

**PARENT REVOCATION OF CONSENT  
FOR SPECIAL EDUCATION SERVICES**

**Portland Public Schools  
Department of Special Education  
Connie Bull – Special Education Legal Counsel  
December 2009 - Revised**

<b>Question</b>	<b>Answer</b>
1. May a parent revoke consent for the continued provision of special education?	Yes. The federal regulations implementing the Individuals with Disabilities Education Act (IDEA) were recently amended to allow this.
2. When does the new regulation go into effect?	December 31, 2008.
3. What must a parent do to revoke consent?	A parent must submit a signed and dated written request revoking consent for special education services.
4. What must staff do when a parent requests that special education services be discontinued?	When a parent requests that special education services be discontinued, staff must immediately contact their Special Education Program Administrator (PA). The PA will address the parent's request and will provide the parent with prior written notice.
5. Is the District required to give the parent prior written notice?	Yes. Prior written notice must be given a reasonable time before services are discontinued. Services will be discontinued ten school days after receipt of the prior written notice or the date agreed upon with the parent. Special Education Program Administrators are responsible for providing this notice to parents.
6. Is there a sample prior written notice?	Yes. There is a sample prior written notice which is attached to this Q and A.
7. What paperwork needs to be submitted to the records clerks when a parent elects to revoke consent?	The following paperwork must be submitted to the records clerk for placement in the student's special education green file housed at the BESC: <ul style="list-style-type: none"> <li>a. The parent's signed and dated written request.</li> <li>b. The prior written notice.</li> </ul>
8. May the District use mediation or due process hearings to try to change the parent's decision to revoke	No. The law specifically states the school districts may not use these.

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consent?	
9. May a parent revoke some but not all services?	No. A parent may only revoke all special education and related services. Partial revocation is not allowed. If there is a disagreement about a particular service, this should be dealt with through the IEP process. Mediation and due process hearings are still available to resolve these disputes.
10. Is a reevaluation, an IEP meeting or a new IEP necessary when a parent revokes consent?	No. District staff are not required to conduct a reevaluation, convene an IEP meeting or draft a new IEP before special education services are discontinued.
11. May staff ask a parent why he or she is revoking consent? Must staff try to convince parents to continue services?	Staff may ask but the parent is not required to provide an explanation either orally or in writing before services are discontinued. Staff are not required to try to convince a parent to continue services.
12. May staff suggest or encourage that a parent revoke consent?	No. It is inappropriate for staff to suggest or encourage this. If staff believe the student no longer qualifies for special education services or does not need these services, staff should conduct a reevaluation to determine if termination of services is appropriate.
13. What is the status of a student when a parent revokes consent?	The student is treated as a general education student and participates in general education classes. The student's IEP is no longer in effect. District staff are not required to provide FAPE, conduct a three year reevaluations or hold annual IEP meetings.
14. What discipline procedures apply when a parent revokes consent?	<p>After services are discontinued, regular education discipline procedures apply if a student engages in misconduct. A manifestation determination meeting is not required and should not be convened. The student is no longer treated as a special education student.</p> <p>The District is not “deemed to have knowledge” that the student is a student with a disability. When a parent revokes consent for services, the student may be disciplined as a general education student and is <u>not</u> entitled to any special education discipline protections, including a manifestation determination.</p> <p>If a parent requests a special education evaluation <u>after</u> the misconduct takes place, staff must conduct an expedited evaluation. An expedited evaluation must be completed within 45 school days. Until the evaluation is completed, the student remains in the disciplinary</p>

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	placement determined by school personnel which may include suspension or expulsion. The evaluation may be conducted at the school (with the student at the school only for the time he or she is evaluated), District offices or an off site location such as a public library.
15. May a student attend special education classes after consent is revoked?	No. A student may not attend special education classes or receive special education or related services. The student is entitled to receive all services that general education students receive.
16. Does the parent have the right to have all special education records removed from the student's file after consent has been revoked?	No. The District is not required to amend the student's records to remove any references to the child's receipt of special education services when a parent revokes consent.
17. Is the District liable for a denial of FAPE after a parent revokes consent?	No. The law specifically states a school district will not be considered to be in violation of the FAPE requirement for the failure to provide special education and related services after a parent revokes consent.
18. What if a parent revokes consent and then changes his or her mind?	If the parent changes his or her mind after services have been discontinued, this is treated as a request for an initial evaluation. A new evaluation may not be required if there are sufficient existing evaluation data. The need for additional assessments is determined at an evaluation planning meeting.
19. If a parent revokes consent, can he or she later request a special education evaluation?	Yes. The request is treated as an initial evaluation.
20. Does child find apply to a student whose parent revoked consent?	Yes. Once special education services are discontinued, the child find requirements that apply to all general education students apply to this student as well. (Under existing law, child find also continues to apply to any student whose parent refused consent for <u>initial</u> placement into special education.) The parent may refuse to provide consent for an evaluation or services offered by the District. The student should be brought to the school's Building Screening Committee like any other general education students. The fact that a parent revokes consent for special education services does <u>not</u> alter the District's child find obligation to this student.
21. Is a student entitled to a Section 504 plan when a	Staff must immediately contact the 504 Program Manager if a 504 plan is requested following revocation of consent for special education. On a case-by-case basis, the team may consider

<b>Question</b>	<b>Answer</b>
parent revokes consent?	whether the student is eligible for a Section 504 plan.
22. May either parent revoke consent?	If both parents have legal custody to make educational decisions for the child, either parent may revoke consent.
23. If a student is 18, does only the student have the right to revoke consent?	Unless there is a court order finding the student incompetent or a surrogate parent has been assigned by the adult student (which the student may unassign), a student who is age 18 or older has the right to revoke consent for services. The prior written notice must be sent to <u>both</u> the parent and the student.
24. If staff have any questions about these procedures, whom should they contact?	Staff should contact their Special Education Program Administrator if they have questions about these procedures.

**PRIOR NOTICE OF PARENT REQUEST  
TO DISCONTINUE SPECIAL EDUCATION  
AND RELATED SERVICES**

Student's Full Legal Name	Student #	School	Date
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Dear: \_\_\_\_\_ :  
We would like to inform you of the team's decision to change your child's:

- Identification
- Individualized Education Program
- Educational Placement, or
- Provision of a Free Appropriate Public Education (FAPE)

**FOLLOWING IS A DESCRIPTION OF THE CHANGE:**

Per parent request the District will discontinue special education and related services, for students name here on ATTN: insert date 10 school days from today's date or Insert date with the statement "date agreed upon with parent", because the parent revoked consent for special education.

**FOLLOWING IS A DESCRIPTION OF WHY THE SCHOOL DISTRICT PROPOSES TO TAKE THE ABOVE DESCRIBED ACTION (INCLUDING ANY RECORDS, REPORTS OR EVALUATION PROCEDURES WHICH THE SCHOOL DISTRICT USED AS A BASIS FOR THIS CHANGE):**

The parent's written request to discontinue special education and related services is attached.

**FOLLOWING IS A DESCRIPTION OF ANY OPTIONS THE SCHOOL DISTRICT CONSIDERED AND THE REASONS WHY THOSE OPTIONS WERE NOT SELECTED:**

Continuing special education and related services.  
Parent is revoking consent for services.

**FOLLOWING IS A DESCRIPTION OF ANY OTHER FACTORS CONSIDERED BY THE TEAM:**

- 1) Your refusal of consent will have the effect of returning the child to general education as a nondisabled student. No special education supports will be provided.
- 2) Your child's special education records will remain in your child's file.
- 3) As a parent you may refer your child for special education services at any time. If you refer your child, the District will hold an evaluation planning meeting to decide what evaluation, if any, is needed, and to get written parent consent for evaluations. The district may also refer your child for an evaluation.
- 4) The student will have access to educational programs and assistance available to nondisabled students in the general education setting.
- 5) The district is not required to provide a free appropriate public education, conduct a three year reevaluation, or hold annual IEP meetings.
- 6) The procedural safeguards in the *Notice of Procedural Safeguards* will not apply.
- 7) The school will apply regular discipline rules. The District is not required to determine whether the conduct of the student is a manifestation of the student's disability before implementing regular discipline procedures.

**PARENTS OF A CHILD WITH A DISABILITY HAVE PROTECTION UNDER THE PROCEDURAL SAFEGUARDS. FOR A COPY OF THE PROCEDURAL SAFEGUARDS OR FOR ASSISTANCE IN UNDERSTANDING THIS INFORMATION PLEASE CONTACT ME:**

SINCERELY,

\_\_\_\_\_  
SIGNATURE & TITLE

\_\_\_\_\_  
TELEPHONE