

Addendum to the Notice of Special Education Procedural Safeguards for Students and Their Families

Requirements under Part B of the Individuals with Disabilities Education Act, the Federal Regulations, and the State Rules Governing Special Education.

The following addendum contains changes to the Notice of Special Education Procedural Safeguards for Students and Their Families published August 2007. This addendum is to notify parents of changes that were effective December 31, 2008, as a result of federal rule amendments published in the Federal Register, Vol. 73, No. 231. The changes contained in this addendum will be incorporated into the State's Notice of Special Education Procedural Safeguards when the state adopts final amended regulations. After the regulations are adopted, the State's Notice of Procedural Safeguards may contain additional changes.

Please use the following information in place of the information contained in the State's Notice of Special Education Procedural Safeguards:

- **Prior Written Notice:** Pages 1 and 2 of the State's Notice of Special Education Procedural Safeguards. Added an example of when a district sends prior written notice.
- **Parental Consent – Definition:** Page 2 of the State's Notice of Special Education Procedural Safeguards. Added information that revocation of consent for continued services does not require a school district to amend educational records.
- **Parental Consent for Initial Services:** Pages 2 of the State's Notice of Special Education Procedural Safeguards. The caption now reads, "Parent Consent for Initial Services and Revocation of Consent for Continued Services." Added information regarding revocation of consent for continued special education services.

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Prior Written Notice 34 CFR §300.503; WAC 392-172A-05010

You have the right to be given information in writing that explains what your school district is or is not doing when it affects your child's special education needs.

The school district must provide you information in writing about important decisions that affect your child's special education program. This is called a prior written notice and it is a document that reflects **decisions** that were made at a meeting or by the district in response to a request made by you. **The district is required to send you a prior written notice after a decision has been made, but before implementing the decision.** These are decisions made that are related to any proposal or refusal to initiate or change the identification, evaluation, placement, or provision of a FAPE to your child.

A prior written notice must include:

- What the district is proposing or refusing to do;
- An explanation of why the district is proposing or refusing to take action;
- A description of any other options considered by the IEP team and the reasons why those options were rejected;
- A description of each evaluation procedure, assessment, record, or report used as a basis for the action;
- A description of any other factors relevant to the action;
- A description of any evaluation procedure the district proposes to conduct for the initial evaluation and any reevaluations;
- A statement that parents are protected by the procedural safeguards described in this booklet;
- How you can get a copy of this notice of procedural safeguards booklet; or include a copy of this notice of procedural safeguards booklet if one has not been provided to you; **AND**
- Sources for you to contact to get help in understanding these procedural safeguards.

Examples of when you will receive a prior written notice are:

- Your child is referred because of a suspected disability and potential need for special education.
- The district wants to evaluate or reevaluate your child, or the district is refusing to evaluate or reevaluate your child.
- Your child's IEP or placement is being changed.
- You have asked for a change and the district is refusing to make the change.
- You have given the district written notice that you are revoking consent for your child to receive special education services.

Prior written notice must be provided in your native language or other mode of communication that you use, such as sign language, unless it is clearly not feasible to do so.

If your native language or other mode of communication is not a written language, the district must take steps to ensure that (1) the notice is translated orally or by other means in your native language or other mode of communication, (2) you understand the content of the notice, and (3) there is written evidence that these requirements have been met.

Parental Consent – Definition 34 CFR §300.9; WAC 392-172A-01040

The school district must get your written consent before evaluating your child. The district must also get your written consent before providing special education services for the first time to your child. There are some exceptions that apply to obtaining your consent for evaluations.

Consent means:

1. You have been fully informed in your native language or other mode of communication (such as sign language, Braille, or oral communication) of all information relevant to the action for which you are giving consent;
2. You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; **AND**
3. You understand that the consent is voluntary on your part and you may revoke (withdraw) your consent at anytime.

Your withdrawal of consent, however, does not negate (undo) an action that began after you gave your consent and before you withdrew it. This means that if you provided consent for your child to initially receive special education services and you later revoke your consent allowing the district to provide special education services to your child, the school district is not required to amend your child's educational records to remove any reference to your child's receipt of special education services.

Parental Consent for Initial Services and Revocation of Consent for Continued Services

Your district must obtain your informed written consent or must make reasonable efforts to obtain your informed written consent before providing special education and related services to your child for the first time.

If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such consent, your district may not use mediation procedures in order to try to obtain your agreement or use due process hearing procedures in order to obtain a ruling from an administrative law judge to provide special education and related services to your child.

If you refuse or do not respond to a request to give your consent for your child to receive special education and related services for the first time, the school district may not provide your child with the special education and related services. In this situation, your school district:

1. Is not in violation of the requirement to make a free appropriate public education (FAPE) available to your child because of the failure to provide those services to your child; **AND**
2. Is not required to have an IEP meeting or develop an IEP for your child for the special education and related services for which your consent was requested.

Once you provide written consent for your child to receive special education and related services and the district begins to provide special education services, your child will remain eligible to receive special education services until:

1. He or she is reevaluated and found to no longer qualify for special education services;
2. He or she graduates with a regular high school diploma;
3. He or she reaches the age of 21 (or if your child turns 21 after August 31, he or she is eligible for services through the end of the school year.); **or**
4. You provide the district with a written revocation of your consent for the continued provision of special education services.

If you revoke your consent in writing for continued provision of services after the district has initiated special education services, the district must give you prior written notice a reasonable time before it stops providing special education services to your child. The prior written notice will include the date that the district will stop providing services to your child and will inform you that the school district:

1. Is not in violation of the requirement to make a free appropriate public education (FAPE) available to your child because of the failure to provide those services to your child; **AND**
2. Is not required to have an IEP meeting or develop an IEP for your child for further provision of special education services.

A district may not use due process to override your written revocation or use mediation procedures to obtain your agreement to continue to provide special education services. After the district stops providing special education services to your child, your child is no longer considered to be eligible for special education services. Your child will be subject to the same requirements that apply to all students.

You or others who are familiar with your child, including the school district, may refer the child for an initial evaluation at a future time. The district would then follow the procedures for an initial evaluation.