

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

MEMORANDUM

JANUARY 16, 2009

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SCHOOL PRINCIPALS
SPECIAL EDUCATION AND RELATED SERVICES
ADMINISTRATORS, STAFF AND TEACHERS

FROM: JERRY SJOLANDER, EXECUTIVE DIRECTOR, SPECIAL EDUCATION

SUBJECT: Parent Revocation of Consent for Special Services

Effective December 31, 2008, the Office of Special Education Programs has new regulations regarding how school IEP teams respond when parents "decline special education services" that have already been implemented. The following guidance is provided to assist teams and district representatives to respond appropriately when a parent declines to have special education services continue.

Q. How does this new guidance affect the Memo entitled "Cessation of Services" issued in December of 2008?

A. The memo entitled "Parent Revocation of Consent for Special Services" specifically repeals the prior memo and the prior guidance is no longer applicable.

Q. What do the new regulations say?

A. A parent may now revoke consent for continuing special education services at any time. A parent's revocation of consent will have the effect of returning a child to general education as a non-disabled student.

Q. What if the IEP team disagrees with returning the child to general education?

A. The District may not use mediation or due process hearings to attempt to continue services when a parent revokes consent for continuing special education services.

Q. What procedures are required?

A. There are three particular steps to be followed:

1. The parent must put the revocation of consent **in writing**. **Oral revocation of consent is not sufficient to trigger this process.**
2. In response the District must issue a prior written notice of termination of services based on parent revocation of consent. These written communications provide documentation of the process.
3. The District **may not** discontinue services until the Prior Written Notice (PWN) has been given to the parent.
 - a. The PWN should indicate date upon which services are anticipated to terminate. The PWN must state that the District is discontinuing the provision of special education and related services because the parent revoked consent for special education.
 - b. The new regulations indicate that the PWN must be given within "a reasonable time" before discontinuation of services. In the absence of further guidance from OSEP or DEED regarding the length of time, ASD considers 5 school days to be a reasonable time.
 - c. A current Alaska Notice of Procedural Safeguards will be attached to the PWN. At the time of this memo, the Alaska Department of Education has yet to revise the Alaska Notice of Procedural Safeguards to include information regarding the new regulations, therefore, **a copy of the attached letter from Executive Director Sjolander will be included with the PWN as well.** This letter is written as an open letter to all parents of special education students and provides information regarding the effect of the new regulations.

Q. Must the District evaluate the student prior to discontinuation of services?

A. No, the District is not required to conduct an evaluation before discontinuing services under these circumstances.

Q. Must the District remove documentation of the prior special education services from records?

A. No, the revocation is not retroactive and does not erase what has already happened.

Q. May the parent request resumption of services after revoking consent?

A. No, the parent must request an evaluation to determine if the student is eligible, at that time, for special education services. This would then be considered an initial evaluation. The team must then consider existing information in determining what assessment is needed for eligibility and identifying special education and related service needs.

Q. Is the District liable for denial of FAPE when terminating special education services as a result of parental revocation of consent?

A. No, revocation of consent releases the District from liability for providing FAPE from the time the parent revokes consent for special education and related services until the time, if any, that the child is determined to be eligible for special education services.

Q. May a parent revoke consent for some services, but not others?

A. The revocation rule applies to the revocation for all special education and related services. Disagreements with the provision of a particular service would go through the IEP team process; mediation and due process hearing options are available to resolve disputes regarding particular services.

Q. What responsibility does the District have to persuade the parent to reconsider a decision to revoke consent for special education services?

A. The regulatory comments are clear that the District does not have an obligation to "convince" parents to accept special education services.

Q. If a parent enrolls a student in a private school, is this decision a revocation of consent for special education services?

A. No, a parentally placed private school student is entitled to special education and related services via a services plan.