

Updated 2022

SPECIAL EDUCATION OPERATING GUIDELINES

Consent

CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

June 2022



CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

What is Required

A student's personally identifiable information is protected from disclosure under the Family Education Rights and Privacy Act ("FERPA"). Generally, the District must obtain informed consent from the parent before disclosing personally identifiable information to third parties, except in certain circumstances. *See* [RECORDS] and [WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION].

Circumstances when informed consent is required to disclose confidential information of a special education student include:

- When disclosure is to officials of agencies providing or paying for transition services;
- When the District invites a representative of a participating agency to join the ARD Committee if the agency is likely to be responsible for providing or paying for transition services; and
- If the child is enrolled or is going to enroll in a private school that is not located in the District, when disclosure is to the school district where the private school is located.

Elements of Consent to Disclose Confidential Information

To constitute informed consent for the disclosure of confidential information, the following must occur:

- The parent has been fully informed of all information related to the disclosure of confidential information in the parent's native language or other mode of communication, including:
 - Specifying the records that may be disclosed;
 - Stating the purpose of the disclosure; and
 - Identifying the party or class of parties to whom the disclosure may be made;
- The parent understands and agrees in writing to the District disclosing the confidential information;
- The consent is signed and dated; and
- The parent understands that the granting of consent is voluntary by the parent and may be revoked at any time, except that if the parent revokes consent, the revocation is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

Definitions

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral,

written, or electronic means, to any party except the party identified as the party that provided or created the record.

“Personally identifiable information” includes the student’s name, the name of the parent, the name of another family member, the parent’s address, any personal identifier (e.g. social security number), or a list of characteristics that would make it possible to identify the student with reasonable certainty.

Additional Procedures

Campus Special Education Personnel will attempt to obtain parental consent for the disclosure of confidential information by identifying the parent and providing the parent with the Consent for Disclosure of Confidential Information form by phone, email, certified mail, or in person. *See [PARENT]*.

The Consent for Disclosure of Confidential Information form will request the following:

- The name of the person and/or agency to whom the information will be disclosed;
- The address, phone number, fax and/or email address of the individual or agency to whom the information will be disclosed;
- The records that are requested or the records that are to be released;
- The purpose of the disclosure;
- The contact information of Campus Special Education Personnel for the parent to receive more information;
- An acknowledgement that the parent has been fully informed of the request in the parent’s native language or other mode of communication and fully understands the request;
- An acknowledgement that the parent understands that the consent is voluntary and may be revoked at any time, but that the revocation will not be retroactive; and
- An acknowledgement that the parent consents to the disclosure of confidential information.

The Consent for Disclosure of Confidential Information form should also include a date or period of time upon which the authorization will expire. After signing the Consent for Disclosure of Confidential Information form, the parent should return the form to the Campus Special Education Personnel identified in the form as soon as possible.

Examples of when the District will need to obtain consent to disclose confidential information include, but are not limited to, the following:

- Transition services;
- Outside agency individuals participating in ARD meeting;
- Parent invitees to ARD meetings who are not employees of the District;
- Independent Educational Evaluations; and
- Parental placement in a private school located outside of the District’s boundaries.

Consent may be obtained electronically so long as it (1) identifies and authenticates a particular

person as the source of the electronic signature; and (2) indicates such person's approval of the information contained in the electronic format.

Inviting Outside Agencies to ARD Meetings

While the District may invite officials from another agency to an ARD meeting, the District will need to obtain parental consent for the individual to participate in the ARD meeting. Campus Special Education Personnel will obtain consent for the disclosure of confidential information for each ARD meeting prior to inviting a representative of another agency. One-time consent is not sufficient.

Evidence of Implementation

- Consent for Release of Confidential Information Form
- FERPA Notice
- Access Log

Resources

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

[Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Revised Sept. 2011\) - U.S. Department of Education](#)

[OSEP Letter to Gray \(Mar. 17, 2008\) - U.S. Department of Education](#)

[Student Record FAQ's - Texas Education Agency](#)

[OSEP Letter to Reisman \(Nov. 30, 2012\) - Texas Education Agency](#)

CITATIONS

Board Policies EHBAE and FL; 34 CFR 99.30; 300.321(b); 300.622(a)–(b); 300.9

STAFF RESONSIBLE

If you have questions regarding Consent for Disclosure of Confidential Information, please contact:

Director for Specialized Programs or the Department of Special Education

281-396-2630

SPECIAL EDUCATION OPERATING GUIDELINES

Consent

CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING

June 2022

CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING

What is Required

The IDEA dictates who must attend an ARD Committee meeting. With written agreement from the parent and the District, a member of the ARD Committee may not be required to attend a specific meeting if the member's area of curriculum or related services is not being modified or discussed in the meeting. Even where an ARD Committee member's area of curriculum or related services is being modified or discussed, the member may be excused from attending the meeting, in whole or in part, if the parent and the District consent to the excusal in writing and the member submits input into the development of the IEP in writing to the parent and the ARD Committee prior to the meeting. *See* [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP]. However, the District must obtain informed consent from the parent before excusing a required member from attending an ARD Committee meeting, in whole or in part.

These excusal and consent requirements do not apply to the following ARD Committee members: the parent, the student with a disability, an adult student following a transfer of rights, and/or a discretionary member (i.e. an individual not required by the IDEA to attend the ARD Committee meeting, but who has been invited at the discretion of the parent or the District as a person with relevant knowledge or special expertise regarding the student).

Elements of Consent for Excusal

To constitute informed consent to excuse a member from attending an ARD meeting, in whole or in part, the following must occur:

- The parent has been fully informed of all information related to the excusal of the member from attending the ARD meeting in the parent's native language or other mode of communication;
- The parent understands and agrees in writing to the excusal of the ARD member from attending the ARD meeting, in whole or in part;
- The consent describes the excusal of the member from attending the ARD meeting and lists any records that will be released and to whom; and
- The parent understands that the granting of consent is voluntary by the parent and may be revoked at any time, except that if the parent revokes consent, such revocation is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

Additional Procedures

The District believes that it is exceedingly important that all members of the ARD Committee are present at the student's ARD meetings, especially initial or annual ARD meetings. While it is best for all ARD Committee members to attend all ARD meetings, the IDEA recognizes that it may not always be feasible. Campus Administration will consider each excusal request carefully on a case-by-case basis before requesting that the parent agree or consent to an ARD member's nonattendance at an ARD meeting. Each Campus must be careful to avoid a pattern or routine of excusing required ARD Committee members from attending ARD meetings, as such a practice may be considered a violation of FAPE.

In order to excuse a member of the ARD Committee meeting whose area of curriculum or related services is being modified or discussed, both the parent and the Campus Special Education Administrator must consent in writing. Prior to the ARD meeting, Campus Special Education Personnel will ensure that all elements of informed consent for excusal are met, including informing the parent of the relevant information in the parent's native language or mode of communication and ensuring that the parent understands that granting consent for the excusal is voluntary and can be revoked at any time. In addition, the member to be excused must submit to the parent and the ARD Committee, in writing, input into the development of the IEP prior to the meeting.

Campus Special Education Personnel will provide the parent notice of the proposed excusal as soon as possible before the ARD meeting. This will provide the ARD Committee the opportunity to reschedule the meeting within a reasonable time, if necessary, or allow the member seeking excusal enough time to make arrangements to attend the ARD meeting, should the parent not agree to the excusal. This notice will clearly indicate whether the member will be excused from the whole or only part of the meeting and specify the part(s) of the ARD meeting for which the excusal is being requested.

Campus Special Education Personnel will ensure that proper documentation of an ARD Committee member's excusal from a particular meeting is completed. The Campus Special Education Personnel will also attach the signed consent of a member's excusal (as well as the written input provided prior to the ARD) to the ARD documentation.

When Informed Consent Is Not Required

There is a difference between the excusal of ARD Committee members whose area of service is being modified or discussed and those whose area of service is not being modified or discussed. The requirements related to an agreement regarding the excusal of an ARD Committee member because the member's area of the curriculum or related services is not being modified or discussed are not as stringent as the requirements for informed consent. Rather, if an ARD Committee member's area of the curriculum or related services is not being modified or discussed in the meeting, the member is not required to attend the meeting, in whole or in part, if Campus Special Education Personnel obtain a written agreement signed by the Campus Special Education Administrator and the parent, agreeing that the person's attendance is not necessary because the member's area of the curriculum or related service is not being modified or discussed during the ARD meeting. The other elements of informed consent are not required, and the excused member will not need to provide written input.

Likewise, consent is not necessary for the excusal of individuals who are attending the ARD in addition to the designated required member (i.e. multiple general education teachers as long as one general education teacher is in attendance for the entire meeting). Furthermore, the consent and/or excusal requirements do not apply to other individuals who have knowledge or special expertise regarding the student who attend at the discretion of the District or parent (i.e. discretionary members).

While the ARD Committee shall document all attempts to secure parental attendance at an ARD meeting, the rules for excusal from an ARD meeting do not apply to the parent, the child with a disability, and/or an adult student following a transfer of rights. See [PARENT PARTICIPATION].

Evidence of Implementation

- *Notice of Procedural Safeguards*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Notice of Request to Excuse ARD Committee Member
- Written Input of Member Excused For IEP
- Consent to Excuse ARD Committee Member
- Agreement to Excuse ARD Committee Member Whose Attendance is Not Necessary
- ARD/IEP
- Signature/Attendance Page

Resources

[The Legal Framework for the Child-Centered Special Education Process: Consent to Excuse Member from Attending the ARD Committee Meeting - Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process: Admission, Review, and Dismissal Committee Membership - Region 18](#)

[OSERS Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Revised Sept. 2011\) - U.S. Department of Education](#)

[Parent's Guide to the Admission, Review, and Dismissal Process - Texas Education Agency](#)

[OSEP Letter to Finch \(Apr. 10, 2012\) - U.S. Department of Education](#)

[OSEP Letter to Rangel-Diaz \(Apr. 25, 2011\) - U.S. Department of Education](#)

CITATIONS

Board Policy EHBAB and EHBAE; 34 CFR 300.321(e), 300.9; 71 Fed. Reg. 46,674 (2006); 19 Texas Administrative Code 89.1050(c)(4)

STAFF RESPONSIBLE

If you have questions related to Consent to Excuse Member from Meeting, please contact:

Director for Specialized Programs or the Department of Special Education

281-396-2630

IKA*Y

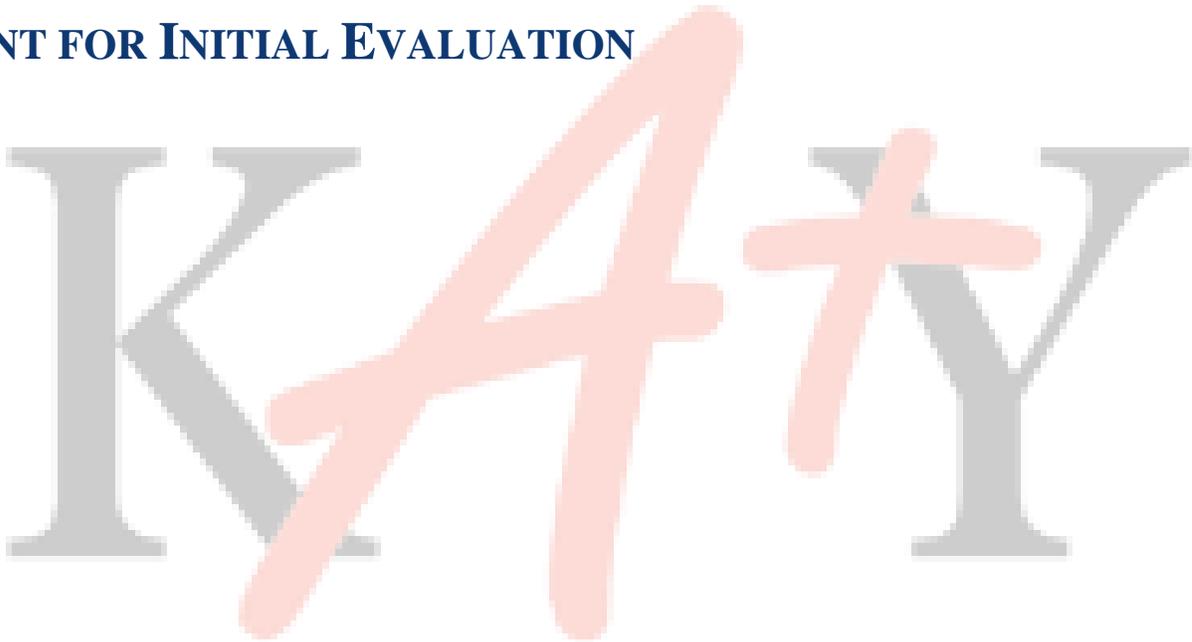
SPECIAL EDUCATION

OPERATING PROCEDURES

Consent

CONSENT FOR INITIAL EVALUATION

June 2022



CONSENT FOR INITIAL EVALUATION

What is Required

Before conducting an initial evaluation to determine whether a student is a student with a disability in need of special education or related services, District Assessment Personnel must obtain written informed consent from the parent of the student or the adult student who is being proposed for an evaluation. *See* [PARENT] and [ADULT STUDENT AND TRANSFER OF RIGHTS]. Such written consent may be obtained only after District Assessment Personnel provide to the parent or adult student Prior Written Notice of the evaluation. *See* [PRIOR WRITTEN NOTICE]. However, parental consent for an initial evaluation does not constitute consent for the provision of special education and related services. *See* [CONSENT FOR SERVICES].

Elements of Consent

To constitute informed consent for the initial evaluation, the following must occur:

- The parent has been fully informed of all information related to the initial evaluation in the parent's native language or other mode of communication;
- The parent understands and agrees in writing to the District conducting the initial evaluation;
- The consent describes the initial evaluation and lists any records that will be released and to whom; and
- The parent understands that the granting of consent is voluntary by the parent and may be revoked at any time.

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.

Information and Consent for Certain Psychological Examinations or Tests

Upon request by the parent, before obtaining the parent's consent to perform any psychological examination or test that is included as part of the evaluation of the student's need for special education, District Assessment Personnel must provide the parent the name and type of the examination or test that will be used, as well as an explanation of how the examination or test will be used to develop an appropriate IEP for the student.

If Assessment Personnel determine that an additional psychological examination or test is necessary for the evaluation after parental consent has been obtained, Assessment Personnel should provide the parent information relating to the additional examination or test and must obtain additional consent for the examination or test. The parent's consent is considered denied if the parent fails to provide consent for the additional psychological examination or test within 20 calendar days after Assessment Personnel provided the information regarding the additional evaluation to the parent. The time required for Assessment Personnel to provide information and seek consent for the additional evaluation does not count towards the 45-school day timeline for

the completion of an initial evaluation. *See* [EVALUATION PROCEDURES].

Children Who Are Wards of The State

Assessment Personnel do not need to obtain informed consent from a parent if the student is a ward of the state and not residing with the parent and:

- Assessment Personnel cannot locate the parent of the student despite reasonable efforts to do so;
- The parent’s rights have been terminated in accordance with state law; or
- A judge has removed the rights of the parent to make educational decisions on behalf of the student in accordance with state law, and the individual appointed by the judge to represent the student has provided consent for the initial evaluation.

Overriding Lack of Consent

Where a parent of a student enrolled in or seeking to be enrolled in the District does not provide consent for an initial evaluation or fails to respond to a request to provide consent, the District may, but is not required to, continue pursuing the initial evaluation and attempt to override the parent’s lack of consent by utilizing the mediation or due process hearing procedures. However, the District does not violate its child find duties and/or evaluation obligations if it chooses not to pursue the evaluation. *See* [CHILD FIND DUTY] and [EVALUATION PROCEDURES].

Children Who Are Home Schooled or Private Schooled

Assessment Personnel must also obtain informed consent before evaluating a student who is home schooled or who attends a private school. However, if the parent of a student who is home schooled or placed in a private school at parental expense does not provide consent for the initial evaluation or fails to respond to the District’s request for consent, Assessment Personnel may not pursue the initial evaluation by utilizing the procedural safeguards but need not consider the student as eligible for special education services provided by the District. *See* [PROPORTIONATE SHARE FUNDING FOR CHILDREN WITH DISABILITIES PARENTALLY-PLACED IN PRIVATE SCHOOLS] and [CHILDREN IN PRIVATE SCHOOLS].

Actions That Do Not Require Consent

Assessment Personnel are not required to obtain parental consent before conducting a Review of Existing Evaluation Data (“REED”) as part of an initial evaluation or reevaluation. Likewise, Assessment Personnel do not need to obtain parental consent before administering a test or other evaluation that is administered to all students. In addition, the screening of the student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not an evaluation for eligibility for special education and related services; thus, consent is not required for such screenings.

Definitions

An “evaluation” is the collection of information to determine whether a student is a student with a disability and to determine the educational needs of the student. The team who collects or reviews evaluation data, referred to as the multidisciplinary team, must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent. An evaluation may include giving individual tests, observing the student, looking at educational records, and talking with the student, teachers, and parents.

A “psychological examination or test” is a test or examination that assesses emotional or behavioral disturbance for educational purposes using psychological techniques and procedures in accordance with the practice of psychology.

Additional Procedures

Assessment Personnel will document all attempts to obtain informed consent from the parent through a Communication Log. In the Communication Log, Assessment Personnel will record the method of communication utilized (i.e. phone call, email, letter, or home visit), who made the attempt, and when the attempt was made. Further, the Assessment Personnel will document the results of the attempt (i.e. whether contact was made and consent was obtained) in the Communication Log.

If the parent makes a written request for an initial evaluation to any District employee, Assessment Personnel will respond to the request within 15 school days by seeking consent for the evaluation or by providing the parent Prior Written Notice of the District’s refusal to evaluate the student, along with a copy of the *Notice of Procedural Safeguards*. See [REFERRAL FOR SPECIAL EDUCATION SERVICES] and [PRIOR WRITTEN NOTICE] and [EVALUATION PROCEDURES].

If the District is requesting the evaluation, Assessment Personnel will invite the parent of the student to any referral meeting where the recommendation for an evaluation will be made to ensure full parental participation. If the parent has not confirmed the time for the referral meeting at least 5 days before the scheduled meeting, Assessment Personnel will, at a minimum, attempt to contact the parent at different times of the day at least three times before the meeting. Additionally, Assessment Personnel will follow up with a written letter to the parent sent through certified mail and sent home with the student. Assessment Personnel will also consider visiting the parent at the parent’s home or place of employment. All attempts to contact the parent related to the referral meeting should be documented in the Communication Log.

Assessment Personnel may seek to obtain consent immediately after the recommendation at the referral meeting. If the parent is not in attendance at the referral meeting, Assessment Personnel will contact the parent as soon as possible after the meeting to obtain consent. When possible, consent should be obtained in-person. The parent will be provided a copy of the *Notice of Procedural Safeguards*, as well as the *Parent’s Guide to the Admission, Review, and Dismissal (ARD) Process*. Assessment Personnel should have the parent sign a Receipt for Explanation of Procedural Safeguards form, acknowledging receipt of both these documents. After providing the parent Prior Written Notice regarding the request to evaluate the student, Assessment Personnel should have the parent sign a Notice and Consent for Full and Individual Evaluation form,

indicating receipt of the notice and consent for the FIE. The consent form must include an acknowledgement by the parent regarding all of the above elements of consent. In addition, parental consent for an initial evaluation must not be construed as consent for initial provision of special education and related services. *See* [CONSENT FOR SERVICES].

When obtaining consent, Assessment Personnel will document in writing that the parent fully understands the information. If the parent's native language is a language other than English, Assessment Personnel will document on the consent form all efforts to provide an interpreter in the parent's native language and note whether the parent is declining the use of an interpreter in their native language.

When obtaining consent, Assessment Personnel will explain that the initial evaluation will assess in all areas of suspected disabilities. The parent may not sign consent for a partial assessment or limit the scope of the evaluation by only providing consent for certain areas. Furthermore, Assessment Personnel are only required to obtain consent to the evaluation itself—not to any specific evaluation methodology.

Refusal to Provide Consent or Withdraw of Consent

If the parent refuses to provide consent for the initial evaluation or revokes consent for the evaluation during the evaluation process, Assessment Personnel must have the parent indicate, in writing, their refusal on the Notice and Consent for Full and Individual Evaluation form or the Revocation of Consent form. Assessment Personnel must then notify the Special Education Director who will determine whether or not the District wishes to continue to pursue the evaluation through mediation or by filing a request for due process hearing to override the parent's lack of consent. A special education hearing officer in a due process hearing may issue an order or decision that authorizes the evaluation of the student. Such an order or decision authorizes the evaluation of the student without parental consent.

If the parent revokes consent during the evaluation process, Assessment Personnel will immediately cease the referral process and notify the parent of the right to re-initiate the referral at any time by once again going through the steps in the referral process and consenting to the initial evaluation. *See* [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. Campus Personnel should consider whether there are other general education supports that may benefit the student at that time or whether the student should be referred to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504. Further, the fact that a parent has revoked consent does not impact the parent's right under the IDEA to request a subsequent initial evaluation.

If the parent withdraws consent while the evaluation is ongoing, Assessment Personnel will cease all assessment activities immediately. However, if the parent does not withdraw consent until after the evaluation is completed, District Assessment Personnel must complete the report and convene an ARD meeting to review the evaluation and determine if the student is a student with a disability and, if necessary, create an IEP. The Parent may then refuse to consent to special education services at the ARD meeting. *See* [CONSENT FOR SERVICES]

Actions That Do and Do Not Require Consent

Consent is required to do a functional behavior analysis (“FBA”) conducted as part of the initial evaluation to determine the nature and extent of the special education and related services that the student needs, including the need for a behavior intervention plan (“BIP”).

Assessment Personnel are not required to obtain informed consent prior to collecting academic functional assessment data from all students in a general education setting at the primary level of an RTI framework, as the data collection would not be focused on the educational and behavioral needs of an individual student at that stage. However, if a teacher were to collect academic functional assessment data to determine whether an individual student has, or continues to have, a disability and to determine the nature and extent of the special education and related services that the student needs during the secondary or tertiary level of an RTI framework, informed consent by the parent would be required.

Evidence of Implementation

- Prior Written Notice
- Notice and Consent for Full and Individual Evaluation form
- *Notice of Procedural Safeguards*
- *Parent’s Guide to the ARD Process*
- Receipt for Explanation of Procedural Safeguards form
- Receipt for *Parent’s Guide to the ARD Process*
- Communication Log
- Revocation of Consent form
- Full and Individual Initial Evaluation

Resources

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

[OSEP Letter to Sarzynski \(Sept. 5, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Gallo \(Apr. 2, 2013\) - U.S. Department of Education](#)

[OSERS Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Revised Sept. 2011\) - U.S. Department of Education](#)

[OSEP Letter to Copenhagen \(Oct. 19, 2007\) - U.S. Department of Education](#)

[Initial Evaluations - Texas Education Agency](#)

[Special Education Full and Individual Initial Evaluation \(FIIE\) Timeline - Texas Education Agency](#)

[Special Education Full and Individual Initial Evaluation \(FIIE\) Assessment Log - Texas Education Agency](#)

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

[OSERS Questions and Answers on Discipline Procedures \(Revised June 2, 2009\) - U.S. Department of Education](#)

CITATIONS

Board Policy EHBAA and EHBAE; 34 CFR 300.300, 300.2, 300.9; 73 Fed. Reg. 73,014 (2008);

Texas Education Code 29.004(a), 29.0041(a)–©

STAFF RESPONSIBLE

If you have questions regarding Consent for Initial Evaluations, please contact:

Director for Special Education or the Department of Special Education

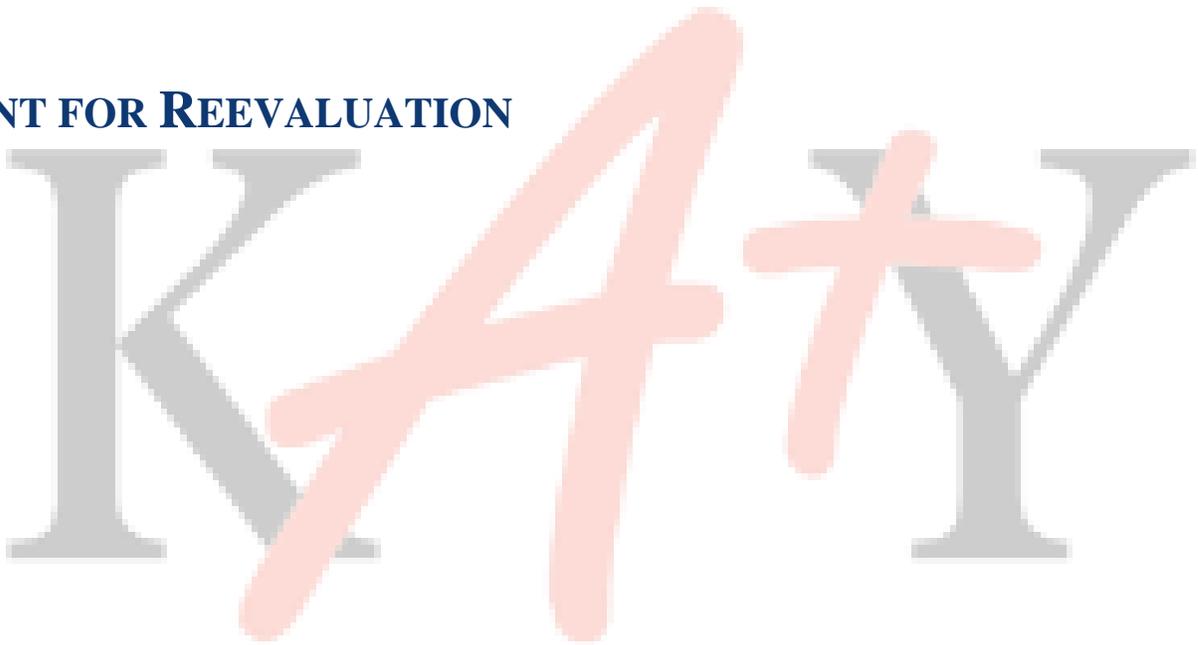
281-396-2630

SPECIAL EDUCATION OPERATING GUIDELINES

Consent

CONSENT FOR REEVALUATION

June 2022



CONSENT FOR REEVALUATION

What is Required

The District must ensure that a reevaluation of each child with a disability is conducted:

- If the ARD Committee determines, through the Review of Existing Evaluation Data (“REED”) process, that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation [*see* REVIEW OF EXISTING EVALUATION DATA];
- If a reevaluation is requested by the student’s parent or teacher; or
- Before determining that the child is no longer a child with a disability.

See [EVALUATION PROCEDURES]. A reevaluation must occur not more frequently than once a year (unless the parent and the District agree otherwise); and at least once every three years, unless the parent and the ARD Committee agree that a reevaluation is unnecessary through the REED process.

District Assessment Personnel must obtain informed consent from the parent/adult student before conducting any reevaluation of the student with a disability. *See* [PARENT] and [ADULT STUDENT AND TRANSFER OF RIGHTS]. When seeking written consent for a reevaluation, District Assessment Personnel must also provide Prior Written Notice of the District’s proposal to conduct a reevaluation. *See* [PRIOR WRITTEN NOTICE].

Actions That Do Not Constitute An Evaluation

The following are not considered an evaluation and therefore do not require informed consent:

- Screening to determine strategies for implementing the curriculum;
- Conducting a REED as part of an initial evaluation or a reevaluation, *see* [REVIEW OF EXISTING EVALUATION DATA]; and
- Administering a test or other evaluation that is administered to all students.

Elements of Consent for Reevaluation

To constitute informed consent to conduct a reevaluation, the following must occur:

- The parent has been fully informed of all information related to the reevaluation in the parent’s native language or other mode of communication;

- The parent understands and agrees in writing to the District conducting the reevaluation;
- The consent describes the reevaluation and lists any records that will be released and to whom; and
- The parent understands that the granting of consent is voluntary by the parent and may be revoked at any time, except that if the parent revokes consent, the revocation is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

Information and Consent for Certain Psychological Examinations or Tests

Upon request of the student’s parent, before obtaining the parent’s consent to administer any psychological examination or test when evaluating a student’s need for special education, District Assessment Personnel must provide the parent the name and type of the examination or test and an explanation of how the examination or test will be used to develop an appropriate IEP for the student.

If District Assessment Personnel determine that an additional psychological examination or test is necessary for the evaluation after parental consent has been obtained, District Assessment Personnel should provide the parent information relating to the additional examination or test and must obtain additional consent for the examination or test. The parent’s consent is considered denied if the parent fails to provide consent for the additional psychological examination or test within 20 calendar days after District Assessment Personnel provided the information regarding the additional evaluation to the parent.

When Despite Reasonable Efforts, The Parent Fails to Respond

District Assessment Personnel must make reasonable efforts to obtain informed consent for a reevaluation. However, informed consent is not required if District Assessment Personnel can demonstrate that they have made reasonable efforts to obtain such consent and the parent failed to respond to those efforts.

When The Parent Refuses to Consent to a Reevaluation

Where a parent of a student enrolled in the District refuses to provide consent for a reevaluation, the District may, but is not required to, continue pursuing the reevaluation by utilizing the procedural safeguards, including the mediation or due process hearing procedures. However, the District does not violate its obligations under child find and/or its legal obligations related to evaluations if it declines to pursue the reevaluation. *See [CHILD FIND DUTY] and [EVALUATION PROCEDURES].*

When Consent Is Not Obtained for The Reevaluation of a Private School Child

District Assessment Personnel must also make reasonable efforts to obtain informed consent before reevaluating a student who is home schooled or private schooled at parental expense. However, if the parent of a student who is home schooled or placed in a private school at parental expense does not provide consent for the reevaluation or fails to respond to the District’s request

for consent, District Assessment Personnel may not pursue the reevaluation by utilizing the procedural safeguards (including mediation or the due process procedures) and need not consider the student as eligible for special education services provided by the District. *See* [PROPORTIONATE SHARE FUNDING FOR CHILDREN WITH DISABILITIES PARENTALLY-PLACED IN PRIVATE SCHOOLS] and [CHILDREN IN PRIVATE SCHOOLS].

Definitions

“Reevaluation” is a student evaluation that is conducted by the District to determine the educational or related service needs of the student after a previous evaluation. If the student’s parents or teacher request a reevaluation, it must occur not more frequently than once a year unless the parent and the District agree otherwise, and at least once every three years unless the parent and the District agree that a reevaluation is unnecessary.

A “Review of Existing Evaluation Data (“REED”)” must take place as part of an initial evaluation, if appropriate, and as part of a reevaluation. It is conducted by members of the ARD Committee, including the parent, but it does not have to take place in a meeting. Members review existing evaluation data about the child, including information provided by the parent, to determine the scope of the evaluation.

An “evaluation” is the collection of information to determine whether a student is a student with a disability and to determine the educational needs of the student. The team who collects or reviews evaluation data, referred to as the multidisciplinary team, must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent. An evaluation may include giving individual tests, observing the student, looking at educational records, and talking with the student, teachers, and parents.

A “psychological examination or test” is a test or examination that assesses emotional or behavioral disturbance, for educational purposes, using psychological techniques and procedures in accordance with the practice of psychology.

Additional Procedures

A REED is required as part of any reevaluation. *See* [REVIEW OF EXISTING EVALUATION DATA]. The REED should occur at least 90 days prior to the due date for the three-year reevaluation. On the basis of the REED, and input from the student’s parents, the ARD Committee will determine if a formal reevaluation is necessary.

If it is determined by the ARD Committee through the REED that a formal reevaluation is necessary or if the parent or teacher of the student requests a reevaluation (regardless of the results of the REED), District Assessment Personnel will seek to obtain consent immediately after the recommendation or request. Consent for a reevaluation should be obtained in-person. The parent will be provided a copy of the *Notice of Procedural Safeguards*, as well as the *Parent’s Guide to the Admission, Review, and Dismissal (ARD) Process*. District Assessment Personnel should have the parent sign a Receipt for Explanation of Procedural Safeguards form, acknowledging receipt

of both these documents. The parent must be provided the Prior Written Notice regarding the request to reevaluate the student. *See* [PRIOR WRITTEN NOTICE]. District Assessment Personnel should have the parent sign a Notice and Consent for Full and Individual Evaluation form, indicating receipt of the notice and consent for the reevaluation. The consent form must include an acknowledgement by the parent regarding all of the above elements of consent for the reevaluation.

When obtaining consent, District Assessment Personnel will document in writing that the parent fully understands the information. If the parent's native language is a language other than English, District Assessment Personnel will document on the consent form all efforts to provide an interpreter in the parent's native language and note whether the parent is declining the use of an interpreter in their native language.

When obtaining consent, District Assessment Personnel will explain that the reevaluation will assess in all areas of suspected disabilities. The parent may not sign consent for a partial assessment or limit the scope of the evaluation by only providing consent for certain areas. Furthermore, District Assessment Personnel are only required to obtain consent to the reevaluation itself—not to any specific reevaluation methodology. Unlike an initial evaluation, there is no timeline for a reevaluation once consent is obtained, but District Assessment Personnel will make efforts to complete it within a reasonable amount of time, as agreed upon by the ARD Committee, but no later than the three-year anniversary date of the previous evaluation.

When Despite Reasonable Efforts, The Parent Fails to Respond

District Special Education Personnel should document all attempts to seek informed consent from the parent for the reevaluation, including phone calls, emails, certified mail, and home visits, through a Communication Log. In the Communication Log, District Assessment Personnel will record the method of communication utilized (i.e. phone call, email, letter, or home visit), who made the attempt, and when the attempt was made. Further, the District Assessment Personnel will document the results of the attempt (i.e. whether contact was made and consent was obtained) in the Communication Log.

If the parent has not provided signed consent within 5 school days after the notice of the reevaluation is sent to the parent, District Assessment Personnel will, at a minimum, make three attempts to contact the parent on three different days at different times of the day utilizing at least two delivery methods, including a written letter to the parent provided both via certified mail and sent home with the student. District Assessment Personnel will also consider visiting the parent at the parent's home or place of employment. All attempts to contact the parent related to the reevaluation should be documented in the Communication Log.

If the parent fails to respond after three documented attempts, Campus Special Education Personnel will then send a letter to the parent both via certified mail and sent home with the student documenting the reasonable efforts to obtain the parent's consent and notifying the parent that the reevaluation will proceed without the parent's consent. District Assessment Personnel will then proceed with the reevaluation. The Communication Log and all correspondence with the parent should be maintained in the student's special education file.

When Parent Refuses to Consent to a Reevaluation

If the parent of an enrolled special education student refuses to consent for the reevaluation or revokes consent for the reevaluation during the evaluation process, District Assessment Personnel must have the parent indicate, in writing, their refusal on the Notice and Consent for Full and Individual Evaluation form or the Revocation of Consent form. District Assessment Personnel must then notify the Special Education Director who will determine whether or not the District wishes to continue to pursue the reevaluation through mediation or by filing a request for due process hearing to override the parent's refusal to consent. A special education hearing officer in a due process hearing may issue an order or decision that authorizes the evaluation of the student. Such an order or decision authorizes the reevaluation of the student without parental consent.

Evidence of Implementation

- REED
- Prior Written Notice Regarding the REED
- Notice of Proposal to Reevaluate and Consent to Reevaluate forms
- *Notice of Procedural Safeguards*
- *Parent's Guide to the ARD Process*
- Receipt for Explanation of Procedural Safeguards form
- Receipt for *Parent's Guide to the ARD Process*
- Communication Log
- Letter Documenting Reasonable Efforts
- Revocation of Consent form
- Full Individual Evaluation

Resources

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

[Review of Existing Evaluation Data Frequently Asked Questions - Texas Education Agency](#)

[Evaluations & Reevaluations FAQ - Partner Resource Network](#)

[OSEP Letter to Sarzynski \(Sept. 5, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Sarzynski \(May 6, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Feb. 6, 2007\) - U.S. Department of Education](#)

[OSERS Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Revised Sept. 2011\) - U.S. Department of Education](#)

[Reevaluations - SPEDTex](#)

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

CITATIONS

Board Policy EHBAA and EHBAE; 34 CFR 300.300(c)–(d), 300.302, 300.322, 300.9; Texas Education Code 29.0041(a)–©

STAFF RESPONSIBLE

If you have questions related to Consent for Reevaluation, please contact:

Executive Director for Special Education or the Department of Special Education

281-396-2630

IKAY

SPECIAL EDUCATION

OPERATING GUIDELINES

Consent

CONSENT TO ACCESS PUBLIC BENEFITS

June 2022



CONSENT TO ACCESS PUBLIC BENEFITS

What is Required

With the written consent of the parent/adult student, the District may use Medicaid or other public benefits or insurance programs in which the student participates to provide or pay for services required under the IDEA, as allowed under the public benefits or insurance program, except as provided below. However, prior to accessing the child's or the parent's public benefits or insurance for the first time, and annually thereafter, the District must provide written notice to the parent regarding the District's access to the public benefits and the requirements of consent. The District may not refuse to provide special education services to an eligible student with a need simply because the parent refuses to consent to access the student's or parent's public insurance or benefits.

Elements of Required Notice

Special Education Personnel must provide written notice to the parent in the language understandable to the general public and in the parent's native language or other mode of communication (unless it is clearly not feasible to do so) prior to accessing the student's or parent's public benefits or insurance for the first time, and annually thereafter. This notice must contain:

- A statement of the parental consent provisions, including the personally identifiable information that may be disclosed, the purpose of the disclosure, and the agency to which the disclosure may be made. The statement must also affirm that the parent understands and agrees that the District may access the parent's or student's public benefits or insurance to pay for special education and related services under the IDEA;
- A statement that the parent understands that the granting of consent is voluntary on the part of the parent and can be revoked at any time;
- A statement that the parent's withdrawal of consent or refusal to consent to disclose personally identifiable information to Medicaid does not relieve the District of its responsibility to ensure that all required services are provided at no cost to the parents;
- A statement that the District cannot require the parent to (a) sign up for or enroll in public health benefits or insurance programs in order for the student to receive a FAPE or (b) incur an out-of-pocket cost, such as the payment of a deductible or co-pay amount incurred in filing a claim; and
- A statement that the District cannot use the student's benefits under a public benefits or insurance program if doing so would:

- Decrease available lifetime coverage or any other insured benefit;
- Cause the family to pay for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of the time the student is in school;
- Increase premiums or lead to the discontinuation of benefits or insurance for the parent or student; or
- Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

Elements of Consent to Access Public Benefits

After Special Education Personnel provides written notice to the parent as required above, Special Education Personnel must obtain written parental consent that is signed and dated before accessing the student’s or the parent’s public benefits or insurance for the first time. The consent must specify:

- The personally identifiable information that may be disclosed (e.g. records or information about the services that may be provided);
- The purpose of the disclosure (e.g. billing services);
- The agency to which the disclosure may be made (e.g. Medicaid); and
- That the parent understands and agrees that the District may access the parent’s or the child’s public benefits or insurance to pay for services under the IDEA.

Additional Procedures

School Health and Related Services (“SHARS”)

Medicaid services provided by the District to Medicaid-eligible students are known as School Health and Related Services (“SHARS”). Oversight of SHARS is a joint effort between the TEA and Texas Health and Human Services Commission. SHARS allows the District to seek reimbursement from Medicaid for certain health-related services documented in the student’s IEP so long as the parent consents to the District doing so.

Notification and Consent to Access Public Benefits and Insurance

The initial notification and consent may either be mailed or emailed to the parent. Digital or electronic signatures are acceptable. An electronic form must identify and authenticate the parent as the source of the consent and indicate the parent’s approval of the information contained in the consent. Both paper and electronic consent forms must include a statement that the parent understands and agrees that the District can access the student’s or parent’s public benefits or insurance to pay for special education services.

If the parent has not yet provided consent to access public benefits or insurance, Campus Special Education Personnel will ensure that the parent has received the notice and signs the consent at the

ARD meeting, so long as it occurs prior to the first time the District accesses the student's or parent's public benefits of insurance.

After the initial consent is obtained, the District is not required to obtain consent to access public benefits or insurance annually. However, Special Education Personnel will provide annual written notification to parents of students in special education to ensure that parents understand their rights when the District uses the student's or parent's public benefits or insurance. At the beginning of each school year or at the annual ARD for the student, Special Education Personnel will send the notice to parents ensuring that they are fully aware of their rights. This written notification can be mailed or e-mailed to the parents. Special Education Personnel shall maintain documentation of the delivery of this notice to the parent including the date the notice was sent and the method of delivery. Such documentation should be maintained in the student's special education folder.

No-Cost Provisions

The District will ensure that all "no cost" provisions outlined in the required notice are met before providing written notification and seeking consent to use the student's or parent's public benefits or insurance to pay for special education services. For example, if the District's use of public benefits for physical therapy will limit the amount of physical therapy the student can receive outside of school, the District will not use the student's or parent's public benefit or insurance to pay for that services. However, the District is still responsible under the IDEA for providing those services at no cost to the parent.

Where a Parent Has Previously Declined Consent

If a parent has previously declined to provide consent or withdrawn consent to disclose personally identifiable information to the State's public benefits or insurance program for billing purposes, the District may make reasonable subsequent requests to obtain parental consent after providing written notification. However, the District is still responsible for ensuring that all required services are provided at no cost to the parents, even if the parent has withdrawn consent or refused to provide consent to disclose personally identifiable information to the agency responsible for administering the public benefits or insurance program.

Students Who Transfer

If a student transfers to a different campus within the District, the District is not required to obtain new consent prior to disclosing personally identifiable information for billing purposes. However, if a student transfers from another school district into the District, Special Education Personnel will provide the parent written notification, informing the parent of their rights and protections when access to the student's or parent's public benefits or insurance is sought. Special Education Personnel will then obtain parental consent to disclose personally identifiable information to the public benefits or insurance program for billing purposes before the District may access the child's or parent's public benefits or insurance for the first time.

Communicating the Benefits of Providing Consent to Access Public Benefits

When explaining the notice and consent provisions to the parent, Special Education Personnel should also explain that signing the consent form allows the District to recover federal funds (in the case of Medicaid) that help defray a portion of the high costs associated with providing health-related services to students with disabilities. This also aides the District in attracting and retaining highly-qualified personnel to assist the students. Furthermore, it may allow the District the opportunity to obtain more expensive and specialized equipment and to allocate more resources for professional development and parent training.

Third-Party Liability

Under SHARS, Medicaid will pay the District for services before seeking third party reimbursement (i.e. through private insurance). However, once the District has sought reimbursement through Medicaid for services, the state may then seek to recover funding from the student's private insurance. The state may seek recovery for claims for up to 3 years. If the third-party insurance denies a claim for an acceptable reason, no further action will be taken. No additional consent is required on behalf of the parent for third-party recovery.

Evidence of Implementation

- Initial Notification of Access to Public Benefits and Insurance form
- Consent for Access to Public Benefits and Insurance form
- Annual Notification of Access to Public Benefits and Insurance form
- *Notice of Procedural Safeguards*

Resources

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

[School Health and Related Services - Texas Education Agency](#)

[Non-Regulatory Guidance on the IDEA Part B Regulations Regarding Parental Consent for the Use of Public Benefits or Insurance to Pay for Services under the IDEA \(Feb. 14, 2013\) - U.S. Department of Education](#)

[OSERS Memorandum to State Directors of Special Education - IDEA Part B Written Notification Regarding Use of Public Benefits or Insurance \(June 11, 2013\) - U.S. Department of Education](#)

[IDEA Part B Final Regulations Related to Parental Consent to Access Public Benefits or Insurance - U.S. Department of Education](#)

[IDEA Part B Issue Brief: Parental Consent for Use of Public Benefits or Insurance to Provide or Pay for Services Under IDEA Part B - American Speech-Language-Hearing Association](#)

[OSEP Letter to PAVE \(Sept. 5, 2013\) - U.S. Department of Education](#)

[OSEP Letter to Kinney \(July 23, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Kinney \(May 7, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Hill \(Mar. 8, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Smith \(Jan. 23, 2007\) - U.S. Department of Education](#)

[OSEP Letter to DuRant \(Nov. 6, 2002\) - U.S. Department of Education](#)

[Update to HHSC Third Party Liability for SHARS Interim Claims - Texas Education Agency](#)

[Information on School Health and Related Services \(SHARS\) - Texas Association of School Boards](#)

CITATIONS

34 CFR 99.30(a)–(b); 300.154(d), 300.503(c)

STAFF RESPONSIBLE

If you have questions regarding Consent to Access Public Benefit, please contact:

Director for Specialized Programs or the Department for Special Education:

281-396-2630

SPECIAL EDUCATION OPERATING GUIDELINES

Consent

CONSENT TO TRANSFER ASSISTIVE TECHNOLOGY DEVICES

June 2022



CONSENT TO TRANSFER ASSISTIVE TECHNOLOGY DEVICES

What is Required

When the child or adult student with a disability using an assistive technology device (“ATD”) that the District has purchased for the student enrolls in another campus within the District or leaves the District altogether, the District may transfer the ATD to the school or LEA in which the student enrolls, a state agency that provides services to the student following graduation from high school, or to the student’s parents or the adult student. *See* [ADMINISTRATION OF EQUIPMENT].

Before transferring an ATD, the District must obtain informed consent from the parent or the adult student with capacity to enter into a contract through a transfer agreement that incorporates the requirements outlined below. Campus Special Education Personnel are responsible for making reasonable efforts to obtain informed consent from the parent or adult student for the transfer of ATDs.

Elements of Consent to Transfer ATDs

To constitute informed consent to transfer ATDs, the following must occur:

- The parent or adult student has been fully informed of all information related to the transfer in the parent’s or the adult student’s native language or other mode of communication;
- The parent or adult student understands and agrees in writing to the transfer;
- The consent describes the transfer and lists any records that will be released and to whom; and
- The parent or adult student understands that the granting of consent is voluntary by the parent or adult student and may be revoked at any time, except that if the parent or adult student revokes consent, the revocation is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

The procedures employed by the District in obtaining informed consent to transfer an ATD must be consistent with the procedures employed by the District to obtain parental consent for an initial evaluation or reevaluation. *See* [CONSENT FOR INITIAL EVALUATION] and [CONSENT FOR REEVALUATION].

When Despite Reasonable Efforts, Consent Is Not Obtained

The District can transfer the ATDs without informed parental or adult student consent if the District can demonstrate that it has taken reasonable measures to obtain the consent and the parent or adult student has failed to respond.

Definitions

“Assistive technology device” is any device, including equipment or a product system, that is used to increase, maintain, or improve functional capabilities of the student with a disability. This does not include a medical device that is surgically implanted (e.g. cochlear implant) or the replacement of such a device.

“Equipment” includes machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house such machinery, utilities, or equipment; and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as:

- Instructional equipment and necessary furniture;
- Printed, published, and audio-visual instructional materials;
- Telecommunications, sensory, and other technological aids and devices; and
- Books, periodicals, documents, and other related materials.

“Transfer” is the process by which the District that has purchased the ATD may sell, lease, or loan the device for the continuing use by the student or adult student with a disability changing the school of attendance in the District or leaving the District.

Additional Procedures

The parent or adult student, the District, the district where the student is transferring to, or an outside agency may request the transfer of a student’s ATD. District Special Education Personnel will consider the following upon request for a transfer:

- Does the District actually own the ATD or have the authority to transfer the ATD?
- Is the child actually exiting the District?
- Did the student use the ATD while at the District?
- Is a transfer necessary or appropriate based on the student’s unique circumstances?

To ensure full parental or adult student informed consent, the Campus Special Education Personnel will ensure that the parent or adult student receives all necessary information relating to the transfer of the ATDs and is provided the opportunity to participate in any ARD meeting where a transfer is discussed. If the parent refuses to consent to the transfer, no transfer will occur. If the parent fails to respond to a request for consent to transfer, the District may transfer the ATD without parent/adult student consent. Campus Special Education Personnel should document all attempts to seek signed consent from the parent or adult student, including phone calls, emails, certified mail, hand delivery, and visits to the home or place of employment, through a Communication Log. Special Education Personnel shall make a minimum of three documented attempts to seek consent on three different days at different times, utilizing at least two different methods of delivery.

Evidence of Implementation

- ARD/IEP

- Request for Transfer of ATD
- Transfer Agreement
- Consent to Transfer ATD
- Communication Log

Resources

[The Legal Framework for the Child-Centered Special Education Process: Consent to Transfer Assistive Technology Devices – Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process: Administration of Equipment – Region 18](#)

[Uniform Transfer Agreement - Texas Education Agency](#)

[OSEP Letter to Goodman \(June 21, 1998\) - U.S. Department of Education](#)

[2 Code of Federal Regulations §200.313](#)

[Assistive Technology - SPEDTex](#)

CITATIONS

Board Policy EHBAE; 34 CFR 80.32(e), 300.300(b)–(d), 300.322(d), 300.9; Texas Education Code 30.0015(b)–(c), 89.1056(b)

STAFF RESONSIBLE

If you have questions regarding Consent to Transfer Assistive Technology Devices, please contact:

Director for Instructional Services or the Department of Special Education

281-396-2630

SPECIAL EDUCATION

OPERATING Procedures

Consent

CONSENT FOR SERVICES

June 2022



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 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.

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 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 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].

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

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](#)

CITATIONS

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

STAFF RESPONSIBLE

If you have questions regarding Consent for Services, please contact:

Director for Specialized Programs or the Department of Special Education

281-396-2630

IKAY