

January 2009 Special Education Update

Seeking Input for Proposed Rulemaking to Specific Special Education Regulations

OSPI is seeking input for proposed rulemaking. The CR 101 is the first step in developing rules and it describes the areas for possible rulemaking. This document was published in the January 7, 2009 Washington State Register. Proposed rules cannot be filed until February 6, 2009. We seek your comments and input on developing proposed rules prior to February 6, 2009 that address: 1) representation of parents and districts by non-attorneys in due process hearings; 2) rules addressing significant disproportionality; and 3) use of federal IDEA funds on site of private elementary or secondary schools. Please submit your input to Doug Gill (speced@k12.wa.us) Director of Special Education, PO Box 47200, Olympia, WA 98504-7200. When you submit input, please include the term, "rulemaking" in the subject line of an electronic submission, and note the term "rule making" in comments submitted by mail or hand delivery.

OSPI will also be amending current rules to implement federal rules, and make general housekeeping changes. Those are described in the CR 101. [Please click this link for a copy of the CR 101.](#) (pdf)

Federal Data Reporting Deadlines

2008-09 Collection Name:	Date Due:	Frequently Asked Questions/ Instructions:
Federal Special Education Child Count and Least Restrictive Environment (LRE) may only be submitted using the Core Student Record System. To log-in the system go to: https://eds.ospi.k12.wa.us/Login.aspx	CSRS Submission due on or before 1/20/09	Instructions, definitions, examples, Q and A, Calculating preschool LRE codes doc or pdf
2008 Post-School Data Survey and the Demographic Form are located on the Center's website: www.seattleu.edu/ccts -- SEE UPDATE ON PAGE 4 REGARDING THE SUBMISSION PROCESS OF THIS SURVEY.	On or before 02/01/09	Center for Change in Transition Services, Post School Outcomes Section

Sample Procedural Safeguards/Model Form for Parent Revocation of Consent/Model Prior Written Notice

On Dec. 1, 2008 Office of Special Education Programs issued final regulations, that were effective December 31, 2008. While OSPI has issued a notice regarding proposed rule making, the rules addressing a parent's right to revoke consent are in effect. OSPI is attaching three documents. The first is a form for district's use when parents wish to revoke consent, and have not already provided the information to the district in writing. The second is a sample prior written notice. Districts must provide prior written notice to a parent after they receive written consent. The notice must include an effective date for ceasing services, a reasonable time after the district receives the parent's written revocation. Both of these forms can be adopted and/or adapted for district use.

The third document is an addendum to the Procedural Safeguards Notice, which contains information regarding revocation. .

These documents are marked draft, while we receive comment from the Special Education Advisory Committee, the Committee of Practitioners, and districts. If you have input regarding these documents, please send comments by January 23, 2009 on (1) the [revocation form](#) to Jennifer Story at Jennifer.Story@k12.wa.us and (2) the [procedural safeguards](#) to Pamela.McPartland@k12.wa.us.

IDEA-B AND SECTION 619 FLOW-THROUGH CARRYOVER AMOUNTS POSTED

The Special Education federal carryover dollars from 2007-08 have been posted to iGrants Form Package 267 for IDEA-B and Form Package 265 for Section 619.

To expend these funds, you will need to submit a budget revision via iGrants to include these dollars on this year's grant. If you need assistance with creating a budget revision or if you have any questions, please contact Tara Canlett at tara.canlett@k12.wa.us or 360-725-6075.

2008-09 Potential Medicaid Eligible Student Worksheet-REPEAT

The 2008-09 Potential Medicaid Eligible Student Worksheet was released in December. The template and instructions are located at www.k12.wa.us/specialed/medicaid.aspx. This report is due to Tara.canlett@k12.wa.us on or before January 12, 2009.

FERPA and HIPAA to Student Health Records

The guide can be downloaded here <http://www.hhs.gov/ocr/hipaa/HIPAAFERPAjointguide.pdf>

The purpose of the guidance is to explain the relationship between the *Family Educational Rights and Privacy Act (FERPA)* and the *Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule*, and to address apparent confusion on the part of school administrators, health care professionals, and others as to how these two laws apply to records maintained on students. It also addresses certain disclosures that are allowed without consent or authorization under both laws, especially those related to health and safety emergency situations. Contact information for submitting additional questions or suggestions for purposes of informing future guidance is provided at the end of the document.

Special Education and Institutional Education Directory-Revised Jan 2009

The Special Education and Institutional Education Directory for the 2008-09 school year has been updated. To access the directory, click on the following link: <http://www.k12.wa.us/SpecialEd/pubdocs/SpEdDir.pdf>.

Safety Net State Oversight Committee Meeting Dates and Application Deadlines-REPEAT

Safety Net Bulletin 083-08 was published September 18, 2008 and is located at <http://www.k12.wa.us/BulletinsMemos/Bulletins2008/B083-08.doc>. This bulletin provides instructions for applying for special education safety net funding for the 2008-2009 school year. Safety net funding is available to school districts with a demonstrated need for special education funding in excess of state and federal funding otherwise provided.

Deadline for Receipt of Application at OSPI	Type of Application	Oversight Committee Meeting Date	Meeting Location
Dec. 19, 2008	High need	Feb. 5–6, 2009	AWSP
Feb. 13, 2009	Community Impact	March 26–27, 2009	AWSP
April 3, 2009	High need	June 4–5, 2009	AWSP
May 1, 2009	Community Impact (Resubmittals Only)	June 4–5, 2009	AWSP

Applications must be received at OSPI by 5 p.m. on deadline day. Faxes and emailed submissions will not be accepted.

Special Education Expected Graduation Year Changes – CSRS Manual Element 16-REPEAT

The CSRS Manual sent out the following CSRS manual change to district CSRS contacts. This revision to the CSRS manual clarifies adjusting expected graduation dates for special education eligible students. Please review the language from the CSRS Manual. A summary of the changes includes the following items.

1. For student requiring extended graduation dates, the graduation year for special education students must be determined by the IEP team prior to or during the school year in which the student turns 16 years of age.
2. If a student is determined eligible for services after the student turns 16, the IEP team assigns an expected graduation date at the IEP meeting following the eligibility determination.
3. If a transfer student has an adjusted graduation date in his/her current IEP, the adjusted graduation date in the IEP will be considered the expected graduation date regardless of the results of the transcript evaluation.

4. If it is determined that a transfer student requires an adjusted graduation date based on the transcript evaluation, the adjusted graduation date is determined by the IEP team.

Please review the following language from the CSRS Manual updated December 10, 2008.

Student Graduation Date:

Business Rules: If any student is enrolled in grades 9-12, this data is required. All students shall be assigned an expected graduation year that is 4 school years greater than the year they begin 9th grade, or for ANY transfer students (out-of-district or out-of-state), based on a transcript evaluation.

- * **Special Education students may be assigned an expected graduation year beyond the standard four-year period, and their expected year of graduation can be changed during or prior to the school year in which the student turns 16, if determined by their IEP team. If a student is determined eligible for services after the student turns 16, the IEP team reviews the information and assigns an expected graduation date at the IEP meeting following the eligibility determination.**
 - * Students in transitional bilingual education programs may be assigned an expected graduation year beyond the standard four-year period.
 - * Migrant students may be assigned an expected graduation year beyond the standard four-year period.

Student Graduation Requirements:

- * Students must meet the minimum graduation requirements in place for their assigned graduation year. Students entering 9th grade in the 2008-2009 school year are assigned a graduation year of 2012 (four years).
- * If special education, transitional bilingual, or migrant students have an adjusted expected graduation year, they must meet the requirements of their unadjusted graduation year (9th grade entry plus 4 years).
- * Students who take more time or less time to graduate still must meet the graduation requirements for their assigned graduation year, not the year of actual graduation.
- * The requirements for the graduation year stay with the student throughout their high school experience regardless of the length of time it takes to graduate.

CEC 2009 Conference and Expo-REPEAT

The CEC Conference will be held on April 1-4, 2009, at the Seattle Trade and Convention Center. Many distinguished leaders and experts in the field of special education will be at the conference.

VOLUNTEER 8 HOURS AND REDUCE YOUR REGISTRATION FEES 40%

CEC are seeking volunteers for the following committees: Accessibility Assistance• Diversity Affairs• Educational Tours• Headquarters• Pre-registration and Registration• Program Hosts• Promotion and Publicity• Special Events• Yes I Can! Awards• Technology and Volunteer Coordination

For more information, please contact Jessica Soliday at jessicasoliday@comcast.net. Look for future updates on the CEC website at www.cec.sped.org. Information and links will be posted there soon!

Center for Change in Transition Services—REPEAT

Please contact the Center for Changes with any questions regarding the following information at ccts@seattleu.edu or 206-296-6494.

INDICATOR 14 – 2008 Post-school Follow-up Survey REPEAT (with some new information)

- The telephone interview part of the survey, also called Part 4, will be available online on December 1st.
- **All** surveys must be submitted online via the Post-school Survey Entry & Reporting System by **February 1, 2009**, at <https://www.seattleu.edu/ccts/Survey/>.
- Districts are required to include ALL youth in special education who graduated, aged out, or dropped out of school in grades 9-12 during the 2007-2008 school year in the 2008 post-school outcome follow-up survey. This also includes youth who dropped out or graduated from specialized educational programs (delinquent institutions, detention centers, group homes, residential habilitation centers, programs for youth with emotional/behavior disorders, 18-21 year old programs, etc.).
- The 2008 Post-school Survey Online Training Activities are available now: <http://www.seattleu.edu/ccts/training.asp>.
- Paper/pencil surveys will not be accepted and will be returned for electronic submission.

- Districts that do not have any graduates, aged outs or dropouts must report this via the online system.
- The online system is password protected and can only be accessed by registered users. For access contact the District Manager for the Online Post-school Survey Entry & Reporting System for your district OR contact ccts@seattleu.edu.
- The district reports for 2008 will be generated using an online reporting system. The reports will be available shortly after all districts have submitted their surveys.

INDICATOR 13 – Transition Services: REPEAT

- The Indicator 13 and Transition Services Online Training Modules are available on the CCTS website: <http://www.seattleu.edu/ccts/indicator13training.asp>.
- The training includes the 6 components of the transition process and is 59 minutes in length.
 - Introduction & Overview (9 min)
 - Module 1 Age-appropriate Transition Assessment (8 min)
 - Module 2 Measurable Postsecondary Goals (18 min)
 - Module 3 Transition Services (7 min)
 - Module 4 Course of Study (5 min)
 - Module 5 Agency Collaboration (2 min)
 - Module 6 Annual IEP Goals (6 min)
 - SOP & Conclusion (4 min)
- The Transition Training Materials include forms and documents that can be downloaded for use in staff development trainings and links to state and national transition related resources.
- NEW LINK! *Assessing Students with Significant Disabilities for Supported Adulthood: Exploring Appropriate Transition Assessments*: a new PowerPoint training from the Transition Coalition, Kansas University; www.transitioncoalition.org/transition/section.php?pageId=73

Transition WorkDays & Roundtables: REPEAT

- The Transition WorkDays and Transition Roundtables are regional on-site transition training sessions offered via the ESDs.
- The full-day training includes: ½ day WorkDay sessions using the online training materials plus interactive work and team activities and ½ day Roundtable session where special education staff may bring IEPs to prepare, update, correct individually or in a group setting. The training also includes a discussion of current issues and concerns related to the transition process. The transition pages of the new state IEP form will be completed with example students.
- Check the CCTS website calendar for the Transition WorkDay and Roundtable schedules and details: www.seattleu.edu/ccts.

PURPOSE: A parent/guardian or adult student may revoke (withdraw) consent for the continued provision of special education and related services. The parent must revoke consent in writing. If a parent revokes consent in writing, the district must honor the revocation and provide the parent with prior written notice identifying the date the district will stop providing services. The district may not use due process of mediation procedures to challenge the parent's revocation. Beginning the effective date indicated in the prior written notice, the district may no longer provide special education and related services to the child. The district is not required to amend the child's education records to remove references to the child's receipt of special education and related services. Once the revocation is effective, the student is no longer entitled to receive special education or related services and the student no longer has protections under the Individuals with Disabilities Education Act.

REVOCAION (WITHDRAWAL) OF CONSENT FOR SERVICES

Date: _____

To: _____
Parent(s)/guardian(s)/adult student

Re: _____
Student's name

By signing below, you are acknowledging that:

1. the district will stop providing special education and related services to your child beginning the date identified in the prior written notice given to you by the district;
2. the district cannot use dispute resolution options to challenge your right to terminate special education services for your child;
3. the district will no longer be required to convene an IEP team meeting or develop an IEP for your child;
4. the district will not be considered in violation of the requirement to make FAPE (a free, appropriate public education) available to your child; and
5. the district is not required to amend your child's education records to remove references to your child's receipt of special education and related services.

I revoke my consent for special education and related services to be provided to my child.

Parent/guardian/adult student signature

Date

****PARENTS MUST BE GIVEN PRIOR WRITTEN NOTICE AFTER THEY REVOKE CONSENT****

PRIOR WRITTEN NOTICE - REVOCATION OF CONSENT

Date: _____

To: _____
Parent(s)/guardian(s)/adult student

Re: _____
Student's name

The purpose of this prior written notice is to inform you that the district will stop providing special education and related services to your child, based on your written revocation of consent.

Services to your child will be discontinued on: _____
Date

When you revoke (withdraw) consent for the continued provision of special education services for your child, the district may not challenge your decision using any formal dispute resolution options. The district must honor your revocation within a reasonable time after you have provided the district with the written revocation.

Once your revocation is effective, your child will no longer be considered a child with disability for educational purposes. This means that your child will no longer be eligible to receive a free appropriate public education (FAPE) as defined under IDEA, and will no longer be entitled to protections he or she received when identified as a child eligible for special education. The district will not be required to convene an IEP team meeting or develop an IEP for your child.

Your child will be expected to meet all of the same requirements that apply to general education students, such as discipline, academics, statewide and districtwide assessments, extracurricular activities, graduation requirements, and all other general education requirements.

Revocation of consent is not retroactive. Your child's records will not be amended to remove references to the receipt of special education and related services prior to your revocation of consent.

If, after the revocation is effective, you change your mind and wish for your child to again receive special education services, you may refer your child for an initial evaluation and the district will follow procedures, including all associated timelines, for an initial special education eligibility request.

Other considerations or additional information:

A copy of the *Notice of Procedural Safeguards for Special Education Students and Their Families*
 is is not enclosed with this notice.

Until the date the district discontinues services (as specified on this notice), your child has procedural protections under IDEA. These protections are explained in the *Notice of Procedural Safeguards for Special Education Students and Their Families*. If a copy of the *Notice of Procedural Safeguards for Special Education Students and Their Families* is not enclosed and you would like a copy, or you would like help in understanding the content, please contact:

_____ at _____ .
Name Phone number

Addendum to the Notice of Special Education Procedural Safeguards for Students and Their Families

Requirements under Part B of the Individuals with Disabilities Education Act, the Federal Regulations, and the State Rules Governing Special Education.

The following pages contain changes to the Notice of Special Education Procedural Safeguards for Students and Their Families published August 2007. This addendum is to notify parents of changes that were effective December 31, 2008, as a result of federal rule amendments published in the Federal Register, Vol. 73, No. 231.

Please use the following information in place of the information contained in the Procedural Safeguards Notice:

- **Prior Written Notice:** Pages 2 and 3 (added example of when a district sends prior written notice.)
- **Parental Consent – Definition:** Page 4 (added information that revocation of consent for continued services does not require a school district to amend educational records)
- **Parental Consent for Initial Services:** Page 5 The caption now reads “Parent Consent for Initial Services and Revocation of Consent for Continued Services.” (added information regarding revocation of consent for initial services.)

January 2009

Prior Written Notice 34 CFR §300.503; WAC 392-172A-05010

You have the right to be given information in writing that explains what your school district is or is not doing when it affects your child's special education needs.

The school district must provide you information in writing about important decisions that affect your child's special education program. This is called prior written notice and it is a document that reflects **decisions** that were made at a meeting or by the district in response to a request made by you. **The district is required to send prior written notice after a decision has been made, but before implementing the decision.** These are decisions made that are related to any proposal or refusal to initiate or change the identification, evaluation, placement, or provision of a FAPE to your child.

Prior written notice must include:

- What the district is proposing or refusing to do;
- An explanation of why the district is proposing or refusing to take action;
- A description of any other options considered by the IEP team and the reasons why those options were rejected;
- A description of each evaluation procedure, assessment, record, or report used as a basis for the action;
- A description of any other factors relevant to the action;
- A description of any evaluation procedure the district proposes to conduct for the initial evaluation and any reevaluations;
- A statement that parents are protected by the procedural safeguards described in this booklet;
- How you can get a copy of this notice of procedural safeguards booklet; or include a copy of this notice of procedural safeguards booklet if one has not been provided to you; **AND**
- Sources for you to contact to get help in understanding these procedural safeguards.

Examples of when you will receive prior written notice are:

- Your child is referred because of a suspected disability and potential need for special education.
- The district wants to evaluate or reevaluate your child, or the district is refusing to evaluate or reevaluate your child.
- Your child's IEP or placement is being changed.
- You have asked for a change and the district is refusing to make the change.
- You have given the district written notice that you are revoking consent for your child to receive special education services.

Prior written notice must be provided in your native language or other mode of communication that you use, such as sign language, unless it is clearly not feasible to do so.

If your native language or other mode of communication is not a written language, the district must take steps to ensure that (1) the notice is translated orally or by other means in your native language or other mode of communication, (2) you understand the content of the notice, and (3) there is written evidence that these requirements have been met.

Parental Consent – Definition 34 CFR §300.9; WAC 392-172A-01040

The school district must get your written consent before evaluating your child. The district must also get your written consent before providing special education services for the first time to your child. There are some exceptions that apply to obtaining your consent for evaluations.

Consent means:

1. You have been fully informed in your native language or other mode of communication (such as sign language, Braille, or oral communication) of all information relevant to the action for which you are giving consent;
2. You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; **AND**
3. You understand that the consent is voluntary on your part and you may revoke (withdraw) your consent at anytime.

Your withdrawal of consent, however, does not negate (undo) an action that began after you gave your consent and before you withdrew it. This means that if you provided consent for your child to initially receive special education services and you later revoke your consent allowing the district to provide special education services to your child, the school district is not required to amend your child's educational records to remove any reference to your child's receipt of special education services.

Parental Consent – Requirements 34 CFR §300.300; WAC 392-172A-03000

Parental Consent for Initial Services and Revocation of Consent for Continued Services

Your district must obtain your informed consent or must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time.

If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such

consent, your district may not use mediation procedures in order to try to obtain your agreement or use due process hearing procedures in order to obtain a ruling from an administrative law judge to provide special education and related services to your child.

If you refuse or do not respond to a request to give your consent for your child to receive special education and related services for the first time, the school district may not provide your child with the special education and related services. In this situation, your school district:

1. Is not in violation of the requirement to make a free appropriate public education (FAPE) available to your child for its failure to provide those services to your child; **AND**
2. Is not required to have an IEP meeting or develop an IEP for your child for the special education and related services for which your consent was requested.

Once you provide consent for your child to receive special education and related services and the district begins to provide special education services, your child will remain eligible to receive special education services until:

1. He or she is reevaluated and found to no longer qualify for special education services;
2. He or she graduates with a regular high school diploma;
3. He or she reaches the age of 21 (or if your child turns 21 after August 31, he or she is eligible for services through the end of the school year.); **or**
4. You provide the district with a written revocation of your consent for the continued provision of special education services.

If you revoke your consent in writing for continued provision of services after the district has initiated special education services, the district must give you prior written notice a reasonable time before it stops providing services. The prior written notice will include the date that the district will stop providing services to your child and will inform you that the school district:

1. Is not in violation of the requirement to make a free appropriate public education (FAPE) available to your child for its failure to provide those services to your child; **AND**
2. Is not required to have an IEP meeting or develop an IEP for your child for further provision of special education services.

A district may not use due process to override your revocation or use mediation procedures to obtain your agreement to continue to provide services.