



## **New Federal Regulation Permits Parents to Revoke Consent for the Provision of Special Education Services**

After much debate, on December 1, 2008, the United States Department of Education issued a series of final regulations regarding the provision of services to students with disabilities. The most notable new regulation is the rule permitting parents to revoke consent for special education services. This new rule goes into effect on December 31, 2008.

It is well known that parental consent is required for the provision of special education services. Previously, parents who provided consent for services were prohibited from revoking their consent at a later date, even years later. Once consent was provided, school districts were required to continue providing special education services until the student was declassified by the Committee on Special Education (CSE), graduated with a local or Regents diploma, or concluded the school year in which he or she turned 21.

The new federal regulation now permits parents to revoke consent for special education services at any time, for any reason — or no reason at all. This rule has been criticized for giving too much leverage to parents during the development of an individualized education plan (IEP) and being contrary to the purpose of the Individuals with Disabilities Education Act (IDEA), which is meant to ensure that students with disabilities receive appropriate educational services.

The regulation requires that parental revocation must be in writing. Upon receipt of the revocation, the school district must cease providing special education services. There are no exceptions to this rule. The regulation also requires the school district to provide written notice to the parent that the services will cease.

Upon the cessation of services, the student will no longer be entitled to any of the procedural or substantive rights afforded to special education students, including additional protections during the student discipline process. The Department of Education's

comments regarding the new regulation make clear, however, that following the revocation of consent, a parent retains the right to request the CSE conduct a new evaluation of the student (the evaluation would be considered an initial evaluation), which could result in the student's reclassification by the CSE.

School districts must adjust to this new rule and the increased authority and leverage that it provides to parents.

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