

**Changes to IDEA Regulations and Revisions to ICSA’s Special Education Procedures  
Assuring the Implementation of Comprehensive Programming for Children with  
Disabilities (“Special Education Procedures”)**

Revised January 2011

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**I. Revised IDEA Regulations (Part B); 34 CFR Part 300, effective December 31, 2008**

The U.S. Department of Education’s revised regulations considerably impact three areas: Parental Consent, Hearing Rights, and Monitoring and Enforcement.

**A. Parental Consent**

1. **§ 300.9(c)(3) was added.** When a parent revokes consent in writing for his or her child’s receipt of special education services after the parent’s child was initially provided special education and related services, the School District is not required to amend the child’s education records to remove any reference to the child’s previous receipt of special education and related services.
2. **§ 300.300(b)(4) was added.** A parent may revoke consent in writing to the continued provision of special education and related services any time after the initial provision of the special education and related services. Upon receipt of a written revocation of consent to the continued provision of special education and related services, the School District:
  - a. must provide the parent with written notice under § 300.503 (which may be one way of establishing just when the services should cease);
  - b. may not utilize mediation or the due process procedures to challenge the parent’s revocation of consent;
  - c. is not required to convene an IEP Team or develop an IEP; and
  - d. will not be deemed in noncompliance with the IDEA for failure to provide a FAPE to an otherwise eligible child.

**B. Hearing Rights** (This is not addressed in the ICSA’s *Special Education Procedures*.)

**§ 300.512(a)(1) was amended.** It indicates that State law will determine whether a party (parent or School District) can be represented by a non-attorney in a due process hearing.

**C. Monitoring and Enforcement** (This is not addressed in the ICSA’s *Special Education Procedures*.)

1. **§ 300.600(e) was added.** It establishes a one-year time frame within which a State must ensure an LEA achieves corrective action based upon incidents of noncompliance identified through the monitoring process.

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<sup>1</sup> **Special thanks go to these attorneys who took the lead in this project:**

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2. **§ 300.602(b)(1)(i)(A) was amended.** It requires that a State must, no later than 120 days after submitting its annual performance report (APR) to the Secretary, provide a report to the public on the performance of each LEA. This doubles the current 60 day time frame.

The U.S. Department of Education also made several other changes in its regulations that may be found at: [www.ed.gov/legislation/FedRegister/finrule/2008-4/120108a.pdf](http://www.ed.gov/legislation/FedRegister/finrule/2008-4/120108a.pdf)

## II. Revisions to the “Special Education Procedures”

The Special Education Committee revised the following four sections:

**Section 3, *Evaluation and Determination of Eligibility***, is revised to delete an unnecessary procedural step. See Section 3, C, 11.

**Section 4, *Individualized Education Programs***, now includes a provision regarding the parents’ right to revoke their consent for special education services in accordance with their procedural safeguards. See Section 4, D, 2.

**Section 10, *Procedural Safeguards***, now contains two new subsections, “G. Revocation of Consent for Evaluations and Reevaluations,” and “H. Revocation of Consent for Special Education and Related Services [\(revised January 2011\)](#).”

**Section 10.5, *Behavioral Intervention and Discipline***, now cites Section 5/14-8.05 of The School Code regarding the requirements for behavioral intervention procedures. See Section 10.5, A., 2. The citation is added to remind districts that ICESA’s “Special Education Procedures” do not contain the required components of procedures on the use of behavioral interventions for children with disabilities – these procedures must be developed locally.

*Please also note:* Districts need to give parents the requirements for revoking consent for special education services. See ISBE form 34-57J (“Notice of Procedural Safeguards For Parents/Guardians of Students With Disabilities” updated October 2009).