



TOPIC: Consent – Revocation of Consent

Question: If a parent withdraws consent for the provision of special education services, may he/she later request the provision of special education services? If so, what is the process?

After revoking consent for his or her child to receive special education services, a parent always maintains the right to subsequently request an initial evaluation to determine if the child is a child with a disability who needs special education and related services. If a parent who revoked consent for special education and related services later requests that his or her child be re-enrolled in special education, an LEA must treat this request as a request for an initial evaluation rather than a reevaluation. A district may, if appropriate, use the procedures in 92 NAC 51-006.06 to review existing data as part of the initial evaluation to determine whether the child is eligible for special education services. If the district will be conducting a new evaluation of the child, the district must obtain parental consent. However, if the district is utilizing existing evaluation data, and is able to determine (based on that data) that the child is a child with a disability pursuant to 92 NAC 51-006, the child's present level of performance, and whether the child needs special education and related services, the district would not need parental consent to conduct additional evaluations.

Supporting Regulations

92 NAC 003.11 states:

Consent means that the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication; that the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought; that the consent includes a description of the proposed activity and a list of records (if any) which will be released and to whom they will be released; and the parent understands that the granting of consent is voluntary and may be revoked at any time. If a parent revokes consent, that 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retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the school district or approved cooperative is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent. (Emphasis added.)