

## Directions for Completing Consent for Initial Provision of Services

**ARSD 24:05:27:04.01. Parental consent for services.** A school district that is responsible for making a free appropriate public education available to a student with a disability under this article shall obtain informed consent from the parent of the student before initially providing special education and related services to the student.

The district shall make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child. To meet the reasonable efforts requirement, the district shall document its attempts to obtain parental consent using the procedures in § 24:05:25:17.

If the parent of the student fails to respond or refuses to consent to services, the school district may not use the procedures in chapter 24:05:30, including the mediation procedures or the due process procedures, in order to obtain agreement or a ruling that the services may be provided to the child.

**ARSD 24:05:27:04.02. Parental refusal to consent -- School district obligations.** If the parent of a student refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide such consent:

- (1) The school district is not considered to be in violation of the requirement to make available free appropriate public education to the student for the failure to provide the student with the special education and related services for which the school district requests such consent; and
- (2) The school district is not required to convene an IEP meeting or develop an IEP under this chapter for the student for the special education and related services for which the school district requests such consent.

Initial consent must be signed upon the initial determination of eligibility for a student prior to receiving special education services. It also needs to be signed for a student that has transferred from out of state and is determined eligible in South Dakota prior to receiving special education services.

Districts are not required to develop an IEP if a parent/guardian refuses to consent to the Provision of Special Education and Related Services. Following initial evaluation and an eligibility determination meeting, the team should discuss what special education and related services affords a student and let the parent/guardian determine if they want to consent to special education. As discussed in the comments of the Federal Register:

71 Federal Register 46634:

*Comment: A few commenters questioned how a parent could be adequately informed of the services the parent is refusing if the public agency is not required to develop an IEP when the parent refuses to consent to the initial provision of special education and related services.*

Discussion: We understand the commenters' concern that a parent of a child with a disability who refuses to consent to the provision of special education and related services may not fully understand the extent of the special education and related services their child would receive without the development of an IEP for their child. However, we do not view the consent provisions of the Act as creating the right of parents to consent to each specific special education and related service that their child receives. Instead, we believe that parents have the right to consent to the initial provision of special education and related services. "Fully informed," in this context, means that a parent has been given an explanation of what special education and related services are and the types of services that might be found to be needed

for their child, rather than the exact program of services that would be included in an IEP. Once consent has been received the IEP team may continue to develop the IEP or another meeting may be scheduled to write the IEP, in accordance with 24:05:25:03.

*Written evaluation reports, determination of eligibility, and conducting an IEP team meeting must be completed within 30 days from the end of the 25 school day evaluation timeline.*

At the time consent is signed, the parent/guardian must have received the evaluation report(s), determination of eligibility, and the **Parental Rights and Procedural Safeguards**. **After the parent agrees or refuses to consent for the initial provision of special education and related services, a parental prior written notice must be completed to summarize the IEP team's decisions.**

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| <b>Demographics-<br/>Top Section</b> | For instructions on completing this section, see directions for the cover page of the IEP on page 8 of this guide. |
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