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Can Districts utilize electronic parental consent during COVID with proper safeguards in place?

Yes. Based on information that was brought forward to OSEP in June of 2020, the following information around Electronic consent during COVID (with proper safeguards in place) felt pertinent at this time.

Questions and Answers on Implementing IDEA Part B Procedural Safeguards During COVID-19, 76 IDELR 301 (OSEP 06/30/20)

Districts may accept an electronic or digital signature to indicate that a parent consents to an initial evaluation, reevaluation, or the initial provision of special education services as long as there are safeguards in place to protect the integrity of the process, the Office of Special Education Programs stated in a Q&A addressing the provision of procedural safeguards during the COVID-19 pandemic. OSEP also opined that in determining the timing of the provision of prior written notice to a parent, districts may consider factors related to the pandemic, such as the closure of school buildings and social distancing orders.

Districts are free to obtain consent electronically if they use a method that ensures the parent is the one providing the consent, identifies the parent as the individual consenting, includes a statement that the parent's consent is voluntary, and provides the parent an explanation of the proposed evaluation or other activity. Before establishing a process for obtaining consent via electronic means, districts should review the proposed process with their information technology department to ensure the process will include a reliable way of authenticating the parent as the source of the consent.

While districts may not be able to obtain parental consent in person when seeking to evaluate or initiate special education services for a child with a disability during the COVID-19 pandemic, that typically shouldn't stop them from proceeding with a proposed activity. OSEP stated that if certain conditions are met, districts may secure consent electronically.



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In a Q&A, OSEP noted that the IDEA requires districts to obtain consent before conducting an initial evaluation or reevaluation and before the initial provision of special education services. [34 CFR 300.300](#). OSEP observed that due to social distancing and other restrictions during the pandemic, it may not be possible to obtain consent in person.

"In developing appropriate safeguards for using electronic or digital signatures during the pandemic, a public agency may determine that a 'signed and dated written consent' may include a record and signature in electronic form that identifies and authenticates a particular person as the source of the consent and indicates such person's approval of the information contained in the electronic consent," OSEP wrote.

To ensure the integrity of the process, OSEP added, districts should include a statement indicating the parent has been fully informed of the proposed activity and is giving consent voluntarily. "During the pandemic, the Department considers the use of these safeguards to be sufficient for public agencies to use in accepting electronic signatures for parental consent under IDEA," OSEP wrote.

When it comes to Prior Written Notice (PWN), OSEP has indicated that districts may consider the impact of the pandemic in determining when to issue the notice. "The Department believes that it would be appropriate to consider factors such as the closure of public and school buildings and facilities, social distancing, and other health-related orders during the pandemic," OSEP wrote. However, OSEP advised that districts should "make every effort" to provide PWN as soon as possible prior to the proposed or refused action.