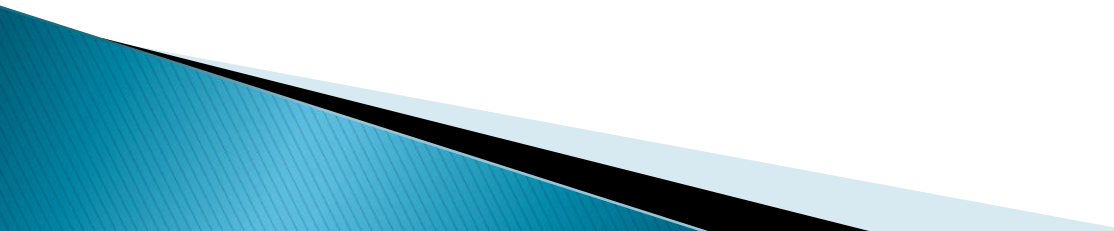
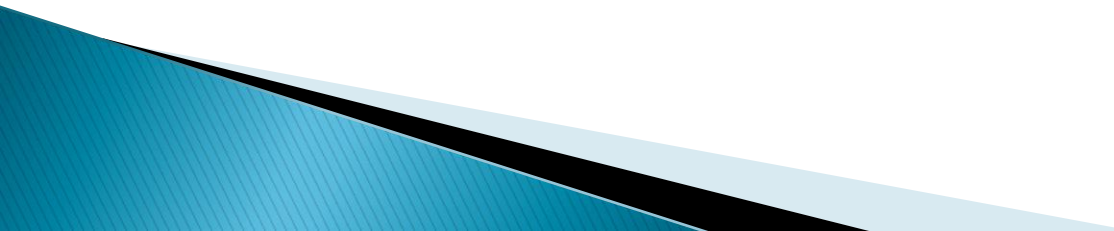


New IDEA Regulations

New Regulations

- ▶ Issued December 1
 - ▶ Effective December 31, 2008
 - ▶ State rules will have to change
 - ▶ Parent rights will be changed, English version to post April 1, 2009
 - ▶ Translated version tentatively May 1, 2009
- 

Revocation of Consent

- ▶ IDEA gives the parents the right to determine their child's education.
 - ▶ Idea believes parents should participate in all components of their child's education and are the primary protector of the rights of the child.
 - ▶ The right to revoke consent is consent to receive special education and related services.
- 

Revocation of Consent

- ▶ Consent is for the global receipt of services, and Georgia only requires consent when a student is initially placed in special education.
 - The annual IEP is the negotiation of which services and supports will be provided.
 - The IEP does not require written consent
 - The IEP is a consent document and will be implemented unless stopped by a request for a due process hearing
 - Use caution if you allow a parent to pick and choose IEP services because you may be reducing FAPE

Revocation of Consent

- ▶ A parent must notify in writing the intent to withdraw consent
 - If a parent cannot provide in writing, system should assist them to put in writing
- ▶ Once received by system, the system will provide prior written notice to the parent(s) about the revocation of consent
- ▶ The system may NOT challenge the revocation through mediation or a due process hearing
- ▶ The system may not delay the revocation of services unduly, even for the purpose of holding an IEP meeting.
 -

Revocation of Consent

- ▶ A system is not considered to be in violation of providing FAPE when a parent has revoked consent.
- ▶ The student no longer has any of the IDEA protections, including for any discipline infractions.
- ▶ Does the student have an entitlement to accommodations, services or protections under section 504 ? The regulations do not address section 504.

Revocation of Consent

- ▶ If a parent has revoked consent and then determines they would like to have their child receive special education again, it is to be treated as an initial evaluation.
 - 60 day time period applies
 - Review currently available information and determine if further evaluations or information is needed
 - The student is the one who needs services, do not punish the student for decisions that the student did not make

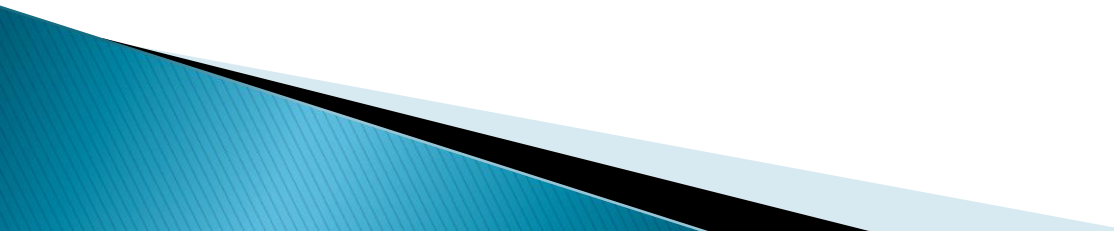
Revocation of Consent

- ▶ If the parent(s) revoke consent, the system is not required to amend the records to remove evidence of special education and related services.
- ▶ Other issues
 - AYP – they are still in the subgroup for at least the current year and maybe for two years
 - SPP/APR indicators – probably remain included in the subgroup of SWD
 - Could impact SSI eligibility or other eligibility programs


Prior Written Notice

- ▶ Required when a parents notifies of revocation
- ▶ Must be understandable to the general public and inform the parent of the changes in services in a timely manner
 - No specific timeline but should be within a few days of receipt of revocation
- ▶ PWN must be provided prior to revoking services.

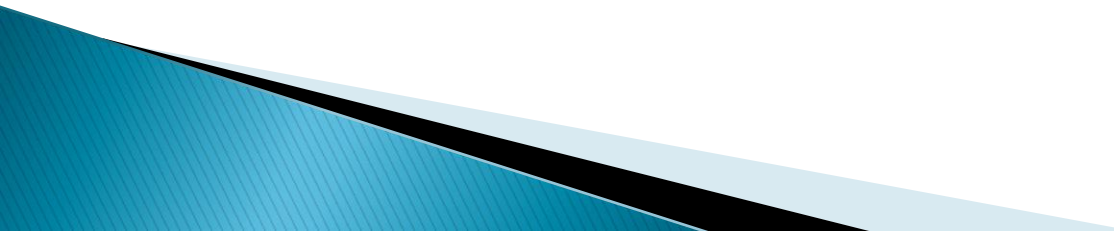
Prior Written Notice

- ▶ 34 CFR 300.503 requires PWN anytime the system proposes to begin or change the identification, evaluation, or educational placement of the child or the provision of a free and appropriate public education.
 - ▶ Or refuses to begin or change the identification, evaluation, or educational placement or the provision of FAPE.
- 

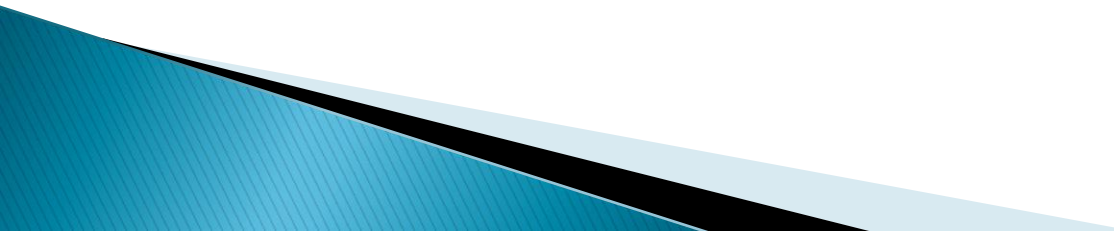
Prior Written Notice

- ▶ Content of prior written notice:
 - ▶ Description of the action the system proposes or refuses to take
 - ▶ Explanation of why the system is proposing or refusing to take such action
 - ▶ Description of each evaluation, record, or report the system used in making the decision
 - ▶ Description of any other options the IEP team considered and the reasons why the choices were rejected
- 

Prior Written Notice

- ▶ Content continued....
 - ▶ Description of other reasons why the system proposed or refused the action
 - ▶ Resources for the parent to contact if they need help in understanding IDEA
 - ▶ Information on how the parent can obtain a copy of the procedural safeguards/parent rights
- 

Prior Written Notice

- ▶ Often PWN is contained within an IEP
 - ▶ But if all components are not met, then additional information should be provided within a letter or document of some type
 - ▶ When consent is revoked, there is not an IEP meeting, so PWN needs to be developed and sent to the parent.
 - ▶ With revocation, be sure to tell them what they are giving up.
- 

Representation by nonattorney

- ▶ IDEA gives the parties (both parents and schools) the right to be accompanied by nonattorneys to due process hearings
- ▶ The issue of representation by a nonattorney is left to state law
 - OSAH rules do not allow a nonattorney to represent
 - The Georgia Bar has a practice of law regulation that would also prevent nonattorney representation.
- ▶ IDEA allows parents to invite others who have knowledge or special expertise regarding their child to the IEP team meeting.

Questions?

