

2024 -- H 7721

=====
LC005150
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

—————
A N A C T

RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES

Introduced By: Representatives Kislak, Cotter, Shanley, Giraldo, Speakman, Carson,
Cruz, Slater, Morales, and Caldwell

Date Introduced: February 28, 2024

Referred To: House Education

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 16-24 of the General Laws entitled "Children With Disabilities [See
2 Title 16 Chapter 97 — The Rhode Island Board of Education Act]" is hereby amended by adding
3 thereto the following section:

4 **16-24-1.1. Parental consent required.**

5 (a) Unless expressly preempted by federal law, local education agencies (LEAs) shall
6 obtain written parental consent before conducting an initial evaluation or making an initial
7 placement of a student in a special education program of services. Except when the parent is
8 unresponsive as described in the exception provided in this section, written parental consent shall
9 also be obtained before:

10 (1) Conducting a reevaluation;

11 (2) Placing a student in a special education placement subsequent to the initial placement
12 in special education; and/or

13 (3) Making any changes to services in an existing special education program of services.

14 (b) A parent may revoke consent at any time for all special education and related services
15 or for any service that is a component of an overall individualized education program (IEP). Except
16 for initial evaluation and initial placement, consent may not be required as a condition of any
17 continuing benefit to the student of existing services while disagreements about services are being
18 resolved.

19 (c) In order that parental consent be properly fully informed, parents have the right, upon

1 request, to observe any placement proposed for their child if the child is identified as eligible for
2 special education services. An LEA may implement reasonable limitations on the timing, duration,
3 and frequency of observation visits, but may only prohibit parents from visiting a placement with
4 students present in limited special circumstances when such prohibition is necessary to protect:

5 (1) The safety of the children in the program during the observation;
6 (2) The integrity of the program during the observation; or
7 (3) Children in the program from disclosure by an observer of confidential, personally
8 identifiable information obtained during the observation.

9 (d) When imposing any such prohibition, the LEA shall:
10 (1) Allow parents to visit the placement or setting without students present; and
11 (2) Issue a written notification to the parents explaining why it was necessary to prohibit
12 observation with students present.

13 (e) For forty-five (45) day emergency placements in interim alternative educational settings
14 under 34 CFR § 300.530(g), LEAs shall offer parents an opportunity to observe the placement
15 within a reasonable time following the placement, subject to the same reasonable limitations as
16 described for other observation visits in this section. In implementing regulations, the Rhode Island
17 department of education (RIDE) may issue standards or guidance further detailing reasonable
18 limitations or restrictions allowable hereunder.

19 (f) To further ensure informed parental consent, parents shall receive evaluation reports
20 and other relevant written materials that will be considered at the IEP meeting, including proposed
21 goals and objectives for the IEP if they have been drafted, at least three (3) calendar days prior to
22 attending an IEP meeting at which those materials will be discussed. To address parental scheduling
23 needs, parents can agree to the sharing of this material less than three (3) calendar days ahead of
24 the IEP meeting. All materials provided shall comply with legal requirements for language
25 accessibility.

26 (g) The LEA's timeframe for conducting initial evaluations and convening a meeting (as
27 described in 200-RICR-20-30-6.7.2(A)(1)(b)) and for conducting reevaluations and convening a
28 meeting (as described in 200-RICR-20-30-6.7.2(C)(1)(b)) shall be extended from the current sixty
29 (60) calendar days to sixty-three (63) calendar days.

30 (h)(1) No later than ten (10) school days after receipt of any proposed IEP and/or proposed
31 placement, the parents shall:

32 (i) Accept or reject the IEP, in whole or in part, in writing; or
33 (ii) Accept or reject the proposed placement in writing.
34 (2) If the IEP is rejected, in whole or in part, the parents may request a meeting to discuss

1 the rejected portions of the IEP or the overall adequacy of the IEP.

2 (3) Upon receipt of the written parental response to the proposed IEP and/or proposed
3 placement, the LEA shall implement all accepted elements of the IEP on the date specified in the
4 proposed IEP, while existing services from the prior IEP will remain in place with respect to
5 rejected elements of the proposed IEP.

6 (4) If the parents fail to respond within ten (10) school days after receipt of the proposed
7 IEP and proposed placement, the LEA shall implement the proposed IEP and proposed placement
8 on the date specified in the IEP.

9 (i) An LEA shall not use a parent's refusal to consent to one service or activity or request
10 of additional services, or activities to deny the child any other services or activities to which the
11 parent has consented. An LEA shall not be considered to be in violation of the requirement to make
12 free and appropriate public education available to the child merely because of the failure to provide
13 the child with the special education and related services for which the parent refuses to provide
14 consent.

15 (j) If, subsequent to initial evaluation and initial placement, the LEA is unable to obtain
16 parental consent to a reevaluation or to placement in a special education program subsequent to the
17 initial placement, or the parent revokes consent to such reevaluation or placement, the LEA shall
18 consider whether such action will result in the denial of a free, appropriate public education to the
19 student. If, after consideration, the LEA determines that the parent's failure or refusal to consent
20 will result in a denial of a free, appropriate public education to the student, it may seek resolution
21 of the dispute through mediation and/or a due process hearing. This subsection shall not apply if
22 the parent has revoked consent to all special education and related services.

23 (k) When LEAs are required to notify parents of proposed reevaluation, placement
24 subsequent to the initial placement in a special education program, or changes to an IEP, the LEA
25 shall make and document at least three (3) efforts to contact the parent, utilizing at least two (2) of
26 the following means: written notices sent by certified mail; electronic mail (email); telephone call,
27 or, if appropriate, teletypewriter communications to the home; and home visits at such time as the
28 parent is likely to be home. The LEA shall ensure that its efforts to notify the parent meet a
29 reasonable measure standard, guided by analogous requirements articulated in federal law at 34
30 CFR §§300.300(c)(2) and 300.322(d). If the above efforts are attempted and documented, and the
31 district is unable to secure parental response to a proposed reevaluation, placement subsequent to
32 the initial placement in a special education program, or change to an IEP, the LEA may move
33 forward with its proposed reevaluation, change in placement, and/or change to the existing IEP.
34 This provision to override the lack of parental response shall not apply if the parent has revoked

1 consent to all special education and related services.

2 (l) No later than January 1, 2027, RIDE shall promulgate rules and regulations consistent
3 with the provisions of this section, and shall additionally review and revise its special education
4 regulations codified at 200-RICR-20-30-6, in conformance with chapter 35 of title 42
5 (“administrative procedures”). In addition to the notice and comment requirements of chapter 35
6 of title 42, the department’s development of revised regulations shall include a robust public
7 engagement process accessible to parents, students, educators, related service providers, and school
8 administrators, including presentations to forums such as the special education local advisory
9 committees as described in § 16-24-19, the Rhode Island special education advisory council, school
10 committee and/or school board meetings, the Rhode Island board of education, the Rhode Island
11 council on elementary and secondary education, and/or other similar public forums.

12 SECTION 2. Section 16-24-1.1(l) shall take effect upon passage. The remainder of this act
13 shall take effect on July 1, 2025.

=====
LC005150
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES

1 This act would outline the requirements and process for local education agencies to get
2 written parental consent before conducting an evaluation, reevaluation, making an initial placement
3 or changes in placement or the individual education program of a student in a special education
4 program of services.

5 Section 16-24-1.1(l) would take effect upon passage. The remainder of this act would take
6 effect on July 1, 2025.

=====
LC005150
=====