



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES
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To: District Superintendents
Superintendents of Schools
Presidents of Boards of Education
New York City Board of Education
Principals of Public Schools
Directors of Pupil Personnel Services
Administrators of Nonpublic Elementary and Secondary Schools
Organizations, Parents and Individuals Concerned with Special Education
Impartial Hearing Officers
Commissioner's Advisory Panel for Special Education Services
SETRC Professional Development Specialists
Regional School Support Centers
School Business Officials

From: James P. DeLorenzo 

Subject: Parental Consent for the Use of Public Benefits or Insurance Pursuant to the Individuals with Disabilities Education Act

The purpose of this memorandum is to highlight parental consent requirements relating to the use of public benefits or insurance under 34 Code of Federal Regulations (CFR) sections 300.9 and 300.154(d) and sections 200.1(l) and 200.5(b)(v) implementing the Individuals with Disabilities Education Act (IDEA). Federal and State regulations require that school districts obtain parental consent each time that access to public benefits or insurance is sought.

IDEA requires that an agency obtain parental consent consistent with 34 CFR section 300.9 as follows. The parent:

- has been fully informed in his or her native language or other mode of communication of all information relevant to the activity for which the consent is sought;
- understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes the activity and lists the records that will be released and to whom;
- understands that the granting of consent is voluntary on the part of the parent



and may be revoked at any time. If the 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 (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked); and

- must be informed that their refusal to permit the school district to access their public benefits or insurance does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents.

Because the Medicaid application does not meet the IDEA parent consent requirements, for students whose services may be reimbursable under Medicaid, the LEA must independently obtain an annual parental consent to request Medicaid reimbursement. The request for consent must meet all of the requirements of 34 CFR sections 300.9 and 300.154(d) and reflect that the services to be billed are those prescribed on the student's individualized education program (IEP). A sample consent form is attached for your use. **School districts may not bill for Medicaid reimbursement without the appropriate documentation of parental consent.**

If you have general questions about IDEA parental consent, please contact the Special Education Policy Unit at vesidspe@mail.nysed.gov or (518) 473-2878. If you have questions regarding parental consent for Medicaid billing, please contact Hal Matott (hmatott@mail.nysed.gov) or Steven Wright (swright2@mail.nysed.gov) at (518) 474-7116.

Attachment

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