

**From:** [Coleman Kathryn - SPSR](#) on behalf of [Coleman Kathryn - SPSR <KatieC@cksd.wednet.edu>](#)  
**To:** ["Abigail Westbrook"](#)  
**Subject:** RE: Special Education Procedure 2161P Review  
**Date:** Monday, March 9, 2015 4:15:47 PM

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Thank you, Abigail.

I will take care of it!

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Kathryn Coleman  
Director of Special Services  
Central Kitsap School District  
360-662-1040

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**From:** Abigail Westbrook [mailto:Abigail.Westbrook@k12.wa.us]  
**Sent:** Monday, March 9, 2015 4:07 PM  
**To:** Coleman Kathryn - SPSR  
**Subject:** Special Education Procedure 2161P Review

Hi Kathryn,

I was assigned to review your revised procedures. I completed the review and there are some required revisions that are missing from your procedures. There are also some optional changes that you may want to make. Here are the required items:

- **Required:** Students Covered by Public or Private Insurance (page 2) – The new language highlighted below is still needed:

the district will:

- A. Obtain parent consent in accordance with [Chapter 392-172A WAC](#) each time the district **uses wishes to access** benefits for a new procedure; and
- B. Inform the parents that their refusal to permit the district to access their insurance does not relieve the district of its responsibility to ensure that all required services are provided at no cost to the parents.

**Before first accessing a parent's or student's public benefits, for the first time and annually after the first notification, the district will provide written notification using the prior written notice provisions under WAC 392-172A-05010(3) that includes:**

- A. a statement of the parental consent provisions;**
- B. a statement of the "no cost" provisions;**
- C. a statement that the parents may withdraw their consent to disclose personally identifiable information to the agency responsible for administering the state's public benefits or insurance, and**
- D. a statement that a parent's withdrawal or refusal to consent does not relieve the school district of its responsibility to ensure that all required services are provided at no cost**

to the parents.

After providing the required notification, the district will obtain written informed consent from the parent allowing the district to disclose information from the student's educational records to the agency responsible for administering the state's public benefits or insurance programs. The consent will specify:

1. The personally identifiable information that may be disclosed, such as records or information about the services that may be provided to the student;
2. The purpose of the disclosure;
3. The agency to which the disclosure will be made; and
4. That the parent understands and agrees that the public agency may access the parent's or student's public benefits or insurance to apply for services under the act.

- **Required:** IEP Development (at the bottom of page 13 or top of 14) – *It might be that you have this someplace else and I just did not see it.*

The district will provide parents/guardians with a copy of the district's *Required Notification of Isolation or Restraint of Students with IEPs policy (Policy 3247)* when the student's IEP is created.

- **Required:** IEP Preparation and Content (page 17) – *It might be that you have this someplace else and I just did not see it.*
  1. use of interventions and concurs with the need and will include a person who works directly with the student. The district will establish a process for evaluating the effects of the use of aversive interventions, at least every three months ~~during the school year~~ **when school is in session;**
  2. **The procedures by which parents/guardians will be notified of the use of isolation or restraint or a restraint device on their student (see Procedure 3247).**
  3. A statement regarding transfer of rights at the age of majority. (*Indicate the appropriate staff*) will provide prior written notice to the student one year prior to student turning 18 years of age; and
- **Required:** Transfer Students (on your page 18) – *Information on comparable services in the second paragraph is required – the part highlighted in yellow is optional.*

When a student who was identified as eligible for special education transfers from out of state into the district, the building principal (*or designate appropriate personnel*) will notify the special education department as soon as possible. The (*name personnel*) will review the evaluation, eligibility documentation and IEP to determine whether or not the student meets state eligibility criteria. If the student meets the state eligibility criteria, the district will follow the procedures described in the previous paragraph **to provide comparable services until the district develops an IEP for the student.** If the student needs to be evaluated to determine eligibility in this state, (*designate appropriate personnel*) will notify the parents, obtain consent and evaluate the student for eligibility within 35 school days **of the receipt of the parent's consent.** The district, in consultation with the parents, will continue to provide special education services comparable to the services on the student's IEP, pending the results of the initial evaluation.

- **Optional:** Revocation of Consent (page 22) – last paragraph. The yellow highlighted is not

required but it is recommended (it might seem unlikely but I've seen a district fail to meet its child find duty after revocation):

Discontinuation of special education and related services in response to the parent's written revocation will not be in violation of FAPE and eliminates the district's requirement to convene an IEP meeting or develop an IEP. **However, the district does have a continuing Child Find duty, and staff will follow referral procedures if they believe the student should be referred for special education. In addition, parents may request that the district conduct an initial evaluation for eligibility for special education services after they have revoked consent for continued services.** \_

- **Required:** Notice of Procedural Safeguards (on your page 22) – The Pink highlighted portion is required. The yellow highlighted portion is housekeeping:

#### Notice of Procedural Safeguards

**In addition to protections provided to parents of eligible students, parents also have procedural safeguard protections when a student's identification, evaluation or placement is at issue.** The school district will provide a copy of the procedural safeguards notice to the parents *of eligible special education students and students referred for special education* and adult students one time a year and....

- **Required:** Appointment of an Educational Representative (your page 24) – *The prior procedures put the onus on the district. The change was made in the event the district may believe child is competent, but parents may not, so that district would not necessarily be required to get documentation.*

#### Appointment of an Educational Representative

**A student over the age of eighteen is presumed to be capable of making educational decisions and able to provide informed consent unless he or she is determined to be "incapacitated" through a legal guardianship proceeding. If a parent, another interested party, or the district believes that ~~The district may determine that~~ a student over the age of eighteen ~~and not legally incapacitated~~ is unable to provide informed consent or to make educational decisions, **and the student does not have a legal guardian, the parent or other interested party may ask the district to ~~and~~** appoint an educational representative.** This determination will only be made if two separate professionals state that they conducted an examination and interviewed the student, and concluded **d** the student is incapable of providing informed consent. The district will inform the student of the decision and appoint either, the spouse, the student's parents, another adult or a surrogate educational representative to represent the student. The appointment of the educational representative will continue for one year.

- **Required:** Due Process Hearing (page 28) – *The highlighted edits were included in response to changes to our state regulations:*

When parents file a request for a due process hearing, the (*specify personnel*) will immediately schedule a resolution meeting. The meeting must occur within 15 days after a **parent files a due process request ~~for hearing with the district and provides a copy of the request to OSPI, or, within~~** seven days if the hearing request involves an expedited hearing regarding discipline. The special education director will determine the appropriate district staff that will attend the resolution

meeting. ...

After you finish the required revisions, please send a final copy of the district's revised procedures to me either by email at [Abigail.Westbrook@k12.wa.us](mailto:Abigail.Westbrook@k12.wa.us)

Or by mail to:

Superintendent of Public Instruction (OSPI)  
Special Education Department  
Attention Abigail Westbrook  
PO Box 47200  
Olympia, WA 98504.

Please submit the final revisions as soon as possible but no later than March 30, 2015, so that we can be sure that all changes are in place by May 1. If that is not enough time for the district to complete these revisions, please contact me.

If it would be easier to discuss these revisions by telephone, please give me a call.

In addition, if the district posts policies and procedures to its website, please make sure that the most current version is posted.

Thanks for your work on these!

Best,  
Abigail

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