

PARENTAL CONSENT AND PARENTAL REVOCATION OF CONSENT

Parental Consent

When the term *consent* or *parental consent* is used in the Individuals with Disabilities Education Act (“IDEA”), it has the same meaning as the term *informed written consent*. The following indicates that the parent/guardian has been fully informed regarding the action of the District for which parental consent is being requested:

- The parent/guardian has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or through another mode of communication;
- The parent/guardian understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, timelines, and the consent describes that activity and lists the records (if any) that will be released and to whom;
- The parent/guardian/guardian understands that the granting of consent is voluntary on the part of the parent/guardian and may be revoked at any time; and
- If a parent/guardian revokes consent, that 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retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

(34 C.F.R. 300.300)

Revocation of Consent

A parent/guardian may revoke consent for continued provision of special education and related services at any time and for any reason. The parent/guardian must provide a written statement revoking consent for special education and related services. Upon parent/guardian request, the District may provide assistance in writing the revocation statement. A statement of revocation of consent must include the date, student’s name and parent’s/guardian’s signature. Revocation of consent applies to the entire IEP, not to just individual sections of the IEP.

A parent/guardian may also revoke consent for assessment after an assessment plan has been signed. A Prior Written Notice (PWN) must be sent once the revocation statement for assessment has been received.

Upon revocation of consent for continued special education and related services, the District:

- May not continue to provide special education and related services to the student, and must provide a PWN before ceasing services that explains the change in the educational program that will result from the parents’/guardian’s revocation of consent. The provision of this notice gives the parents/guardian the information and time to consider fully the ramifications of the revocation of consent. The PWN should include a copy of parental rights;

- May not use mediation or due process procedures in order to obtain a ruling that services may be provided to the student;
- Will not be considered to be in violation of the requirement to make a free and appropriate public education (“FAPE”) available to the student because of a failure to provide further services; and
- Is not required to convene an IEP team meeting or develop an IEP for the student.

Once the District has properly discontinued the provision of special education and related services, the student becomes a general education student, and the district may place the student in accordance with the placement procedures of the general education students. As with all general education students, if the student is not progressing in the general education setting or adequately accessing the general education curriculum, the district has the responsibility to fulfill Child Find requirements. Schools may also wish to consider evaluating the student for a 504 Plan.

If a parent/guardian changes his/her mind and later requests that the child be re-enrolled in special education, the district must treat this request as an initial evaluation. The District will need to do an initial evaluation for the student and determine eligibility before developing a new IEP. A student who reaches the age of majority and retains their educational rights may revoke consent to his/her special education and related services, in which case the district must provide prior written notice to the adult student as noted above.

When Parents Do Not Agree

In the case of two parents/guardians in conflict, the written consent of only one parent with educational decision-making authority is necessary to revoke consent for a child’s receipt of special education and related services. A PWN should be sent to both parents.

As long as the parent/guardian has the legal authority to make educational decisions for the child, the school district must accept the parent’s/guardian’s written revocation of consent. A subsequent disagreement by the other parent/guardian does not overturn the revocation. Further, a subsequent request for special education services does not overturn the revocation (unless the revocation is made by the parent/guardian who initiated the original revocation) and would initiate the initial assessment process.

Note: Neither the District nor the objecting parent/guardian may use the IDEA due process procedures to overturn the other parent’s/guardian’s written revocation of consent. The IDEA provides that a parent/guardian may file a due process complaint over actions by a public agency and not actions by another parent/guardian.