



**Los Angeles County
Office of Education**

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To: Educational Programs

From: Compliance Support Services

**Topic: Compliance Information Bulletin Number 4
Parental Consent for Assessment**

IDEA regulations at 34 C.F.R. § 300.505(a)(1)(i) require informed parental consent before conducting both initial evaluations and reevaluations. However, when reevaluation is at issue, 34 C.F.R. 505(c) provides that, in certain circumstances, the school district may interpret silence as consent. To conduct a reevaluation with expressly given consent the school district must, of course, comply with the prior notice rules of 34 C.F.R. § 300.503 and also must “use procedures consistent with those in § 300.345(d).” 34 C.F.R. §505(c)(2). Consistent with § 300.345(d) a school district conducting a reevaluation without consent must keep detailed records of its attempts to obtain the parent’s consent.

The Notice of Procedural Safeguards published by the California Department of Education, Special Education Division, states ‘you (parents) must give informed, **written** consent before your child’s first special education assessment can proceed and before the school district can provide your child’s special education program. In the case of reevaluations, the school district must document reasonable attempts to obtain your consent. If you as the parent do not respond to these attempts, the school district may proceed with the reevaluation without your consent.

Special Education Rights of Parents and Children under the Individuals with Disabilities Act, Part B, Notice of Procedural Safeguards, Revised October 2000, California Department of Education, Special Education Division

The Answer Book on Special Education Law, Third Edition by Susan Gorn, LRP Publications

The Answer Book on Individualized Education Programs, 1997 by Susan Gorn, LRP Publications

* Regulations by Section and Attachment 1 (Analysis of
Comments and Changes)

Subpart E-Procedural Safeguards Due Process Procedures for Parents and Children

§300.505 Parental consent.

(a) **General.**

(1) Subject to paragraphs (a)(3), (b) and (c) of this section, informed parent consent must be obtained before-

- (i) Conducting an initial evaluation or reevaluation; and
- (ii) Initial provision of special education and related services to a child with a disability.

(2) Consent for initial evaluation may not be construed as consent for initial placement described in paragraph (a)(1)(ii) of this section.

(3) Parental consent is not required before-

- (i) Reviewing existing data as part of an evaluation or a reevaluation; or
- (ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

(b) **Refusal.** If the parents of a child with a disability refuse consent for initial evaluation or a reevaluation, the agency may continue to pursue those evaluations by using the due process procedures under §§300.507-300.509, or the mediation procedures under §300.506 if appropriate, except to the extent inconsistent with State law relating to parental consent.

(c) **Failure to respond to request for reevaluation.**

(1) Informed parental consent need not be obtained for reevaluation if the public agency can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond.

(2) To meet the reasonable measures requirement in paragraph (c)(1) of this section, the public agency must use procedures consistent with those in §300.345(d).

(d) **Additional State consent requirements.** In addition to the parental consent requirements described in paragraph (a) of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.

(e) **Limitation.** A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a) and (d) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part. (Authority: 20 U.S.C. 1415(b)(3); 1414(a)(1)(C) and (c)(3))

