



Changes in IDEA Involve Parents' Rights

New regulations of the federal Individuals with Disabilities Education Act (IDEA) became effective Dec. 31, 2008. IDEA provides a free, appropriate public education for children with disabilities.

Two changes of particular importance to parents of children with disabilities involve:

- a parent's right to revoke consent for special education and related services
- representation of parents and schools by non-attorneys in due process hearings

Revoking Consent for Special Education

Since the passage of the first special education laws in 1975, parents have had the right to withdraw consent for special education services. However, school districts also had the right to contest the parent's decision.

The new regulations allow parents to revoke their consent for special education and related services and require the school district to comply with the parent's request for the student's removal from special education. Consequently, schools will not be able to challenge a parent's decision.

Parents, however, must provide written consent to discontinue special education and related services. Schools must provide the parents with prior written notice detailing the changes in educational placement and services before the services are actually discontinued.

Parents should be aware that once the child is removed from special education and is no longer receiving special education service, the school is not required to remove references to special education in a child's records. Parents can still request amendments to anything in the records that might be inaccurate or misleading.

Parents should consider the following additional facts when revoking their consent to their child's special education services:

- When a parent withdraws consent, the student and parent no longer have rights under IDEA. The student becomes a regular education student and will be required to meet all state requirements for graduation.
- The child will be required to follow the same discipline policies as regular education students.
- Accommodations permitted to a student on an Individualized Education Program (IEP) for statewide accountability and graduation-required assessments will no longer be available when a student exits special education.
- If the parent withdraws consent and the child is removed from special education, the parent at any time may request an evaluation, which will then be an initial evaluation.

Representation by Non-attorneys

The new regulations also clarify that schools and parents may utilize non-attorneys in due process hearings if a state does not already have laws prohibiting it. In Minnesota, this is not addressed in special education law or regulations.

For More Information

The full text of these regulations can be viewed at PACER.org/legislation/news.asp. Parents who would like to discuss withdrawing consent may call PACER at 952-838-9000 and speak with a parent advocate.