

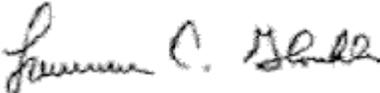


THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

DEPUTY COMMISSIONER FOR VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES
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July 2003

TO: District Superintendents
Presidents of Boards of Education
New York City Department of Education
Superintendents of Schools
Superintendents of State-Operated and State-Supported Schools
Superintendents of Special Act Schools
Organizations, Parents & Individuals Concerned with Special Education
Presidents, Local Teachers Associations
Directors of Special Education
Executive Directors of Approved Private Schools
Directors of Pupil Personnel Services
Chairpersons of Committees on Special Education
New York City Committee on Special Education Chairpersons and Administrators
School Psychologists
Impartial Hearing Officers
New York State Community Dispute Resolution Centers
Commissioner's Advisory Panel for Special Education Services
SETRC Project Directors and Professional Development Specialists
Independent Living Centers
Colleges with Special Education Teacher Training
Other State Agency Programs

FROM: Lawrence C. Gloeckler 

SUBJECT: Parental Consent for the Initial Provision of Special Education Services

The Board of Regents approved an amendment to section 200.5(b) of the Regulations of the Commissioner of Education, effective June 20, 2003, which repeals the requirement that a school district initiate an impartial hearing if a parent does not provide consent for the initial provision of special education services for his or her child (Attachment 1). The amendment was approved through emergency action to ensure timely compliance with federal law and receipt of federal funds.

This change was necessary to conform to the parental consent provisions of Part B of the Individuals with Disabilities Education Act (IDEA). The U.S. Department of Education has informed the State Education Department that Part B of the IDEA requires consent for the initial provision of special education and related services and does not permit public agencies



to use the IDEA due process hearing procedures to override a parental refusal to consent to initial services.

The proposed amendment will be submitted for permanent adoption at the September Regents meeting. Questions regarding this amendment should be directed to the VESID Special Education Policy Development Unit at (518) 473-2878 or to your Regional Associate in the appropriate Special Education Quality Assurance Regional Office as follows:

Central New York Regional Office	(315) 428-3287
Eastern Regional Office	(518) 486-6366
Hudson Valley Regional Office	(914) 245-0010
Long Island Regional Office	(631) 884-8530
New York City Regional Office	(718) 722-4544
Western Regional Office	(585) 344-2112, ext. 420

Attachment

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

underlined language = added language
[bracketed language] = language repealed

Pursuant to sections 101, 207, 305, 3713, 4402, 4403 and 4404 of the Education Law.

Subdivision (b) of section 200.5 of the Regulations of the Commissioner of the Commissioner is amended, effective June 20, 2003, as follows:

(b) Consent. (1) Written consent of the parent, defined in section 200.1(l) of this Part, is required:

(i) . . .

(ii) prior to the initial provision of special education to a student who has not previously been identified as having a disability[:]. [(a) consent] Consent for initial evaluation may not be construed as consent for initial provision of special education services; [and

(b) Except in the case of a preschool child, in the event that a parent does not grant consent for an initial provision of special education services within 30 days of a notice of recommendation, the board of education shall initiate an impartial hearing to determine if such provision of special education services is warranted without parental consent;]

(iii) prior to initial provision of special education services in a 12-month special service and/or program[:].

[(a) except in the case of a preschool child, in the event that a parent does not grant consent for an initial provision of special education services in a 12-month program within 30 days of a notice of recommendation, the board of education shall initiate an impartial hearing to determine if such provision of services is warranted without parental consent.]

(iv) . . .

(v) . . .

(2) . . .