

Special Education Informed Consent Quick Guide






What is informed consent?



Informed consent is a process where the scope of evaluation or provision of services being proposed is fully explained to the parent/guardian or adult student. Informed means the individual providing consent has a clear and complete understanding of the activity before voluntarily agreeing in writing. It is the legal and ethical responsibility of the professional obtaining consent to ensure the parent/guardian or adult student has been provided all information relevant to the action proposed.

What is required when seeking to obtain informed consent?

Before conducting an initial evaluation, initiating special education services, or conducting a reevaluation, the local education agency (LEA) must:



	Provide prior written notice (PWN) describing all information relevant to the evaluation procedures or services. Giving prior written notice and the opportunity to provide written consent must occur at least five school days before the initiation of the evaluation or implementation of services, unless the parent/guardian or adult student agrees to a shorter timeframe.
	Provide the parent/guardian or adult student with a copy of the Notice of Procedural Safeguards , which includes rights and resources for the parent/guardian or adult student. The Special Education Information Center (SPEDTex) offers the Notice of Procedural Safeguards in many languages.
	Ensure the parent/guardian or adult student is provided all information relevant to the consent, including a clear description of the activity, in his or her native language or mode of communication.
	Confirm the parent/guardian or adult student understands the information and obtain the agreement in writing to all elements of the consent.
	Notify the parent/guardian or adult student that their consent is voluntary and may be revoked at any time. However, if consent is revoked, it does not negate the actions completed prior to the revocation.

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Key Points to Remember

- The professional obtaining informed consent is qualified to answer questions and fully explain the information on the consent form and the special education evaluation process/procedures or services.
- Best practice is to obtain informed consent through a face-to-face meeting. If this is not possible, explain the proposed evaluation or services through a phone conference or virtual meeting with the parent/guardian or adult student.
- The responsibility for obtaining informed consent is not met by simply sending paperwork home for the parent to sign. One way to confirm that the parent/guardian or adult student is fully informed is to check for understanding.
- Informed consent must be obtained from a person legally authorized to give consent (i.e., parent, guardian, adult student, or others in special circumstances).
- Informed consent requires an actual signature, not just an agreement. Check your local policies and special education operating procedures for guidance on electronic signatures.



 Legal Resources	 State Resources
<p>The Legal Framework: Consent for Initial Evaluation</p> <p>The Legal Framework: Consent for Services</p> <p>The Legal Framework: Consent for Reevaluation</p>	<p>Child Find, Evaluation and ARD Supports Network – Initial Evaluations</p> <p>Texas Education Agency (TEA) Technical Assistance: Child Find and Evaluation</p> <p>Texas Standards Required for the Educational Diagnostician Certificate (TEC §239.83) – Standard II</p> <p>Texas State Board of Examiners of Psychologists (TSBEP) – Rules of Practice: Informed Consent (22 TAC §465.11)</p> <p>Texas Department of Licensing and Regulation (TDLR) – Speech Language Pathologists and Audiologists Rules Standards of Ethical Practice (16 TAC §111.155)</p>