

2024 -- H 7721 SUBSTITUTE A

LC005150/SUB A

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; and/or

11 (2) Making any changes to an existing Individualized Education Program ("IEP").

12 (b) A parent may revoke consent at any time for all special education and related services.
13 Except for initial evaluation and initial placement, consent may not be required as a condition of
14 any continuing benefit to the student of existing services while disagreements about services are
15 being resolved.

16 (c) In order that parental consent be properly informed, parents have the right, upon request,
17 to observe any placement proposed for their child if the child is identified as eligible for special
18 education services. An LEA may implement reasonable limitations on the timing, duration, and
19 frequency of observation visits, but may only prohibit parents from visiting a placement with

1 students present in limited circumstances when such prohibition is necessary to protect:

2 (1) The safety of the children in the program during the observation;

3 (2) The integrity of the program during the observation; or

4 (3) The confidential, personally identifiable information of children in the program,

5 consistent with the provisions of the Family Educational Rights and Privacy Act (20 U.S.C.

6 §1232g) and the Individuals with Disabilities Education Act (20 U.S.C. §1400 et seq.,) both as may

7 be amended from time to time.

8 (d) When imposing any such prohibition, the LEA shall:

9 (1) Allow parents to visit the placement or setting without students present; and

10 (2) Issue a written notification to the parents explaining why it was necessary to prohibit

11 observation with students present.

12 (e) For forty-five (45) day emergency placements in interim alternative educational settings

13 under 34 CFR § 300.530(g), LEAs shall offer parents an opportunity to observe the placement

14 within a reasonable time following the placement, subject to the same reasonable limitations as

15 described for other observation visits in this section. In implementing regulations, the Rhode Island

16 department of elementary and secondary education (the “department”) may issue standards or

17 guidance further detailing reasonable limitations or restrictions allowable hereunder.

18 (f) To further ensure informed parental participation, parents shall receive evaluation

19 reports and other relevant written materials that will be considered at an eligibility or IEP meeting,

20 including proposed goals and objectives for the IEP if they have been drafted, at least three (3)

21 calendar days prior to attending the meeting at which those materials will be discussed. To address

22 parental scheduling needs, parents can agree to the sharing of this material less than three (3)

23 calendar days ahead of the meeting. All materials provided shall comply with legal requirements

24 for language accessibility.

25 (g) The LEA’s timeframe for conducting initial evaluations and convening a meeting (as

26 described in 200-RICR-20-30-6.7.2(A)(1)(b)) and for conducting reevaluations and convening a

27 meeting (as described in 200-RICR-20-30-6.7.2(C)(1)(b)) shall be sixty-three (63) calendar days.

28 (h)(1) No later than ten (10) school days after receipt of any proposed IEP, the parents shall

29 accept or reject the IEP in writing.

30 (2) If the IEP is rejected, the parents may request a meeting to discuss the rejected IEP.

31 Until the LEA and parents have reached consensus on a new IEP or the disputed issue(s) have been

32 resolved via a facilitated IEP meeting, mediation, due process decision, or some other appropriate

33 means, the existing IEP will remain effective.

34 (3) If the IEP is accepted, the LEA shall implement the IEP on the date specified in the

1 proposed IEP.

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

4 (i) An LEA shall not be considered to be in violation of the requirement to make free and
5 appropriate public education available to the child merely because the child does not receive the
6 special education and related services for which the parent refuses to provide consent.

7 (j) If, subsequent to initial evaluation and initial IEP, the LEA is unable to obtain parental
8 consent to a reevaluation or to a proposed change to an existing IEP, the LEA shall consider whether
9 such action will result in the denial of a free, appropriate public education to the student. If, after
10 consideration, the LEA determines that the parent's failure or refusal to consent will result in a
11 denial of a free, appropriate public education to the student, it may seek resolution of the dispute
12 through mediation and/or a due process hearing. This subsection shall not apply if the parent has
13 revoked consent to all special education and related services.

14 (k) When an LEA: (1) Proposes to initiate or change the identification, evaluation, or
15 educational placement of the child or the provision of a free and appropriate public education to
16 the child; or (2) Refuses to initiate or change the identification, evaluation, or educational
17 placement of the child or the provision of a free and appropriate public education to the child, the
18 LEA shall make and document at least three (3) efforts to contact the parent, utilizing at least two
19 (2) of the following means: written notices sent by certified mail; electronic mail; telephone call;
20 and home visits at such time as the parent is likely to be home. All attempts to provide notice shall
21 comply with legal requirements for language and other accessibility. If the above efforts are
22 attempted and documented, and the district is unable to secure parental response to a proposed
23 reevaluation, placement subsequent to the initial placement in a special education program, or
24 change to an IEP, the LEA may move forward with its proposed reevaluation, change in placement,
25 and/or change to the existing IEP. This provision to override the lack of parental response shall not
26 apply if the parent has revoked consent to all special education and related services.

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

30 **16-24-1.2. Rules and regulations.**

31 No later than July 1, 2026, the department of elementary and secondary education (the
32 “department”) shall promulgate rules and regulations consistent with the provisions of this section
33 and §16-24-1.1. No later than December 31, 2026, the department shall additionally review and
34 revise its guidance related to its individualized education program (“IEP”) processes and consistent

1 [statewide model forms and documents related to IEP development. The department's development](#)
2 [of revised guidance shall include a robust public engagement process.](#)

3 SECTION 3. Section 1 of this act shall take effect on July 1, 2026. The remaining sections
4 of this act shall take effect upon passage.

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

1 This act would establish requirements and a 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 1 of this act would take effect on July 1, 2026. The remaining sections of this act
6 would take effect upon passage.

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