

CONSENT FOR INITIAL EVALUATION

Authorities: 34 [Code of Federal Regulations \(CFR\)](#) Part 300; Texas Education Code [\(TEC\)](#)

FEDERAL AND STATE REQUIREMENTS	
<u>Practice</u>	<p>The local educational agency (LEA) must comply with the PARENT and the ADULT STUDENT AND TRANSFER OF RIGHTS frameworks, as appropriate.</p>
<u>Practice</u>	<p>The LEA must comply with the PRIOR WRITTEN NOTICE framework.</p>
<u>Document</u>	<p>The LEA must obtain informed consent from the parent before conducting an initial evaluation. Citations: 300.300(a)(1)(i)</p>
<u>Practice</u>	<p>Parental consent for an initial evaluation does not constitute CONSENT FOR SERVICES. Citations: 300.300(a)(1)(ii)</p>
<u>Document</u>	<p>The LEA must make reasonable efforts to obtain informed consent for an initial evaluation. Citations: 300.300(a)(1)(iii)</p>
ELEMENTS OF CONSENT	
<u>Practice</u>	<p>The <i>informed consent</i> that the LEA must obtain to conduct an initial evaluation means: Citations: 300.9</p>
<u>Document</u>	<ul style="list-style-type: none">The parent has been fully informed of all information relevant to the initial evaluation in the parent's native language or other mode of communication; Citations: 300.9(a)
<u>Document</u>	<ul style="list-style-type: none">The parent understands and agrees in writing to the LEA carrying out the initial evaluation and the consent describes the initial evaluation and lists the records, if any, that will be released and to whom; Citations:

FEDERAL AND STATE REQUIREMENTS	
	<u>300.9(b)</u>
<u>Document</u>	<ul style="list-style-type: none"> • The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and <p>Citations: <u>300.9(c)(1)</u></p>
<u>Document</u>	<ul style="list-style-type: none"> • If the parent revokes consent, that revocation is not retroactive; therefore, it does not negate an action that has occurred after the consent was given and before the consent was revoked. <p>Citations: <u>300.9(c)(2)</u></p>
INFORMATION AND CONSENT FOR CERTAIN PSYCHOLOGICAL EXAMINATIONS OR TESTS	
<u>Practice</u>	<p>On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child that is included as part of the evaluation of the child's need for special education, the LEA must provide to the child's parent the name and type of the examination or test and an explanation of how the examination or test will be used to develop an appropriate individualized education program for the child.</p> <p>Citations: <u>TEC 29.0041(a)</u></p>
<u>Practice</u>	<p>If the LEA determines that an additional examination or test is required for the evaluation of the child's need for special education, after obtaining consent from the child's parent, the LEA must provide the required information to the child's parent regarding the additional examination or test and its use and must obtain additional consent for the examination or test.</p> <p>Citations: <u>TEC 29.0041(b)</u></p>
<u>Practice</u>	<p>If a parent does not give consent for the additional examination or test within 20 calendar days after the date the LEA provided to the parent the required information about the additional examination or test and its use, the parent's consent is considered denied.</p> <p>Citations: <u>TEC 29.0041(c)</u></p>

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<u>Practice</u>	<p>The time required for the LEA to provide information and seek consent for an additional evaluation may not be counted toward the timeline for the completion of an initial evaluation under the <u>EVALUATION PROCEDURES</u> framework.</p> <p>Citations: TEC 29.0041(e) TEC 29.004(a)</p>
CHILDREN WHO ARE WARDS OF THE STATE	
<u>Practice</u>	<p>If a child is a ward of the state and is not residing with the child's parent, the LEA is not required to obtain informed consent from the parent for an initial evaluation if:</p> <p>Citations: 300.300(a)(2)</p>
<u>Document</u>	<ul style="list-style-type: none"> • Despite reasonable efforts to do so, the LEA cannot discover the whereabouts of the parent of the child; <p>Citations: 300.300(a)(2)(i)</p>
<u>Document</u>	<ul style="list-style-type: none"> • The rights of the parents of the child have been terminated in accordance with state law; or <p>Citations: 300.300(a)(2)(ii)</p>
<u>Document</u>	<ul style="list-style-type: none"> • The rights of the parents to make educational decisions have been substituted by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child. <p>Citations: 300.300(a)(2)(iii)</p>
CHILDREN WHO ARE ENROLLED IN OR SEEKING TO BE ENROLLED IN PUBLIC SCHOOL	
<u>Practice</u>	<p>If the parent of a child who is enrolled in or seeking to be enrolled in public school does not provide consent for an initial evaluation or fails to respond to a request to provide consent, the LEA may, but is not required to, pursue the initial evaluation by utilizing the procedural safeguards, including the mediation or the due process hearing procedures, if appropriate.</p> <p>Citations: 300.300(a)(3)(i)</p>

FEDERAL AND STATE REQUIREMENTS	
<u>Practice</u>	<p>The LEA does not violate its obligation under the <u>CHILD FIND DUTY</u> and the <u>EVALUATION PROCEDURES</u> frameworks if it declines to pursue the evaluation.</p> <p>Citations: 300.300(a)(3)(ii)</p>
	CHILDREN WHO ARE HOME SCHOoled OR PRIVATE SCHOoled
<u>Practice</u>	<p>If the parent of a child who is home schooled or placed in a private school at parental expense does not provide consent for the initial evaluation or fails to respond to the LEA's request to provide consent, the LEA:</p> <p>Citations: 300.300(d)(4)(i)</p>
<u>Practice</u>	<ul style="list-style-type: none"> • May not pursue the initial evaluation by utilizing the procedural safeguards, including the mediation or due process hearing procedures; and <p>Citations: 300.300(d)(4)(i)</p>
	ACTIONS THAT DO NOT REQUIRE CONSENT
<u>Practice</u>	<ul style="list-style-type: none"> • IsIt is not required to consider a child as eligible for services under the <u>PROPORTIONATE SHARE FUNDING FOR CHILDREN WITH DISABILITIES PARENTALLY-PLACED IN PRIVATE SCHOOLS</u> and the-<u>CHILDREN IN PRIVATE SCHOOLS</u> frameworks. <p>Citations: 300.300(d)(4)(ii)</p>
<u>Practice</u>	<p>Parental consent is not required before:</p> <p>Citations: 300.300(d)(1)</p>
<u>Practice</u>	<ul style="list-style-type: none"> • Conducting a <u>REVIEW OF EXISTING EVALUATION DATA</u> as part of an initial evaluation or a reevaluation; or
<u>Practice</u>	<ul style="list-style-type: none"> • 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. <p>Citations: 300.300(d)(1)(ii)</p>

FEDERAL AND STATE REQUIREMENTS	
<u>Practice</u>	<p>The screening of a child by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation will not be considered an evaluation for eligibility for special education and related services.</p> <p>Citations: <u>300.302</u></p>

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