



February 20, 2009

TO: School Legal Services Clients
FROM: Monica Batanero
RE: Prior Written Notice Letter Regarding Parent Revocation of Consent and Parent Revocation of Consent Form

On January 8, 2009, Schools Legal Service issued a Special Education Law Update on the recent IDEA regulations regarding parent's revocation of consent for special education services.

The IDEA regulations provide that when a parent revokes consent for the provision of special education services who is receiving special education services, the Local Educational Agency ("LEA") will not be liable for failure to provide the student with FAPE under the IDEA, as long as the following revocation process is followed:

- 1) Parents must revoke their consent for special education services in writing;
- 2) The LEA must "promptly" and within a "reasonable time" respond to the parents' request with prior written notice before discontinuing the services; and
- 3) After sending the parents prior written notice, the LEA must discontinue the special education services in a "timely" manner.

There is no specific time line as to when the LEA must respond to the parents with prior written notice or when services must be discontinued. Our recommendation is to provide prior written notice within three (3) school days from receipt of written revocation. We also recommend that you state in the prior written notice that special education services are being discontinued five (5) school days from the date of the prior written notice letter.

Please find attached electronic versions of the Parental Revocation of Consent Form and the Prior Written Notice Letter. These forms will also be posted on the Schools Legal Service website. These forms will also soon be available on our website in Spanish.

Please note that if the student is 18 years or older, prior written notice must be sent to both student and the parents of the student. Please also be advised that prior written notice should be provided in the native language of the student's parents.

Please be sure to enclose a copy of Parents' Procedural Safeguards and Parent Rights with the prior written notice letter.

If you need further information concerning these issues, please do not hesitate to contact me.

Schools Legal Service
is a joint powers entity
providing legal and
collective bargaining
services to California
public education
agencies since 1976.

Grant Herndon
General Counsel

Stacy L. Inman
Assistant General Counsel

William A. Hornback
Patricia T. Castle
Christopher P. Burger
Alan B. Harris
Carol J. Grogan
Kathleen R. LaMay
Christopher W. Hine
Monica D. Batanero
Counsel

Peter C. Carton
of Counsel

Carl B. A. Lange III
Director of Labor Relations