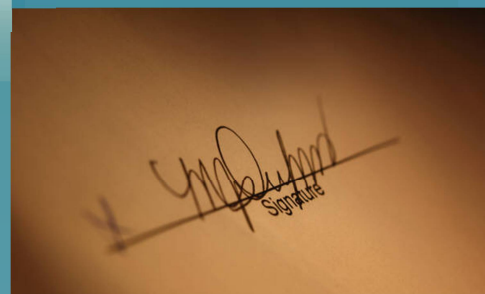


BSPK's
Prior Written Notice
A Special Education Newsletter



Do You Know? - When Districts Need Informed Parental Consent

Ohio school districts must seek and receive informed parental consent in numerous situations to ensure they are complying with the IDEA and corresponding state law. “Consent” is not a simple concept, and requires that a parent is fully informed in his or her native language of all information relevant to the activity, and that the parent understands and agrees in writing to the activity. The consent document must also describe the activity – for example, a request for an initial evaluation – and list any records that will be released and to whom. Finally, districts must ensure the parent understands that his or her consent is voluntary and can be revoked, in writing, at any time. O.A.C. § 3301-51-01(B)(12).

Informed, written parental consent is required for these activities:

- **Initial evaluation:** Within 30 days of the date of initial referral by the parents for a suspected disability, a school district must provide prior written notice to the parents (form PR-01) and receive written informed consent (form PR-05) prior to conducting assessments. Districts must describe to parents the evaluation procedures they propose to conduct. (The 30-day timeline for prior written notice also applies where a District refuses to initiate an evaluation.)
- **Initial provision of services:** Districts must obtain informed parental consent before the initial provision of special education and related services.
- **Reevaluation with assessments:** Districts must provide prior written notice to parents and obtain informed parental consent before conducting any tests or assessments as part of a reevaluation, unless a district provided notice and a parent failed to respond despite reasonable attempts to obtain consent. For reevaluations without assessments (i.e., “record reviews”), districts need not obtain parental consent, but they must still send prior written notice before conducting an evaluation. The notice should include the team’s determination and reasons for it, and the parents’ right to request an assessment. For all reevaluations, districts must send prior written notice after the reevaluation is complete if the district proposed or refused to change the child's eligibility category.

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Remember, if a child is 18 years old and is without a guardian, the notice and consent requirements described above transfer to the child, with the parents having only a right to participate in the process. Where a parent refuses to provide consent or ignores requests for consent, a district should document its attempts to obtain consent and consult legal counsel for appropriate next steps.

Coaches' Corner: Disabled Students Have Equal Right to Participate In Sports

Citing a 2010 report that found students with disabilities participate in athletics at low rates compared to their non-disabled peers, the U.S. Department of Education, Office for Civil Rights (OCR) issued two Dear Colleague Letters to schools explaining the agency's position on disabled students' access to extracurricular activities.

According to OCR's interpretation of Section 504 of the Rehabilitation Act of 1973, school districts, including their athletic directors and coaches, should consider the following when deciding how to address disabled students' participating in athletics:

- Disabled students have an equal right to participate in sports; they cannot be banned based on stereotypes and assumptions.
- Schools should make an assessment of each individual student to determine if reasonable accommodations can be made to allow the student to participate in a sport – for example, a starter pistol with a light for a deaf student runner to compete in track. But, schools should not make accommodations that would pose an “undue burden” on the sports program. “Undue burden” must be decided on a case-by-case basis. Schools should take caution when deciding what is an undue burden as opposed to a simple inconvenience.
- Schools should not change the nature of the sport to accommodate disabled students.
- Schools should not give disabled students an unfair advantage over others.
- “Cut” sports should remain unchanged – disabled students have to compete with non-disabled peers to earn their place on the team.
- Schools should not compromise student safety – either the safety of disabled students or their teammates – to reasonably accommodate disabled students.
- Schools need not create new extracurricular programs where existing programs cannot accommodate a student, although OCR urges schools to do so in a way that provides equivalent programming to all students.

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- **Transfers from out-of-state and the team determines to evaluate:** If a child's IEP team decides a new evaluation is needed for a special needs child transferring from out-of-state, that evaluation is considered an initial evaluation. As a result, the district must provide prior written notice and obtain informed parental consent.
- **Transfers from out-of-district and team determines to reevaluate:** If a child's IEP team decides a new evaluation is needed for a special needs child transferring from another district in Ohio, that evaluation is considered a reevaluation. As a result, the district must comply with the requirements for a reevaluation, including sending prior written notice and obtaining informed consent for a reevaluation with assessments.
- **Change of placement:** Districts cannot change a child's placement on the continuum of alternative placements options without informed parental consent. If parents do not agree with a proposed change in placement, districts must send prior written notice after the IEP team meeting discussing that proposed change.
- **Releasing personally identifiable information:** Districts must obtain informed parental consent (or the student's consent, if he or she is 18 years old and without a guardian) before releasing any student records/personally identifiable information about a child (unless a person or agency is entitled to see it by law). The written consent must list the records disclosed, the reason for the disclosure, and to whom the records will be disclosed.

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