



Consent

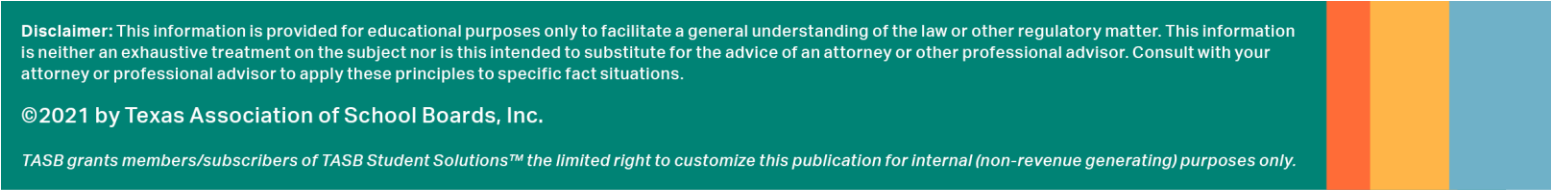
CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING

August 2023

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CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING

What is Required

The IDEA dictates who must attend an ARD Committee meeting. With written agreement from the parent and the District, a member of the ARD Committee may not be required to attend a specific meeting if the member's area of curriculum or related services is not being modified or discussed in the meeting. Even where an ARD Committee member's area of curriculum or related services is being modified or discussed, the member may be excused from attending the meeting, in whole or in part, if the parent and the District consent to the excusal in writing and the member submits input into the development of the IEP in writing to the parent and the ARD Committee prior to the meeting. See [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEMBERSHIP]. However, the District must obtain informed consent from the parent before excusing a required member from attending an ARD Committee meeting, in whole or in part.

These excusal and consent requirements do not apply to the following ARD Committee members: the parent, the student with a disability, an adult student following a transfer of rights, and/or a discretionary member (i.e. an individual not required by the IDEA to attend the ARD Committee meeting, but who has been invited at the discretion of the parent or the District as a person with relevant knowledge or special expertise regarding the student).

Elements of Consent for Excusal

To constitute informed consent to excuse a member from attending an ARD meeting, in whole or in part, the following must occur:

- The parent has been fully informed of all information related to the excusal of the member from attending the ARD meeting in the parent's native language or other mode of communication;
- The parent understands and agrees in writing to the excusal of the ARD member from attending the ARD meeting, in whole or in part;
- The consent describes the excusal of the member from attending the ARD meeting and lists any records that will be released and to whom; and
- The parent understands that the granting of consent is voluntary by the parent and may be revoked at any time, except that if the parent revokes consent, such revocation is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

Additional Procedures

The District believes that it is exceedingly important that all members of the ARD Committee are present at the student's ARD meetings, especially initial or annual ARD meetings. While it is best for all ARD Committee members to attend all ARD meetings, the IDEA recognizes that it may not always be feasible. Campus Administration will consider each excusal request carefully on a case-by-case basis before requesting that the parent agree or consent to an ARD member's nonattendance at an ARD meeting. Each Campus must be careful to avoid a pattern or routine of excusing required ARD Committee members from attending ARD meetings, as such a practice may be considered a violation of FAPE.

In order to excuse a member of the ARD Committee meeting whose area of curriculum or related services is being modified or discussed, both the parent and the Campus Special Education Administrator must consent in writing. Prior to the ARD meeting, Campus Special Education Personnel will ensure that all elements of informed consent for excusal are met, including informing the parent of the relevant information in the parent's native language or mode of communication and ensuring that the parent understands that granting consent for the excusal is voluntary and can be revoked at any time. In addition, the member to be excused must submit to the parent and the ARD Committee, in writing, input into the development of the IEP prior to the meeting.

Campus Special Education Personnel will provide the parent notice of the proposed excusal as soon as possible before the ARD meeting. This will provide the ARD Committee the opportunity to reschedule the meeting within a reasonable time, if necessary, or allow the member seeking excusal enough time to make arrangements to attend the ARD meeting, should the parent not agree to the excusal. This notice will clearly indicate whether the member will be excused from the whole or only part of the meeting and specify the part(s) of the ARD meeting for which the excusal is being requested.

Campus Special Education Personnel will ensure that proper documentation of an ARD Committee member's excusal from a particular meeting is completed. The Campus Special Education Personnel will also attach the signed consent of a member's excusal (as well as the written input provided prior to the ARD) to the ARD documentation.

When Informed Consent Is Not Required

There is a difference between the excusal of ARD Committee members whose area of service is being modified or discussed and those whose area of service is not being modified or discussed. The requirements related to an agreement regarding the excusal of an ARD Committee member because the member's area of the curriculum or related services is not being modified or discussed are not as stringent as the requirements for

informed consent. Rather, if an ARD Committee member's area of the curriculum or related services is not being modified or discussed in the meeting, the member is not required to attend the meeting, in whole or in part, if Campus Special Education Personnel obtain a written agreement signed by the Campus Special Education Administrator and the parent, agreeing that the person's attendance is not necessary because the member's area of the curriculum or related service is not being modified or discussed during the ARD meeting. The other elements of informed consent are not required, and the excused member will not need to provide written input.

Likewise, consent is not necessary for the excusal of individuals who are attending the ARD in addition to the designated required member (i.e. multiple general education teachers as long as one general education teacher is in attendance for the entire meeting). Furthermore, the consent and/or excusal requirements do not apply to other individuals who have knowledge or special expertise regarding the student who attend at the discretion of the District or parent (i.e. discretionary members).

While the ARD Committee shall document all attempts to secure parental attendance at an ARD meeting, the rules for excusal from an ARD meeting do not apply to the parent, the child with a disability, and/or an adult student following a transfer of rights. See [PARENT PARTICIPATION].

Evidence of Implementation

- *Notice of Procedural Safeguards*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Notice of Request to Excuse ARD Committee Member
- Written Input of Member Excused For IEP
- Consent to Excuse ARD Committee Member
- Agreement to Excuse ARD Committee Member Whose Attendance is Not Necessary
- ARD/IEP
- Signature/Attendance Page

Resources

[The Legal Framework for the Child-Centered Special Education Process: Consent to Excuse Member from Attending the ARD Committee Meeting - Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process: Admission, Review, and Dismissal Committee Membership - Region 18](#)

[OSERS Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Revised Sept. 2011\) - U.S. Department of Education](#)

[Parent's Guide to the Admission, Review, and Dismissal Process - Texas Education Agency](#)

[OSEP Letter to Finch \(Apr. 10, 2012\) - U.S. Department of Education](#)

[OSEP Letter to Rangel-Diaz \(Apr. 25, 2011\) - U.S. Department of Education](#)

CITATIONS

Board Policy EHBAB and EHBAE; 34 CFR 300.321(e), 300.9; 71 Fed. Reg. 46,674 (2006); 19 Texas Administrative Code 89.1050(c)(4)