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TO: Special Education Directors

FROM: Linda Turner, Director Special Education Programs

RE: 2013-2014 Revised and New Special Education Forms

Adoption of Forms:

On April, 16, 2013, Special Education Programs (SEP) released revised special education forms and two new forms, the *Consent for Initial Provision of Special Education and Related Services* and a *Parental Prior Written Notice for Revocation of Consent*. This letter is to inform districts that the new forms can be used at this time but need to be adopted and fully implemented by July 1, 2013. The forms are available on the state webpage at: http://doe.sd.gov/oess/sped_IEP.aspx.

Districts can either use the forms provided by the state or personalize forms for their district. If the district opts to personalize forms, the district is solely responsible to ensure the content of the forms meets state and federal requirements.

The revised and new forms have been sent to Campus and should be available after the scheduled summer update. If a district uses Campus for their IEP forms they can continue to use that program until the update occurs even if after July 1.

Initial Consent for the Provision of Special Education and Related Services:

The initial consent was previously on the Individual Education Program (IEP). There was confusion by districts and parents whether they should sign this annually at the IEP meeting, at reevaluations, or if disability categories changed. Because of this and after researching how other states obtain consent, it was determined that SD would adopt a separate form.

Initial consent needs to be signed upon the initial determination of eligibility for a student. It also needs to be signed for a student that has transferred from out of state and is determined eligible in South Dakota.

Districts are not required to develop an IEP if a parent/guardian refuses to consent to the Provision of Special Education and Related Services. Following initial evaluation and an eligibility determination meeting, the team should discuss what special education and related services affords a student and let the parent/guardian determine if they want to consent to special education. As discussed in the comments of the Federal Register:

71 Federal Register 46634:

Comment: A few commenters questioned how a parent could be adequately informed of the services the parent is refusing if the public agency is not required to develop an IEP when the parent refuses to consent to the initial provision of special education and related services.

Discussion: We understand the commenters' concern that a parent of a child with a disability who refuses to consent to the provision of special education and related services may not fully understand the extent of the special education and related services their child would receive without the development of an IEP for their child. However, we do not view the consent provisions of the Act as creating the right of parents to consent to each specific special education and related service that their child receives. Instead, we believe that parents have the right to consent to the initial provision of special education and related services. "Fully informed," in this context, means that a parent has been given an explanation of what special education and related services are and the types of services that might be found to be needed for their child, rather than the exact program of services that would be included in an IEP.

Once consent has been received the IEP team can continue to develop the IEP or another meeting can be scheduled to write the IEP. In accordance with 24:05:25:03.

Written evaluation reports, determination of eligibility, and conducting an IEP team meeting must be completed within 30 days from the end of the 25 school day evaluation timeline.

At the time consent is signed, the parent/guardian needs to have received or receive shortly thereafter; the evaluation report(s), *Determination of Eligibility, Parental Prior Written Notice*, and the *Parental Rights and Procedural Safeguards*.

Parental Prior Written Notice for Revocation of Consent

If a parent/guardian/adult student completes a *Revocation of Consent* the district is required to provide prior written notice. This form has been developed for districts use to document the completion of that process. The district can use a blank Parental Prior Written Notice if additional discussions occurred and are not reflected on this form.

Technical Assistance

SEP has begun the review and revision of all technical assistance documents to ensure they reflect the information on the new and revised forms. Additional technical assistance documents will be developed as needed. If you have any questions regarding the forms, please contact your regional representative.