

# Consent

## CONSENT TO TRANSFER ASSISTIVE TECHNOLOGY DEVICES

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Model operating procedures created by



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# CONSENT TO TRANSFER ASSISTIVE TECHNOLOGY DEVICES

## What is Required

When the child or adult student with a disability using an assistive technology device (“ATD”) that the District has purchased for the student enrolls in another campus within the District or leaves the District altogether, the District may transfer the ATD to the school or LEA in which the student enrolls, a state agency that provides services to the student following graduation from high school, or to the student’s parents or the adult student. See [ADMINISTRATION OF EQUIPMENT].

Before transferring an ATD, the District must obtain informed consent from the parent or the adult student with capacity to enter into a contract through a transfer agreement that incorporates the requirements outlined below. Campus Special Education Personnel are responsible for making reasonable efforts to obtain informed consent from the parent or adult student for the transfer of ATDs.

## Elements of Consent to Transfer ATDs

To constitute informed consent to transfer ATDs, the following must occur:

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is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

The procedures employed by the District in obtaining informed consent to transfer an ATD must be consistent with the procedures employed by the District to obtain parental consent for an initial evaluation or reevaluation. See [CONSENT FOR INITIAL EVALUATION] and [CONSENT FOR REEVALUATION].

## When Despite Reasonable Efforts, Consent Is Not Obtained

The District can transfer the ATDs without informed parental or adult student consent if the District can demonstrate that it has taken reasonable measures to obtain the consent



and the parent or adult student has failed to respond.

## Definitions

“Assistive technology device” is any device, including equipment or a product system, that is used to increase, maintain, or improve functional capabilities of the student with a disability. This does not include a medical device that is surgically implanted (e.g. cochlear implant) or the replacement of such a device.

“Equipment” includes machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house such machinery, utilities, or equipment; and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as:

- Instructional equipment and necessary furniture;
- Printed, published, and audio-visual instructional materials;
- Telecommunications, sensory, and other technological aids and devices; and
- Books, periodicals, documents, and other related materials.

“Transfer” is the process by which the District that has purchased the ATD may sell, lease, or loan the device for the continuing use by the student or adult student with a disability changing the school of attendance in the District or leaving the District.

## Additional Procedures

The parent or adult student, the District, the district where the student is transferring to, or an outside agency may request the transfer of a student’s ATD. District Special Education Personnel will consider the following upon request for a transfer:

- Does the District actually own the ATD or have the authority to transfer the ATD?
- Is the child actually exiting the District?
- Did the student use the ATD while at the District?
- Is a transfer necessary or appropriate based on the student’s unique circumstances?

To ensure full parental or adult student informed consent, the Campus Special Education Personnel will ensure that the parent or adult student receives all necessary information relating to the transfer of the ATDs and is provided the opportunity to participate in any ARD meeting where a transfer is discussed. If the parent refuses to consent to the transfer, no transfer will occur. If the parent fails to respond to a request for consent to transfer, the District may transfer the ATD without parent/adult student consent. Campus Special Education Personnel should document all attempts to seek signed consent from the parent or adult student, including phone calls, emails, certified mail, hand delivery, and visits to the home or place of employment, through a Communication Log. Special



Education Personnel shall make a minimum of three documented attempts to seek consent on three different days at different times, utilizing at least two different methods of delivery.

## **Evidence of Implementation**

- ARD/IEP
- Request for Transfer of ATD
- Transfer Agreement
- Consent to Transfer ATD
- Communication Log

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Consent to Transfer Assistive Technology Devices – Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process: Administration of Equipment – Region 18](#)

[Uniform Transfer Agreement - Texas Education Agency](#)

[OSEP Letter to Goodman \(June 21, 1998\) - U.S. Department of Education](#)

[2 Code of Federal Regulations §200.313](#)

[Assistive Technology - SPEDTex](#)

[Greater Gulf Coast Cooperative of Special Education](#)

## **CITATIONS**

Board Policy EHBAE; 34 CFR 80.32(e), 300.300(b)–(d), 300.322(d), 300.9; Texas Education Code 30.0015(b)–(c), 89.1056(b)