

TOPIC - Procedural Safeguards: Parent Consent

“The child’s parents are divorced. The custodial parent agrees to have the child evaluated to determine eligibility for special education services. The noncustodial parent does not want the student evaluated. May the district proceed with the evaluation if the custodial parent gives written consent, even if the noncustodial parent refuses to give written consent for the evaluation? “

92 NAC 51-009.08A1 states: “The school district or approved cooperative proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under 92 NAC 51-003.10 must obtain informed consent, consistent with 92 NAC 51-003.11 from the parent of the child before conducting the evaluation.”

Based on the above regulation, the district must have consent from a person meeting the definition of “parent” contained in 92 NAC 51-003.49. Presumably the custodial parent of the child would meet the definition of “parent”. Therefore the district would have the required consent and could proceed with the evaluation. However, in cases where the district has questions concerning the rights of a parent to make or participate in making educational decisions where there is a divorce decree or other court order, the district is advised to discuss the matter with their school attorney.