

Questions and Answers

Regarding Consent & IDEA Administrative Matters

1. What information do you consider when determining if consent is required prior to sharing information electronically with a parent?

The important consideration is whether the email contains information that pertains to special education, potential special education programming, or special education forms. If so, consent is required to send information via electronic communication, such as email. Consent is expected to be obtained for these purposes at the time of suspicion. It is important to remember that even if parents do not consent to receive IDEA related information, they can still receive emails regarding general education matter as commonly sent to all parents in the school or district.

2. How and where should the consent forms be kept?

The Consent to Receive Electronic Communication form is available in the Web IEP system. Parent signature may be obtained on a paper copy of the form or via electronic signature. If parent signature is obtained on a paper copy, the form should be uploaded as an attached file to the Web IEP system and staff must indicate on the Consent to Receive Electronic Communication form with the Web IEP, if parents “consent”/“did not consent” AND enter the date the consent was signed. The LEA must make a list of non-consents available to LEA and AEA staff upon request. This implies that a specific person in the building/district will need to be designated and recognized as the contact person for data entry and upkeep of the current consent status. Communication around who has denied consent and keeping up with consent changes will be key for success.

3. Is there a standardized, recommended practice for keeping a record of the parent's consent status and making it available to "need to know staff" or leave the practice to each LEA?

Districts should develop procedures to keep an accurate record of the parent's consent status and preferred email for all that need to know of that status. How this is done and the methods used may vary by district. The district will need a system of keeping and reporting consent status. This could be the Student Information System or another secure data management system. Regardless of the system used, LEA and AEA staff will need easy access to consent status and parent's preferred email on an as-needed basis. In the future, there will be reports available within the IowaIDEA WebIEP system to assist districts and AEAs with tracking consent/non-consent information.

4. Is there a specific time or condition that initiates this required consent for administrative matters under IDEA?

Yes. When a disability is suspected and consent for evaluation is needed would be the point that consent would be requested for all subsequent IDEA emailing.

5. Can a building or district simply add the IDEA consent form to their existing consents?

Districts must not negate the IDEA consent requirements by simply adding IDEA consent to other existing consent forms. Consent to email IDEA related information must be documented on the Consent to Receive Electronic Communication form which is available in the Web IEP system. Getting consent to email IDEA related information must be clear and different from other permissions such as attending trips, divulging directory information, or getting consent for use of photos or videos.

6. Will the district want or need to include other permissions on the consent such as for use of pictures or videos? Or, should we keep it separate?

Some districts may want to use other times to update information and seek consent such as registration or parent conferences. This is permissible so long as districts do not negate the IDEA consent requirements by simply adding IDEA consent to other existing consent forms. Consent to email IDEA related information must be documented on the Consent to Receive Electronic Communication form which is available in the Web IEP system. As previously stated, obtaining consent to email IDEA related information must be clear and different from other permissions such as attending trips, divulging directory information, or getting consent for use of pictures and videos of students.

7. If parents ask for a copy of the IEP to be sent to them via email does this mean they have given consent for other IDEA communications sent via email?

No. Sending IDEA related information via email requires informed written consent. A simple parent request is not the same as written informed consent. The Consent to Receive Electronic Communication form includes the necessary information for informed legal consent.

8. How do we address currently entitled students already receiving special education services through an IEP?

As of July 1, 2019, students already with an IEP, no IDEA matter information should be shared electronically with parents until Consent to Receive Electronic Communication form has been completed. IEP teams must seek parental consent for emailing IDEA matters at the next naturally occurring IEP meeting (review, reevaluation, or interim). Effective July 2019, the Consent to Receive Electronic Communication form will be required for the next naturally occurring IEP. The Consent to Receive Electronic Communication will be an optional form for amendments, move-in IEP, and attending out of state IEPs. Additionally, the Consent to Receive Electronic Communication will be also available between IEP meetings via 'Forms for Active IEP' and 'New IEP Planning' buttons on the IEP Overview screen of the Web IEP. Some districts may want to use other times of the school year, such as registration, to seek consent. This is permissible so long as districts do not negate the IDEA consent requirements by simply adding IDEA consent to other existing consent forms. Getting consent to email IDEA related information must be clear and different from other permissions.

9. Where will the information be stored so it is accessible for both LEA and AEA?

The actual consent form will be attached to a student's current IEP in the "forms" tab. If the electronic signature option was not used, a copy of the signed form must be uploaded to the Web IEP system as a related file. Districts must establish or use a data management system for recording the results of the consent obtained from parents. This information must be kept up to date and must be made available to all that may be emailing parents regarding IDEA matters. Reports within the WebIEP system will be available in the future to assist districts with record keeping.

10. Will the consent form have the option of an electronic signature?

Yes. An electronic signature is available within the Web IEP system.

11. When a child does not live with their parent(s), who can sign the consent for electronic communication?

The logic and requirements for getting the IDEA consent to email are the same as when seeking consent for any other IDEA forms. Therefore, the consent may be signed by an individual who may act in the role of the IDEA parent. These individuals are delineated in the Iowa Administrative Rules of Special Education and the Special Education Procedures. (281—41.30(256B,34CFR300))

12. How do we handle custody disputes when the custody decision is in limbo?

Consent for emailing around IDEA matters requires the same consideration as getting consent for other IDEA forms. In custody disputes we must only use the most recent valid court order. If no decision has been made via valid court order, assume both parents have equal educational decision making and therefore need for consent to receive IDEA information via email.

13. How do we handle joint custody when parents each have equal (50/50) educational decision making? And, what if they don't agree?

So long as legal documents do not indicate otherwise, parents have equal educational decision making. If one parent does not consent or revokes consent, no IDEA matters may be shared electronically with either parent.

14. How will we know if or when custody changes and potentially changes the consent status?

Discussion and affirmation of consent for emailing should become a brief conversation at each IEP meeting. Additionally, as we receive information about custody changes and can verify them with valid court orders, the database must be updated. It is also possible that parents will revoke consent at their discretion. If a parent changes their consent status, a new Consent to Receive Electronic Communication form must be completed in the Web IEP. This also will need to be updated in the database. Having a point of contact for keeping records up to date and making the information readily available to those that need to know will be critical.

15. How is gaining consent to be done when we cannot find a parent or when they refuse to sign either way? How should we document our effort?

The logic and requirements for getting the IDEA consent for email are the same as when getting consent for any other IDEA forms. These are delineated in the Administrative Rules of Special Education and the Special Education Procedures. If an IEP team is unable to obtain signed consent at the time of first naturally occurring IEP meeting, that should be documented on the consent. The team would check:

“The IEP team has been unable to obtain written consent from parents at this time. Communications on special education matters will be provided by alternative means such as U.S. Mail. For additional information on providing consent to receive electronic communication, please contact: Name, position, phone number.”

If the parent signature was not obtained at the time of the IEP meeting, the consent form can be added to the IEP via ‘Forms for Active IEP’ and ‘New IEP Planning’ buttons on the IEP Overview screen of the IEP application at any time. The Consent to Receive Electronic Communication form will be a required form until a parent signature is obtained.

16. What do we do when parents have more than one email address?

The preferred email should be clear from the consent form. This should be clear and made readily available in the data system. The information would only be sent to the email addresses that are preferred. The most important matter is knowing if parents provide consent or not. Inadvertent email to a non-preferred address is less problematic than sending an email to a parent regarding IDEA matters when they have indicated they do not consent to that occurring.

17. What happens when the child reaches the age of majority?

Follow the same procedures for emailing IDEA information as you would for any other decision around IDEA matters for students who reach the age of majority. This means we would need to get consent from the student and keep this on record just as we do for parents. You would continue to provide information to the parent as you normally would for any age of majority student including sending emails if the parent has not denied consent.

18. What is the process for revoking or rescinding consent to receive electronic communication?

A parent must deny or rescind consent in writing. A new Consent to Receive Electronic Communication form must be completed within the Web IEP system when the parent changes consent status. The LEA data system should be updated and staff should be informed of the changes of status.

19. What is the recommended process for notification of changes in consent status?

Anytime that anyone knows of a change in consent status, the LEA data system should be updated and a new Consent to Receive Electronic Communication form must be completed within the Web IEP system. Those sending emails to parents of students with IEPs must be diligent in checking the consent status for parents prior to sending emails that contain IDEA information.

20. Should we start addressing a parent's consent status at each IEP meeting to keep the parents' interests and information up to date?

Yes. This would be a minimal, but consistent, way to assure annually that we are getting the data system up to date. At the same time, anytime that anyone knows of a change in consent status, the LEA data system should be updated and the new Consent to Receive Electronic Communication form must be completed within the Web IEP system.

21. How does this new requirement impact the use of texts, messaging, and other third-party applications like See-Saw or Trokt?

Staff must be knowledgeable and adhere to their district/agency policies regarding the use of these methods of electronic communication. Staff should also be aware of state and federal laws regarding personally identifiable information. Districts/agencies should properly vet and approve third-party applications to ensure compliance with current Iowa law and best practices in digital privacy, safety, and security.

22. Does this also apply to private daycares and Early Access?

At this point, the consent form is only required for students entitled to Part B services and supports. It is important for staff supporting transitions from Part B to Part C are aware that when a disability is suspected and consent for evaluation is signed, a Consent to Receive Electronic Communications form would be necessary. In the future, a similar consent form will be included in Early ACCESS (Part C). Early ACCESS staff should adhere to their agency policies and procedures regarding digital privacy and the use of technology.

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Iowa IDEA Information (i3) is a partnership between the Iowa Department of Education, Iowa's Area Education Agencies (AEAs), and local districts across the state.