



Anchorage School District

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January 16, 2009

Dear Parent of an ASD Special Education Student:

I am writing this letter to advise you of a change in the federal regulations regarding the federal special education law, Individuals with Disabilities in Education Act. I am concerned that the new regulation allows a parent to revoke consent for special education services and that the current version of the Alaska Notice of Procedural Safeguards has yet to be revised to include this pertinent information.

I am enclosing a copy of 34 CFR 300.300 that explains the parent consent procedures under IDEA. The change to this regulation has occurred at 34 CFR 300.300(b)(4). Below is a summary of this regulatory change and the commentary issued by the United States Department of Education/Office of Special Education Programs:

* 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.**

* 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.

* The parent must put the revocation of consent **in writing**. **Oral revocation of consent is not sufficient to trigger this process.**

* In response the District must issue a prior written notice of termination of services based on parent revocation of consent.

* The District **may not** discontinue services until the Prior Written Notice (PWN) has been given to the parent.

* 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.

* The District is not required to conduct an evaluation before discontinuing services under these circumstances.

* The revocation is not retroactive and does not erase what has already happened.

* If the parent requests to resume special education services after executing a written revocation, then, 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.

* A 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.

* The revocation rule applies to the revocation for all special education and related services.

Parents with questions about this new regulation are encouraged to seek assistance from one of the following information sources to ensure that the parent makes an informed decision prior to executing a written revocation of consent for special education services:

Disability Law Center of Alaska

Anchorage 3330 Arctic Blvd., Suite 103
Anchorage, AK 99503
Phone: (907) 565-1002
Fax: (907) 565-1000

Stone Soup Group

307 E. Northern Lights Blvd. #100
Anchorage, AK 99503
Tel: (907) 561-3701
Fax: (907) 561-3702

Sincerely,



Jerry Sjolander
Executive Director, Special Education

ATT: 34 CFR 300.300