

Parental Consent in Special Education

WHAT IS PARENTAL CONSENT

A parent whose child receives special education services is required to be an informed participant in their child's IEP. Parents must provide consent for evaluation, services, and instruction to be given to their child. When the term consent is used in special education, it has the same meaning as the term informed written consent. It means that the parent has been fully informed regarding what actions the school is proposing to take regarding special education services. IDEA our nations special education law defines consent by the following:

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meaning that it does not negate an action that has occurred after the consent was given and before the consent was revoked.

WHEN WILL A PARENT BE ASKED TO GIVE CONSENT

There are times when the school system must ask for and receive a parent's permission before it can take certain actions in special education. These include:

- ***Before conducting initial evaluation of a child for special education services or before conducting a re-evaluation of a child who is receiving special education services***

If the school's request for a parent's permission was to conduct an initial evaluation or re-evaluation of the child, IDEA states that the school may, but is not required to pursue the initial evaluation of the child by utilizing the procedural safeguards including mediation and due process. These provisions of IDEA only apply if the child is enrolled in a public school. If the child is enrolled in a private school at parent's expense or if the child is being home-school by the parents, the public school may not use the procedural safeguards of IDEA to override the parent's refusal to give consent.

- ***Before providing special education and related services to a child for the first time.*** If the school asks the parents to give consent for the first time that special education and related services are provided to the child and the parents do not give their consent, the school may not use IDEAS's procedural safeguards including mediation or due process to obtain their agreement or to obtain an order that



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services may be provided to the child without their consent. As a result the child will not receive special education and related services as part of his or her public education.

- ***Before inviting representative of other agencies to participate in the IEP team meetings where the transition of the child to adult life will be discussed.*** For youth with disabilities, it is important to plan ahead and prepare for life after high school. Each time that the IEP team intends to talk about transition services for the youth with a disability, the student must be invited to attend the IEP meeting and his or her preferences must be taken into consideration. Employees of outside agencies may also be invited to the IEP meeting where transition planning will occur. This is especially important if an outside agency may be responsible for providing or paying for transition services that the student needs. However, before these representatives may be invited to the meeting the school must ask for and receive the parent's consent or the consent of the student if 19 years old.

If a parent refuses to give their consent the further actions of the school will depend based on the reason for which the school system was seeking consent in the first place.

AGREEMENT OR CONSENT

There is a difference between consent as a parent and your agreement. In the school life of a child, there are occasions when the parent and the school system may agree to take certain actions for the benefit of the child. This may be done orally, and that's sufficient. But an oral agreement is not sufficient when parental consent is required. Parent consent must be in writing.

APEC IS HERE TO HELP

APEC provides free training, information, and consultation to families. Visit our training calendar for more information about learning opportunities at www.alabamaparentcenter.com or call our center.

The contents of this publication were developed in part under a grant from the US Department of Education, #H328M110024. However, those contents do not necessarily represent the policy of the US Department of Education, and you should not assume endorsement by the Federal Government. Special Education V.1

WHAT HAPPENS IF A PARENT DOESN'T GIVE CONSENT

There are two ways a parent can refuse to give informed written consent by:

1. Not responding to the school's request for their consent or
2. When the parent explicitly refuses to give their written consent.

