing for their student's receipt of special education and related services after the child has been provided special education and related services, Campus Special Education Personnel do not need to amend the child's educational records to remove any reference to the provision of special education and related services.

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Once the District has properly discontinued the provision of special education and related services upon a parent's revocation of services, the child becomes a general education student. As a result, the District may place the student in accordance with the placement procedures of general education students. However, the fact that a parent revoked consent does not impact a parent's right to request subsequent evaluations for eligibility. Such a request will be treated as a request for an initial evaluation.

Additional Procedures

Upon completion of the initial evaluation, the ARD Committee will convene to discuss the results of the evaluation, determine eligibility for special education services, and draft the student's IEP, if appropriate. Prior Written Notice regarding the decisions in the ARD Committee meeting should be given to the parent with the ARD document. See [PRIOR WRITTEN NOTICE]. If the parent is present at the ARD meeting and is provided the ARD paperwork and the Prior Written Notice, Campus Special Education Personnel may ask the parent to provide written consent for the initial provision of special education services and placement by signing the Consent for the Initial Provision of Special Education Services form at the meeting. However, Campus Special Education Personnel should not force the parent to sign the consent at the meeting where the parent requests additional information or time to consider the information. If the parent is not present at the ARD meeting, Campus Special Education Personnel should provide the parent a copy of the ARD documents and the Prior Written Notice within 24 hours of the meeting and seek consent for services to begin.

If the parent has not signed and returned the Consent for the Initial Provision of Special Education Services form within 3 school days of receiving it, Campus Special Education Personnel will, at a minimum, attempt to contact the parent at different times of the day on at least three (3) separate occasions. Additionally, Campus Special Education Personnel will follow up with a written letter to the parent both via certified mail and sent home with the student. Campus Special Education Personnel will also consider whether a visit to the parent's home or place of employment is necessary. Campus Special Education Personnel will document all efforts to obtain consent from the parent in a Communication Log. The Communication Log should include the method of communication utilized (i.e. phone call, email, letter, or home visit), who attempted to make the contact, when the contact attempt was made, and the results of the attempted contact (i.e. whether contact was made and consent was obtained).

Once it becomes known that the parent will not give consent for special education and related services, Campus Special Education Personnel should provide the parent with the Refusal to Consent to Initial Services form and ask the parent to sign the form. If the parent refuses to sign the form or respond, Campus Special Education Personnel must document the parent's non-responsiveness on the Refusal to Consent to Initial Services form and in the Communication Log. All documentation regarding the parent's consent

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or refusal to consent, including the Communication Log, should be maintained in the student's special education file.

When Consent for the Continued Provision of Services Is Revoked

An ARD meeting does not need to be held for the parent or adult student to revoke services for special education and related services. In addition, the District may not require a parent/adult student to provide an explanation, either orally or in writing, regarding the reason the parent/adult student revokes consent for services. If a parent or adult student requests that services be revoked verbally, the parent or adult student should be notified that the request must be in writing. E-mail is an acceptable form of writing for revocation of consent. Campus Special Education Personnel should place a copy of the request to withdraw consent at the front of the ARD section of the student's special education folder.

Within 3 school days upon receipt from a parent or adult student revoking services, a Prior Written Notice must be provided. See [PRIOR WRITTEN NOTICE]. If an adult student revokes consent for the continued provision of special education and related services, Campus Special Education Personnel must provide Prior Written Notice to both the adult student and the parent. Special education and related services should not be discontinued until 5 school days after the Prior Written Notice is provided to the parent or adult student. The parent or adult student may submit a written note to rescind the request to revoke services within these 5 school days. If the parent submits a written request to rescind the revocation during the 5 school day period, the Campus Special Education Personnel should obtain the parent's signature on the Consent for the Initial Provision of Special Education Services form with the date that the parent now consented to the special education services. However, if the parent or adult student seeks to reinstate special education services after these 5 school days have passed, the request for reinstatement should be treated as a request for an initial evaluation. See [EVALUATION PROCEDURES].

The right to revoke consent only applies to the provision of *all* special education and related services—consent may not be revoked for the continuation of some services and not others. If a parent or adult student wants to discontinue certain services, the ARD Committee will convene to discuss whether it is appropriate to remove those services from the student's IEP. If the ARD Committee disagrees with the request to discontinue those services, the parent or adult student may utilize the dispute resolution process outlined in the *Notice of Procedural Safeguards* to resolve the issue.

Once a parent/adult student revokes consent for the student to receive special education and related services, the student is considered a general education student under the Elementary and Secondary Education Act (ESEA) and will have his/her progress tracked in the same manner as students who do not receive special education and related

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services. However, once consent has been revoked, the student should be referred to the Student Support Team to discuss relevant changes following the discontinuance of special education services for the student. In addition to discontinued services, this may also impact the student's state testing, graduation, schedule, and discipline, which should be considered by the Student Support Team and Campus Administration. The Student Support Team should determine if any general education interventions should be implemented for the student. If appropriate, the Student Support Team may also consider making a referral for the student to a Section 504 Committee to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

Evaluations Following Revocation of Consent

The District is not relieved of its Child Find duties solely because a parent or adult student has revoked consent for special education and related services. See [CHILD FIND DUTY]. Campus Special Education Personnel still have a duty to identify, locate, or evaluate a student whom it suspects of having a disability and having a need for special education and related services. However, the District's child find obligations will not be triggered except for where there is reason to suspect that the student has needs other than those previously identified and addressed in the IEP for which consent was revoked.

A parent or adult student may request an evaluation to determine eligibility for special education and related services after consent is revoked. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. The District will not deny the parent this right solely because the parent has previously revoked consent for the provision of special education and related services. District Assessment Personnel will determine if a full evaluation is necessary following a review of existing data to identify what additional data, if any, are needed to determine eligibility and educational need. See [REVIEW OF EXISTING EVALUATION DATA].

[ADD ADDITIONAL DISTRICT PROCEDURES AS APPROPRIATE]

Evidence of Implementation

- Prior Written Notice
- Consent for the Initial Provision of Special Education Services
- ARD/IEP
- Revocation of Consent for the Provision of Special Education Services
- *Notice of Procedural Safeguards*
- Communication Log
- Student Support Team documentation
- Section 504 Committee documentation

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- [DISTRICT FORMS]

Resources

[The Legal Framework for the Child-Centered Special Education Process: Consent for Services - Region 18](#)

[Guidance on Revocation or Parental Consent for Special Education Services - Texas Education Agency](#)

[Notice of Procedural Safeguards - Texas Education Agency](#)

[Revocation of Consent - SPEDTex](#)

[OSEP Letter to Gerl \(June 6, 2012\) - U.S. Department of Education](#)

[OSEP Letter to Ward \(Aug. 31, 2010\) - U.S. Department of Education](#)

[OSEP Letter to Cox \(Aug. 21, 2009\) - U.S. Department of Education](#)

[ADDITIONAL DISTRICT RESOURCES]

CITATIONS

Board Policy EHBAA and EHBAE; 34 CFR 300.300(b), 300.9(a)–(c), 300.322(d)