

A PEATC

Do You Know....



Parental Consent in Special Education A Fact Sheet for Virginia Families

As a parent or guardian of a child with a disability, it's important to understand your rights and responsibilities regarding parental consent in the special education process. Virginia has very strong consent provisions in its [Regulations Governing Special Education Programs for Children with Disabilities in Virginia](#). For complete information, see regulatory section 8VAC20-81-170.

What is Parental Consent?

Parental consent refers to the written agreement (permission) given by a parent or guardian before certain actions can be taken or services can be provided to a child with disabilities. This consent ensures that parents are actively involved in decisions that affect their child's educational journey.

Key Consent Provisions in Virginia Special Education Regulations

1. **Initial Evaluation and Reevaluation:** Before the school can do the first evaluation or reevaluation of a child for special education services, they need written consent from the parent. They also need consent if there's any change in the category that makes the child eligible for services.
2. **Initial IEP:** Once a child is found eligible for special education services, the school needs the parent's consent before starting the first Individualized Education Program (IEP) for the child.
3. **Changes to IEP Services:** The school needs the parent's consent before making any changes to an existing IEP, such as changing goals, services, or where the child gets help.
4. **Stopping Services:** This includes partly or completely stopping special education and related services, except when the child is graduating with a standard or advanced studies diploma.
5. **Using Public Benefits or Private Insurance:** The school needs the parent's consent to use the student's public benefits or private insurance for services.

Informed Consent

Before schools ask parents for consent, they must make sure parents understand why, how, and what might happen with the action or service. This helps parents choose what's best for their child.

If the parent needs **interpretation or translation services** in order to understand documents, communications, or what is happening at meetings, the school division is required to provide those services and cannot rely on a family member to provide them.

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- 5. Provision of a Free Appropriate Public Education (FAPE) for Transfer Students:** The school needs consent to provide services to children who transfer between school divisions in Virginia or come from another state.
- 6. Inviting Transition Agency Representatives:** Consent is also required if the school asks someone from an agency like vocational rehabilitation to come to an IEP meeting which may provide or pay for transition services.

Revoking Consent

Parents can say no (take back consent) to special education services anytime. If they do, the school must stop the services. The school can't use mediation or legal hearings to get permission again. They also don't have to hold another IEP meeting for the child.

Refusing Consent

If a parent says no to an evaluation, the school can, but doesn't have to, use mediation or legal steps for the evaluation. This includes students who were placed in private schools by their parents.

If a parent says no to starting special education services, the school can't use mediation or file for due process to get consent. The school division cannot be held responsible if the child is not provided with FAPE.

Partial Consent

Parents can agree to some parts of the IEP but not others. The regulations don't say that the school has to implement the IEP when partial consent is provided, but it is not prohibited. Further, the Virginia Department of Education (VDOE) has held that the school division must implement those parts of the IEP on which the parent and school division clearly agree. Sometimes, it's unclear whether both sides agree; in this case, other steps are required. For more information, see [VDOE's Frequently Asked Questions, # 016-11](#)

Consent is Not Required Before:

1. Reviewing existing data as part of an evaluation or a reevaluation.
2. Giving a test or other evaluation that is given to all children unless consent is required for all children.
3. Screening by a teacher or specialist to decide on appropriate teaching strategies.
4. Giving a test/evaluation to measure progress on IEP goals and the test is included in the IEP.
5. Teacher or related service provider observations or classroom evaluations.
6. Doing an initial evaluation of a child who is a ward of the state and who is not residing with their parents. Specific circumstances apply.

PEATC's mission focuses on building positive futures for Virginia's children by working collaboratively with families, schools, and communities to improve opportunities for excellence in education and success in school and community life.

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