

## INFORMATION FOR PARENTS REGARDING CONSENT

### Consent means:

- A. 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 about the action for which you are giving consent.
- B. 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**
- C. You understand that the consent is voluntary on your part and that you may withdraw your consent at any time.

If you wish to revoke (cancel) your consent after your child has begun receiving special education and related services, you must do so in writing. Your withdrawal of consent does not negate (undo) an action that has occurred after you gave your consent but before you withdrew it. In addition, the school district is not required to amend (change) your child's education records to remove any references that your child received special education and related services after your withdrawal of consent.

### Confidentiality of Information

- A. This public agency is required to obtain written **consent** before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph A.1 of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99.
  1. Except as provided in paragraph A.2 and A.3 of this section, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part.
  2. Parental consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with 34 CFR 300.321(b)(3).
  3. If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parent's residence.

- B. You have the rights described in the "Confidentiality of Information" section of "Your Rights Under the IDEA" regarding storage, disclosure to third parties, retention and destruction of personally identifiable information.
- C. When a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law):
  - 1. the public agency must provide any notice required by this section to the child and the parents;
  - 2. the public agency must provide notice that all other right accorded to parents under this part transfer to the child;
  - 3. the public agency must notify the child and the parents of the transfer of rights; and
  - 4. the public agency must provide notice that all the rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile State, or local correctional institution.

### **Consent for Initial Evaluation**

- A. The public agency cannot conduct an initial evaluation of your child to determine whether your child is eligible under Part B of the IDEA to receive special education and related services without first providing you with prior written notice of the proposed action and obtaining your consent.
- B. The public agency must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability.
- C. Your consent for initial evaluation does not mean that you have also given your consent for the public agency to start providing special education and related services to your child.
- D. Your school district may not use your refusal to consent to one service or activity related to the initial evaluation as a basis for denying you or your child any other service, benefit, or activity, unless another Part B requirement requires the school district to do so.
- E. If your child is enrolled in public school or you are seeking to enroll your child in public school and you have refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, your school district may, but is not required to, seek to conduct an initial evaluation of your child by utilizing the Act's mediation or due process complaint, resolution meeting, and impartial due process hearing

procedures. The public agency will not violate its obligations to locate, identify, and evaluate your child if it does not pursue an evaluation of your child in these circumstances.

### **Parental Consent for Services**

- A. The public agency must obtain your informed consent before providing special education and related services to your child for the first time.
- B. The public agency must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time.
- C. 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, the public agency may not use the procedural safeguards (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services (recommended by your child's IEP Team) may be provided to your child without your consent.
- D. If you refuse to give your consent for your child to receive special education and related services for the first time, or if you do not respond to a request to provide such consent or later revoke (cancel) your consent in writing and the public agency does not provide your child with the special education and related services for which it sought your consent, the public agency:
  - 1. Is not in violation of the requirement to make a free appropriate public education (FAPE) available to your child for its failure to provide those services to your child; and
  - 2. Is not required to have an individualized education program (IEP) meeting or develop an IEP for your child for the special education and related services for which your consent was requested.
- E. If you revoke (cancel) your consent in writing at any point after your child is first provided special education and related services, then the public agency may not continue to provide such services, but must provide you with prior written notice before discontinuing those services.

### **Parental Consent for Reevaluations**

- A. The public agency must obtain your informed consent before it reevaluates your child, unless it can demonstrate that:
  - 1. It took reasonable steps to obtain your consent for your child's reevaluation; and

2. You did not respond.
- B. If you refuse to consent to your child's reevaluation, the public agency may, but is not required to, pursue your child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, the public agency does not violate its obligations under Part B of the IDEA if it declines to pursue the reevaluation in this manner.
  - C. Your written consent is required before conducting a reevaluation before determining that the child is no longer a child with a disability. However, reevaluation is not required before the termination of a child's eligibility under the IDEA due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law.

### **Documentation of Reasonable Efforts to Obtain Parental Consent**

- A. The public agency must maintain documentation of reasonable efforts to obtain your consent for initial evaluations, to provide special education and related services for the first time, to reevaluation and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the public agency's attempts in these areas, such as:
  1. Detailed records of telephone calls made or attempted and the results of those calls;
  2. Copies of correspondence sent to you and any responses received; and
  3. Detailed records of visits made to your home or place of employment and the results of those visits.

### **Other Consent Requirements**

- A. Parental consent is not required before -
  1. Reviewing existing data as part of your child's evaluation or a reevaluation; or
  2. Administering to your child a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.
- B. In addition to the parental consent requirements described in paragraph A of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's

refusal to consent does not result in a failure to provide the child with FAPE.

- C. A public agency may not use your refusal to consent to one of these services or activities under this section as a basis to deny any other service, benefit, or activity of the public agency unless another IDEA Part B requirement requires the public agency to do so.
- D. If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the public agency may not use its dispute resolution procedures (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) and the public agency is not required to consider the child as eligible to receive equitable services (services made available to parentally-placed private school children with disabilities).
- E. To meet the reasonable efforts requirement of this section, the public agency must document its attempts to obtain parental consent using the procedures in 34 CFR 300.322(d).