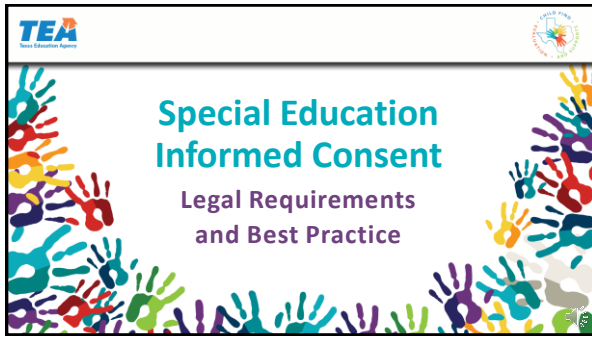
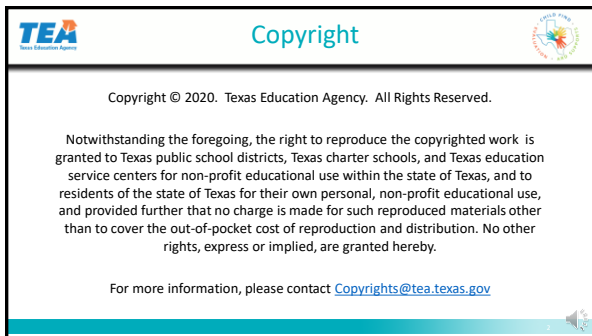


Special Education Informed Consent Legal Requirements and Best Practice







Special Education Informed Consent Legal Requirements and Best Practice

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Guidance Document

Special Education Informed Consent Quick Guide

What is Informed Consent?

What is required when seeking for written informed consent?

Key Points to Remember

Sign Processes

State Processes


<https://childfind.tx.tea.texas.gov/index.html>

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Training Overview

This training will:

- Review required elements of informed consent
- Review the legal requirements for obtaining informed consent for special education evaluation and services
- Discuss the benefits of having a clear, dedicated informed consent process



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Training Objectives

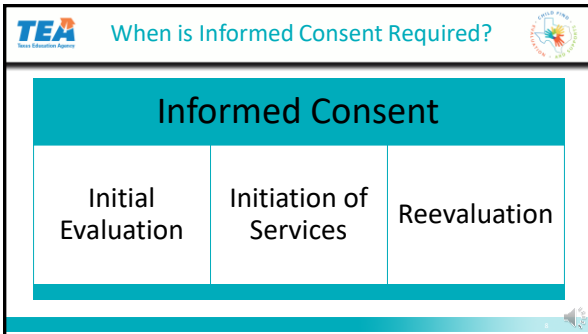
Participants will learn the:

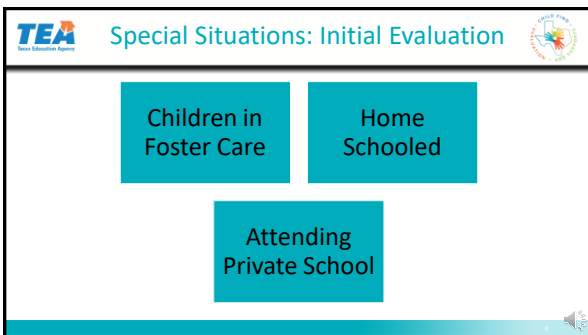
- Definition and requirements of informed consent
- Importance of following legal requirements for obtaining informed consent
- Best practice when obtaining informed consent
- Key points to remember when obtaining informed consent

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Special Education Informed Consent Legal Requirements and Best Practice







Special Education Informed Consent Legal Requirements and Best Practice

TEA Texas Education Agency **Special Situations: Initiation of Services**

If despite the LEA's reasonable efforts

- The parent/guardian or adult student refuses to respond.
- The parent/guardian or adult student refuses to provide consent.

➔

Then

- LEA **may NOT** use dispute resolution procedures to seek agreement
- LEA **will NOT** violate obligation to provide a free appropriate public education (FAPE)

TEA Texas Education Agency **Special Situations: Reevaluation**

If despite the LEA's **reasonable efforts**, the parent/guardian or adult student **fails to respond** to a request for consent for a reevaluation then the LEA **may proceed** with the reevaluation

If the parent/guardian of a child who is **home schooled or placed in a private school** does not provide consent or fails to respond, then the LEA is not required to consider the child as eligible for services

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Definition and Requirements of Informed Consent

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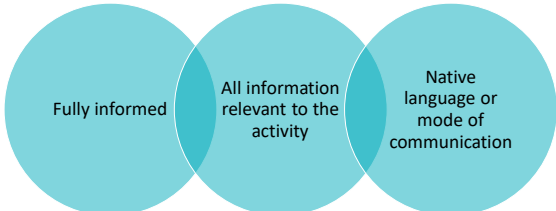
Key Words Overview

- Fully Informed
- Native Language
- Plain Language
- Understands
- Agrees in Writing
- Voluntary



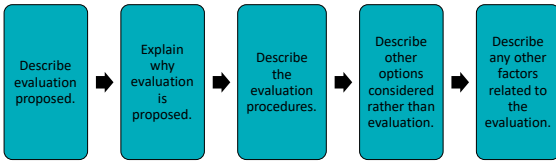
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Definition of Consent

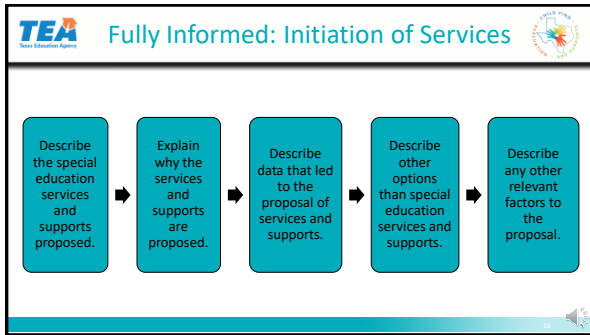


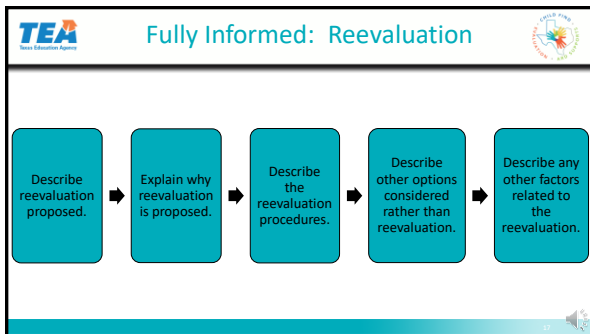
TEA Texas Education Agency

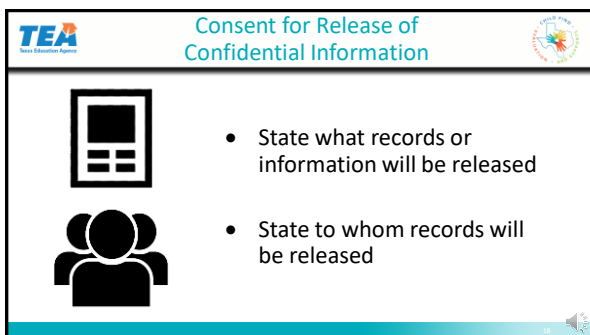
Fully Informed: Evaluation



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Native Language

Explain in the language the parent/guardian or adult student speaks and understands

Use an interpreter, if necessary

Provide Notice of Procedural Safeguards in native language or other mode of communication

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Other Mode of Communication

Determine the mode of communication in which the parent/guardian or adult student can best understand all information relevant to the proposed activity.

Consider the level of understanding of parent/guardian or adult student and accessibility needs.


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Definition of Consent

Understands and agrees in writing


Describes the activity and lists any records to be released

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Understands and Agrees in Writing


Explanation is given thoroughly in plain language.	Explanation given in-person is best practice.
Parent/guardian or adult student can ask questions.	Staff with credentials related to activity obtains consent whenever possible.

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Understands and Agrees in Writing

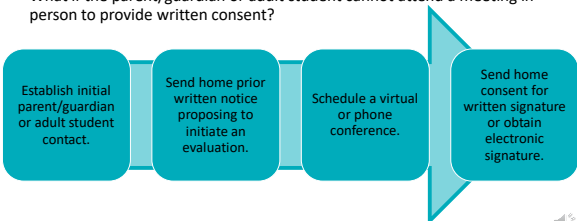


- Requires parent/guardian or adult student's signature agreeing to all elements of informed consent.
- Check local policy and special education operating procedures regarding use of electronic signatures.

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Understands and Agrees in Writing

What if the parent/guardian or adult student cannot attend a meeting in person to provide written consent?




```
graph LR; A[Establish initial parent/guardian or adult student contact.] --> B[Send home prior written notice proposing to initiate an evaluation.]; B --> C[Schedule a virtual or phone conference.]; C --> D[Send home consent for written signature or obtain electronic signature.];
```

Special Education Informed Consent Legal Requirements and Best Practice

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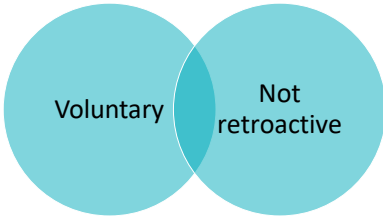

Describes the Activity



- Evaluation**
 - All areas of suspected disability
 - Multidisciplinary team
 - Informal and formal measures
 - Academic, developmental, and functional performance
 - Native language or other mode of communication
- Initiation of Services**
 - Special factors
 - Annual goals
 - Special education and related services
 - Supplementary aids and services
 - State and districtwide assessments
 - Least restrictive environment


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Definition of Consent



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Voluntary and Revoked at Any Time



- Parent/guardian or adult student understands granting consent is their choice.
- Parent/guardian or adult student can revoke consent at any time.
- Revocation of consent must be in writing.
- LEAs should explain the implications of revocation for the student.

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Revocation Is Not Retroactive


Revocation does not negate an action that occurred between the time the consent was granted and revoked.



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No Amendment of Education Record


If a parent/guardian or adult student **revokes consent in writing** after initial special education service(s) have been provided, **the LEA is not required to amend the student's education records** to remove any references to the student's receipt of special education and related services.





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Tying It All Together



- Consent is more than obtaining a parent/guardian or adult student signature.
- Informed consent means the parent/guardian or adult student is fully informed.
- It is important to check for understanding during the process.

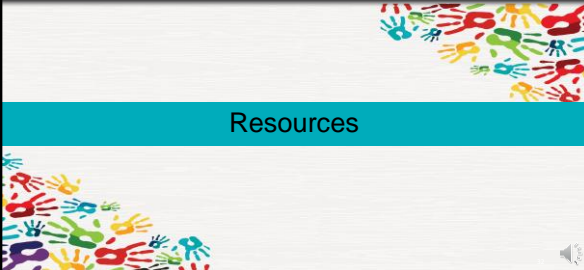


Special Education Informed Consent Legal Requirements and Best Practice

 **Benefits of an Informed Consent Process** 

- Meets legal requirements
- Ensures parent/guardian or adult student is fully informed and understands process
- Establishes rapport and trust with the parent/guardian or adult student
- Opportunity to gain more information about the student
- Time up-front saves time in long run, and there is less likely a chance of “surprise” concerns later in the process

 **Resources** 





 **Legal Resources** 

[The Legal Framework: Consent for Initial Evaluation](#)



[The Legal Framework: Consent for Services](#)

[The Legal Framework: Consent for Reevaluation](#)



Special Education Informed Consent Legal Requirements and Best Practice


 **State Resources** 

[Child Find, Evaluation and ARD Supports Network Initial Evaluations](#)
[Texas Education Agency \(TEA\) Technical Assistance: Child Find and Evaluation](#) [page15: Consent for Initial Evaluation]
[Special Education Information Center \(SPEDTex\)](#)
[Texas Standards Required for the Educational Diagnostician Certificate \(19 TAC §239.83\) \[Standard II\]](#)
[Texas State Board of Examiners of Psychologists Rules of Practice: Informed Consent \(22 TAC §465.11\)](#)
[Texas Department of Licensing and Regulation \(TDLR\) Speech Language Pathologists and Audiologists Rules Standards of Ethical Practice \(16 TAC §111.155\) \[page 41-R\]](#)

 **Professional Association Resources** 

[National Association of School Psychologists \(NASP\) Professional Ethics](#)
[American Speech-Language-Hearing Association \(ASHA\) Code of Ethics](#)



Thank You!
Questions? Comments?
Please email childfindtx@esc4.net
