

##### COMMONWEALTH OF VIRGINIA

# Department of Education

## Division of Special Education and Student Services

## Office of Dispute Resolution and Administrative Services

P.O. Box 2120

Richmond, Virginia 23218-2120

**NOTICE OF PARENTAL RIGHTS CONCERNING THE USE**

**OF PUBLIC BENEFITS OR INSURANCE**

***The school division must obtain your written consent before using any public or private benefits or insurance, and must provide annual notice of your rights related to the use of public benefits or insurance.***

Local educational agencies may request the use of Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under IDEA, Part B, as permitted under the public benefits or insurance program. The IDEA requires that public agencies obtain one-time parental consent before accessing the child's or the parent's public benefits or insurance for the first time. The one-time parent consent must specify:

1. The personally identifiable information that may be disclosed.

2. The purpose of the disclosure.

3. The agency to which the disclosure may be made.

4. That the parent understands and agrees that the public agency may access the parent's or child's public benefits or insurance to pay for services under Part B of the IDEA.

Local educational agencies must also provide written notification to the child's parent before accessing the child's or the parent's public insurance for the first time, prior to obtaining the one-time parental consent, and annually thereafter.

Parents have the right to withdraw their consent to disclosure of their child's personally identifiable information to the agency responsible for the administration of the state's public benefits or insurance program at any time. Withdrawal of consent or refusal to provide consent to disclose personally identifiable information does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost.

Local educational agencies:

1. May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under IDEA Part B;

2. May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this part, but the local educational agency may pay the cost that the parents otherwise would be required to pay;

3. May not use a child's benefits under a public benefits or insurance program if that use would:

a. Decrease available lifetime coverage or any other insured benefit;

b. Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;

c. Increase premiums or lead to the discontinuation of benefits or insurance; or

d. Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.