

IDEA WRITTEN NOTIFICATION REGARDING USE OF PUBLIC BENEFITS

INTRODUCTION

As a parent, you are receiving this written notification to give you information about your rights and protections under the Individuals with Disabilities Education Act (IDEA). This notice is provided so that you can make an informed decision about whether you should give your written consent to allow your child's school to use your or your child's public benefits to pay for special education and related services. Your school is required to provide these services at no cost to you and your child under IDEA regardless of your consent. Some basic information about IDEA follows.

IDEA is the federal law that gives assistance to states and public schools (school districts and charter schools) to provide special education and related services to children with disabilities. When your child was found eligible for services because he or she had a disability and needed special education and related services, your child's school developed an individualized education program (IEP) for your child. Your school must provide those special education and related services included in your child's IEP at no charge to you or your child.

IDEA federal funds pay a portion of your child's special education and related services. Funds from a public benefits program (Medicaid funds) also may be used by your school to help pay for special education and related services, but only if you choose to provide your consent, which is explained below. Your school cannot access your or your child's public benefits if it would result in a cost to you, such as a decrease in your benefits. These "no cost" provisions are explained below as well.

Before your school can ask you to provide your consent to access your or your child's public benefits for the first time, it must provide you with this notification of the rights and protections available to you. This notice is intended to help you understand these rights and protections, including the type of consent your school will ask you to provide. If you choose not to provide your consent, or later decide to withdraw your consent, your school has a continuing responsibility to ensure that your child is provided all required special education and related services at no charge to you or your child.

NOTIFICATION REQUIREMENTS

34 CFR §300.154(d)(2)(v)

You are receiving this notification because IDEA requires that you be informed of your rights and protections when your child's school seeks to use your or your child's public benefits to pay for special education and related services. The following sections explain when you must receive this notification and what information must be included in the notification.

When Notification Must Be Provided

You must receive this notification:

- before your child's school seeks to use your or your child's public benefits for the first time and before it obtains your consent to use those benefits for the first time (the consent requirement is described below); and
- annually thereafter.

Format of Notification

This notification must be:

- written;
- in language understandable to the general public; and
- in your native language or in another mode of communication you use, unless it is clearly not feasible to do so.

CONTENTS OF NOTIFICATION**34 CFR §300.154(d)(2)(v)(A)-(D)**

This notification will explain 1) the consent that your school must obtain from you before it can use your or your child's public benefits for the first time; 2) IDEA's "no cost" provisions that apply to your school if it seeks to use your or your child's public benefits; 3) your right to withdraw your consent to the disclosure of your child's personally identifiable information to Arizona's public benefits agency at any time; and 4) your school's continuing responsibility to ensure that your child is provided all required special education and related services at no charge to you or your child, even if you withdraw your consent or refuse to provide consent.

PARENTAL CONSENT**34 CFR §300.154(d)(2)(iv)(A)-(B)**

****If your child's school has not accessed your public benefits in the past to pay for services that the school was required to provide at no charge to you or your child, all of the parental consent requirements described below apply.**

Before your school can use your or your child's public benefits for the first time to pay for special education and related services, the school must obtain your signed and dated written consent. Generally, your school will provide you with a consent form for you to sign and date. Note that your school is usually only required to obtain your consent one time during the year.

This consent requirement has two parts.

1. Consent for Disclosure of Your Child's Personally Identifiable Information

Federal laws—the Family Educational Rights and Privacy Act (FERPA) and the IDEA provisions regarding confidentiality of information—require your child's school to obtain your written consent before disclosing personally identifiable information from your child's education records to a party other than your school, with some exceptions. This could include information such as your child's name, address, social security number, student number, IEP, or evaluation results.

In this consent situation, your school is required to obtain your consent before disclosing personally identifiable information for billing purposes to the agency in Arizona that administers the public benefits program. The agency responsible for this Medicaid program in our state is the Arizona Health Care Cost

Containment System or AHCCCS. AHCCCS has authorized another organization, the Public Consulting Group or PCG, to administer the program in the schools.

Your consent must specify the personally identifiable information that your school may disclose (records or information about the services that may be provided to your child), the purpose of the disclosure (billing for special education and related services), and the agency to which your school may disclose the information (the Arizona Health Care Cost Containment System [AHCCCS] or the AHCCCS-authorized agency, the Public Consulting Group [PCG]).

[Optional: If you choose to provide consent and your child's personally identifiable information is disclosed to AHCCCS or its authorized agency, you may request and receive from your school a copy of the records your school disclosed to those agencies.]

2. Statement to Access Public Benefits

Your consent must also include a statement specifying that you understand and agree that your school may use your or your child's public benefits to pay for special education and related services.

[Note to School Districts/Charter Schools: You should include in the notification how your school district is expected to obtain this consent statement.]

Both parts of this consent requirement apply to the school that is responsible for serving your child under IDEA. If your child moves to a new school within the same school district/charter school system, you would not be required to provide a new consent because the same school district/charter school is still responsible for serving your child. But if you enroll your child in a new school in a new school district/charter school system, the new school that is responsible for serving your child must obtain a new consent from you before it can bill your child's public benefits for the first time. The consent you would provide to your child's new school district/charter school must include both parts of the consent as described above.

[Optional:

Electronic consent, if applicable (34 CFR §99.30(d))

As noted above, your consent must be written, signed, and dated. While there generally will be a paper form for you to fill out, you may provide your written consent in an electronic form. Your submission must identify and authenticate you as the individual providing the consent, include an electronic signature and date, and indicate that you approve the information contained in the consent.]

[Optional:

Previous consent

If you gave your consent in the past for your school to access your or your child's public benefits to pay for special education and related services, your school is not required to obtain a new consent from you if the following two conditions are present:

1. There is no change in any of the following: the type of services to be provided to your child (for example, physical therapy or speech therapy); the amount of services to be provided to your child (for example, the number of hours per week that will last for the school year); or the cost of the services (that is, the amount charged to the AHCCCS program); and

2. Your school has on file the consent you previously provided. This previous consent must meet the requirements that were in effect under the IDEA regulations applicable at the time (your school will know what requirements applied under those prior regulations). An example of a previous consent your school may have on file is a parental consent form you gave directly to another agency, such as Arizona's Medicaid agency, AHCCCS.]

Even if your child's school is not required to obtain a new consent from you, your school still must provide you with this notification before it may continue to bill your or your child's public benefits to pay for special education and related services.

New regulations concerning these consents were published on March 18, 2013, and must be implemented by schools beginning July 1, 2013. During the 2013 – 2014 school year, your school will be notifying you about using your public benefits and gaining your consent with the new requirements for the first time. After this new consent has been obtained, your school may use this consent until there is a change in services provided. In other words, if your school already has on file your consent to use your or your child's public benefits to pay for special education and related services, your school must request that you provide a new consent when there is a change in any of the following: the type of service (for example, physical therapy or speech therapy), the amount of service (for example, hours per week that would last for the school year), or the cost of services (that is, the amount charged to AHCCCS).

An example of a change in the type of services would be if your child was to receive speech therapy in addition to physical therapy and the services billed to AHCCCS would be different. An example of a change in the amount of services would be if your child was previously receiving 3 hours per week of physical therapy and would now be receiving 2 hours per week. An example of a change in the cost of your child's services would be if the amount billed to AHCCCS for a particular service would increase or decrease.

If any of these changes occur, your school must obtain from you a new consent. However, because of the new regulations that took effect on July 1, 2013, any consent after that date becomes a "new" one-time consent. The consent specifies that you understand and agree that your school may access your or your child's public benefits to pay for special education and related services. Before you provide your school the "new," one-time consent, your school must provide you with this notification. Once you provide this one-time consent, you will not be required to provide your school with additional consent to access your or your child's public benefits if your child's services change in the future. However, your child's school must continue to provide you with this notification annually.

No-Cost Provisions

34 CFR §300.154(d)(2)(i)–(iii)

The IDEA "no cost" protections regarding the use of public benefits are as follows:

1. Your school may not require you to sign up for, or enroll in, a public benefits in order for your child to receive special education and related services. This means that your school may not make your enrollment in AHCCCS a condition of providing your child the services it is required to provide at no charge.

2. Your child's school may not require you to pay an out-of-pocket expense, such as the payment of a deductible or co-pay amount for filing a claim for services that your school is otherwise required to provide your child without charge. For example, if your child's IEP includes speech therapy and your public benefits require a \$25 co-pay or deductible payment for a session, you could not be charged the \$25. Your school would need to pay the cost of your co-pay or deductible in order to bill you or your child's public benefits for the particular service.
3. Your school may not use you or your child's public benefits if using those benefits would:
 - a. Decrease your available lifetime coverage or any other insured benefit, such as a decrease in your plan's allowable number of physical therapy sessions available to your child or a decrease in your plan's allowable number of sessions for mental health services;
 - b. Cause you to pay for services that would otherwise be covered by your public benefits because your child also requires those services outside of the time your child is in school;
 - c. Increase your premium or lead to the cancellation of your public benefits; or
 - d. Cause you to risk the loss of your or your child's eligibility for home and community-based waivers that are based on your total health-related expenditures.

WITHDRAWAL OF CONSENT

34 CFR §300.154(d)(2)(v)(C)

If you provided your consent for your school to disclose your child's personally identifiable information to the state agency that is responsible for administering your public benefits (the Public Consulting Group or PCG administers the school-based program for AHCCCS), you have the right under 34 CFR part 99 (FERPA regulations) and 34 CFR part 300 (IDEA regulations) to withdraw that consent at any time.

If you do not want your school to continue to bill you or your child's AHCCCS program for special education and related services, you need to withdraw your consent for your school's disclosure of your child's personally identifiable information to AHCCCS and PCG. The FERPA and IDEA regulations do not contain procedures for withdrawal of consent to disclosure of your child's personally identifiable information. If you wish to withdraw your consent, ask your school what procedures you would need to follow. For example, your child's school may ask you to submit your withdrawal request in writing.

[Optional: School districts may wish to include in this notification their procedures for withdrawal of consent to the disclosure of personally identifiable information.]

WHAT YOUR SCHOOL DISTRICT/CHARTER SCHOOL MUST DO IF YOU WITHDRAW YOUR CONSENT OR REFUSE TO PROVIDE YOUR CONSENT**34 CFR §300.154(d)(2)(v)(D)**

Finally, without your consent, your school cannot bill your or your child's public benefits (AHCCCS) to pay for special education and related services. If you withdraw your consent or refuse to provide consent under the FERPA and IDEA regulations, your school may not use your withdrawal or refusal to provide consent to disclose personally identifiable information to deny your child the special education and related services he or she is otherwise entitled to receive. Therefore, if you refuse to provide consent or withdraw consent, your school has a continuing responsibility to ensure that your child is provided all required services necessary to receive an appropriate education at no charge to you or your child.

We hope this information is helpful to you in making an informed decision regarding whether to allow your school to use your or your child's public benefits to pay for special education and related services under IDEA.

CONTACT INFORMATION:

For information and guidance on the requirements governing the use of public benefits to pay for special education and related services see: <http://www2.ed.gov/policy/speced/reg/idea/part-b/part-b-parental-consent.html>.

For information about Arizona's Medicaid School-Based Claiming program, please contact the Public Consulting Group: <http://web.pcgus.com/azschools/index.html> or the ADE web site: <http://www.azed.gov/special-education/medicaid-school-based-claiming>.

[PEAs include contact information here]