



**United States Department of the Interior**  
**BUREAU OF INDIAN EDUCATION**  
Division of Performance and Accountability  
1011 Indian School Road, NW, Room # 332  
Albuquerque, New Mexico 87104

Memorandum

**MAY 07 2013**

To: All Schools

From: Dr. Charles Roessel, Acting Director  
Bureau of Indian Education

Subject: Medicare New Regulations

On February 14, 2013, the U. S. Department of Education published amendments to the Individuals with Disabilities Education Act (IDEA) Final Regulations in the Federal Register, (Volume 78, No. 31). The requirements in 34 CFR 300.154(d) relate to parental consent to access public benefits or insurance (e.g., Medicaid) to pay for services under Part B of the IDEA. These new regulations became effective on March 18, 2013. The new rules will provide the school easier access to public benefits while protecting family rights and it will:

- (1) *Ensure that parents of children with disabilities are informed of all of their legal protections when public agencies seek to access public benefits or insurance to pay for services. What does this mean for schools?*
  - a. *Schools must provide prior written notice (pwn) to the parents before accessing the student's public benefits or insurance for the first time and prior to obtaining the one-time parental consent.*
  - b. *The pwn must explain all the protections available to parents under Part B 34 CFR §300.154(d)(2)(v) to ensure parents are fully informed of their rights.*
  - c. *The pwn must be communicated in the native language of the parent, or other mode of communication used by the parent.*
  
- (2) *Address the concerns expressed by State educational agencies and local educational agencies that requiring parental consent each time access to public benefits or insurance is sought, in addition to the parental consent required by the Family Educational Rights and Privacy Act and section 617(c) of the IDEA, imposes unnecessary costs and administrative burdens. What does this mean for schools?*
  - a. *Schools must obtain a one-time written consent from the parent, after providing pwn, before accessing the student's or parent's public benefits or insurance for the first time. The consent must indicate (a) personal identifiable information may be disclosed; (b) the purpose of the disclosure (e.g., billing for services); and (c) agency to which the disclosure may be made (e.g., Medicaid).*

- b. The consent must specify the parent agrees and understands the public agency may access the student's and parents public benefits or insurance to pay for services (PT, OT, Speech, etc.).*

A copy of this memorandum, the Federal Register, and the Non-Regulatory Guidance on the IDEA Part B Regulations Regarding Parental Consent for the Use of Public Benefits or Insurance to Pay for Services under the IDEA, issued February 14, 2013, and effective March 18, 2013, that provide further guidance in implementing the new regulations are posted on the BIE website at [www.bie.edu](http://www.bie.edu).

If you have any queries regarding the new regulations, contact Gloria Yepa at (505) 563-5264 or by email at [gloria.yepa@bie.edu](mailto:gloria.yepa@bie.edu). Thank you.

cc: All Education Line Officers  
Associate Deputy Directors – All Regions