

**Technical Assistant Bulletin (November 2017) and Guidance for IEP Teams
Parental Consent Under Maryland Law
March 2019**

Overall Emphasis and Purpose:

In April 2017, the Maryland General Assembly passed Senate Bill 710, requiring parental consent any time the Individualized Education Program (IEP) team proposes:

- ✓ that the student enroll in an alternate education program that does not issue or provide credits toward obtaining a Maryland Diploma
- ✓ that the child is eligible to participate in the alternate education assessment aligned with the State’s alternative curriculum
- ✓ to include restraint (and/or seclusion – which is not allowable in AACPS) in the IEP to address the child’s behaviors

What this means for you as a Special Educator/Service Provider:

- Participation in the alternate curriculum is not a place. As such, consent to participate in the alternate curriculum does not always mean placement in an ACC or Autism class.
- Parents can revoke consent for their child to participate in the alternate curriculum or alternate state assessment at any time.
- Parental consent regarding the student’s pursuit of a diploma or a certificate can be made independent of the consent to participate in the alternate curriculum or take the alternate state assessment. The chart below outlines the possibilities for parental consent.

Student Meets the MSDE Criteria to Participate in the Alternate Assessment and Curriculum	Parent Provides Consent for the Alternate Curriculum	Parent Provides Consent for the Alternate Assessment	Parent Request for Student to Earn a Certificate or Diploma
Example 1	Yes	Yes	Diploma The parent must be informed that the likelihood of a student fulfilling graduation requirements decreases as a student continues to participate in the alternate assessments and/or curriculum.
Example 2	Yes	Yes	Certificate As this student will be assessed via the Alternate Assessment, they will not be required to participate in the PARCC or future MCAP.
Example 3*	No	No	Diploma School staff will review with parents the requirements for graduation with an AACPS diploma.
Example 4	Yes	No	Diploma This student must pass the MCAP State Assessment but has been participating in the Alternate Curriculum, which may be very difficult.
Example 5	Yes	No	Certificate. This student will be required to take the MCAP State Assessment, however, they are not required to pass it. This may be a very difficult testing situation for the student.
Example 6	No	Yes	Diploma This student will not be able to earn a diploma unless they participate in the MCAP State Assessment.
Example 7	No	Yes	Certificate This student will participate in the general curriculum but will take the Alternate Assessment. They will be able to earn a certificate.

*A student may be designated as earning a certificate in their last year of high school.

What the Special Educator/Service Provider needs to do if not already doing:

Parental consent is required annually even if the student participated in the alternate curriculum and/or assessment in previous years- the form must be signed and uploaded electronically annually.

Be sure that there is strong assessment and classroom performance data to support the recommendation that the student should participate in the alternate curriculum and/or the alternate state assessment.

If the parent does not provide consent, or revokes consent, for their child to participate in the alternate curriculum, the student **must** be provided instruction pursuant to the grade level standards for which the student is enrolled. Work may be modified, but the standards and supplementary aids and services **must** be adhered to.

If the parent does not provide consent, or revokes consent, for their child to participate in the alternate state assessment, the student **must** participate in the regular state assessment.

In cases where the parent agrees for their child to participate in either the alternate curriculum, the alternate assessment, or both, but continues to want their child to earn a diploma, the team must inform the parent that the likelihood of earning a diploma will be much more difficult. Teams should share the requirements for a diploma with the parents prior to a final decision.

If the parent does not respond to the recommendation at the time of the IEP team meeting, a letter in Tienet must be sent to the parent within 5 business days to inform the parent that if no response is received within 15 days, the recommendation of the school members of the IEP team will be implemented.

As with any student with an IEP, if the student fails to make progress on their IEP goals for 1 quarter, an IEP team meeting must be held to consider additional supports and/or revisions.

If the parent refuses consent for their child to participate in the alternate curriculum, the student **must** be graded based on their performance on grade level standards.

If the parent responds after the IEP meeting concludes, the IEP team may either convene or amend the IEP by agreement to reflect the parent's written consent or refusal.

Parental consent is required to include restraint on the IEP. However, it may still be used if there is an emergency situation and restraint is necessary to protect a student or other person from harm.

If the school members of the team determine that the failure to provide consent results in a failure to provide the child with a FAPE, they may use the dispute resolution options available.