

INFORMATION FOR PARENTS REGARDING 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.

Evaluation/Placement Consent

- A. The public agency is required to obtain your written informed consent before:
1. conducting an initial evaluation of the child; and
 2. initial provision of special education and related services to the child.
 - a. The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.
 - b. If the parent of a child fails to respond or refuses to consent to services under this section, the public agency may not use the due process hearing procedures (including the mediation procedures under 34 CFR 300.506 or the due process procedures under 34 CFR 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child.
 - c. If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public agency -
 1. Will not be considered to be in violation of the requirement to make available FAPE to the child for the failure to provide the child with the special education and related services for which the public agency requests consent; and
 2. Is not required to convene an IEP Team meeting or develop an IEP under 34 CFR 300.320 and 300.324 for the child for the special education and related services for which the public agency requests such consent.
 3. conducting any reevaluation of a child with a disability, except that such informed consent need not be obtained if the public agency can demonstrate that it has made reasonable efforts to obtain such consent and the child's parent has failed to respond; and
 4. 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.

Other Consent Requirements

- A. Parental consent is not required before -
 - 1. Reviewing existing data as part of an evaluation or a reevaluation; or
 - 2. Administering 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 a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.

- 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 the consent to override procedures; and the public agency is not required to consider the child as eligible for services under 34 CFR 300.132 through 300.144.

- 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).