

**IDEA Part B New Regulations:
Questions and Answers Regarding Parental Consent to Access Public Benefits or Insurance
(Effective July 1, 2013)**

1. If a district already has a written consent on file from the previous school year, does the district have to obtain a written consent again to count as the “first time”?

Not necessarily. A public agency is not required to obtain a new parental consent if the following conditions are present:

- 1) There is no change in any of the following: the type (e.g., physical therapy or speech therapy) of services to be provided to the child; the amount of services to be provided to the child (frequency or duration); or the cost of the services charged to the public benefits or insurance program (e.g., Medicaid); and
- 2) A public agency has on file a parental consent that meets the requirements of the prior version of 34 CFR 300.154(d)(2)(iv)(A) and 34 CFR 99.30 and 300.622. This would include a parental consent on file that has been given directly to another agency, such as the State Medicaid agency.

However, after the new regulations (July 1, 2013), are in effect the district must determine: (a) if there are changes in the type or amount of the services to be provided to the child, or (b) if there is a change in the cost of the services to be charged to the public benefits (i.e. Medicaid) or insurance program. If there are any such changes, a “new” parental consent must be obtained to meet the new regulations. Once this occurs, the district must first provide a written notification to the parent (<http://www.ksde.org/Default.aspx?tabid=2583#medicaid>) followed by a new one-time consent form.

2. For a new parental consent, may the district bill for services from the date the consent was signed? Or, may the district bill for evaluations that occurred before the date the parent signed the consent form?

The district may access Medicaid benefits for evaluations and other services that occurred before the date of parental consent, only if the consent form includes a specified previous date on which the district’s access to Medicaid benefits may begin.

3. If a student is (a) determined to no longer be eligible for special education services, or (b) the parent revokes consent for all special education services, and the student is later determined to have an exceptionality and is determined to be eligible for special education services, must the district obtain parental consent again to access public benefits (i.e. Medicaid) or insurance?

Yes; A parent’s revocation of consent for all special education services nullifies eligibility and, thus, nullifies everything relating to special education, including parental consent to access public benefits (i.e. Medicaid) or insurance. Additionally, if the student is determined to no longer be eligible for special education services but, later, is determined to have an exceptionality, and is eligible for special education services, the parent must provide consent again for the district to access public benefits (i.e. Medicaid) or insurance.

4. If a new student moves into the district, must the district obtain a new parental consent?

A new parent consent and written notification is required when a student moves from one district to another district in state or when the student moves from out of state.

5. When does written notification need to be provided to parents?

A district must provide written notification to the parent in the following scenarios:

- when accessing public benefits (i.e. Medicaid) for the first time before parental consent is obtained; or
- on an annual basis once the parent consent has been obtained. (For example, the written notification form may be provided to parents at: (a) the time of the annual Individualized Education Program (IEP) meeting, along with the parental rights document; (b) the notification form is mailed to the parent; or (c) any method the district may choose to provide the written notification.)

- An example of written notification form is located at: <http://www.ksde.org/Default.aspx?tabid=2583#medicaid> (Note. Districts should document how and when the written notification was provided to the parents.)

6. Is a new parent consent form required each time there is a change in the type or amount of services to be provided to the student?

Once a parent consent form has been obtained to access the child's or parent's public benefits (i.e. Medicaid) for the first time under the new regulation, no additional parent consent form is required.

7. Does the law requiring parental consent to make a material change in services (25% or more of any one service) also apply to obtaining parental consent to access public benefits or insurance?

No, the law requiring parental consent to make a material change in services (25% or more of any one service) is a Kansas Special Education for Exceptional Children Act requirement. This state law requirement has no application to the parent consent requirement to access public benefits. Please refer to Question 1 in the document regarding changes and when it is necessary to obtain a new, one-time, parent consent.

8. Are districts expected to provide written notification to parents by the July 1, 2013, implementation date?

Districts may phase in this new requirement when the child's IEP is due for regular review.

9. Does the one-time parent consent apply to the physician's consent?

No, the physician's consent must still be obtained on a yearly basis.

10. Can the district send a copy of the notification form home with the student in their backpack?

KSDE has not specified any particular method of delivery. However, this method of delivery is risky because even if documented by school personnel that the letter was put in a student's backpack, there is still no documentation that the parents received it.

11. Can the notification form be posted on the district's website?

Yes, but that is not going to fulfill this notice requirement. Public notice is not sufficient. The federal regulations require the notice to be given to the parents. Thus, the requirement is that each parent be personally notified.

12. Can the special education teacher hand them out during the open house?

Yes

13. Is sending the notification form by First Class mail and or hand delivery during an IEP meeting acceptable?

Yes

14. When delivering the notifications to the parent what documentation is acceptable to KSDE? What all components are needed to meet your standards (date, signature, method of delivery, etc)?

This is a very important part of the delivery. Documentation should include, at a minimum: (1) the date the notice was delivered; (2) the method of delivery, i.e., mail, hand delivered, etc.; and the name and signature of the person making the delivery. It is not necessary to obtain a parent's signature, although that would be the best (but not required) documentation of delivery.

For further guidance please refer to the "[Non-Regulatory Guidance on the IDEA Part B Regulations Regarding Parental Consent for the Use of Public Benefits or Insurance to Pay for Services under the IDEA, Issued February 14, 2013, and Effective March 18, 2013](http://www.ksde.org/Default.aspx?tabid=2583#medicaid)" document posted: <http://www.ksde.org/Default.aspx?tabid=2583#medicaid>