

PRIOR WRITTEN NOTICE (PWN)

Definition

Written notice provided to parents when a district proposes to initiate or change, or refuses to initiate or change, the identification, assessment, or educational placement of a student, or the provision of a free appropriate public education (FAPE) to a student.

Legal Requirements

Pursuant to § 1415(b)(3) and (4) and (c)(1) of Title 20 of the United States Code, and in accordance with § 300.503 of Title 34 of the Code of Federal Regulations, prior written notice (PWN) shall be given by the public agency to the parents or guardians of a student with a disability, or to the parents or guardians of a student upon initial referral for assessment, and a reasonable time before the public agency proposes to initiate or change, or refuses to initiate or change, the identification, assessment, or educational placement of the student, or the provision of a free appropriate public education (FAPE) to the student. In accordance with §§ 300.304 and 300.503 of Title 34 of the Code of Federal Regulations, the public agency shall provide a description of any assessment procedures the agency proposes to conduct.

The notice required above shall, in accordance with § 300.503(b) of Title 34 of the Code of Federal Regulations, include all of the following:

1. A description of the action proposed or refused by the public agency.
2. An explanation of why the public agency proposes or refuses to take the action.
3. A description of each assessment procedure, assessment, record, or report the public agency used as a basis for the proposed or refused action.
4. A statement that the parents of a student with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for assessment, the means by which a copy of a description of the procedural safeguards can be obtained.
5. Sources for parents to contact to obtain assistance in understanding the provisions of this part.
6. A description of other options that the IEP team considered and the reasons why those options were rejected.
7. A description of other factors that are relevant to the proposal or refusal of the agency.

As provided in § 300.102(a)(3)(iii) of Title 34 of the Code of Federal Regulations, parents or guardians of a student with a disability shall be given reasonable prior written notice (PWN), in accordance with § 56500.4, that their student will be graduating from high school with a general high school diploma because graduation from high school with a general diploma constitutes a change in placement.

Notice in Understandable Language

prior written notice (PWN) must be in a language understandable to the general public; and provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so.

If the native language or other mode of communication is not a written language, the public agency must take steps to ensure:

1. That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
2. That the parent understands the content of the notice; and
3. That there is written evidence that the preceding two requirements have been met.

District Response to a Due Process Complaint

If the district has not sent a prior written notice (PWN) under § 300.503 to the parent regarding the subject matter contained in the parent's due process complaint, the district must, within 10 calendar days of receiving the due process complaint, send to the parent a response that includes all of the requirements of prior written notice (PWN).

District Response to Parent Revocation of Consent

If at any time subsequent to the initial provision of special education and related service, the parent of a student revokes consent in writing for the continued provision of special education and related services, the public agency,

1. May not continue to provide special education and related services to the student, but must provide prior written consent in accordance with 300.503 before ceasing the provision of special education and related services;
2. May not use the procedures in § 300.506-300.516 in order to obtain agreement or a ruling that the services may be provided to the student;
3. Will not be considered to be in violation of the requirement to make free appropriate public education (FAPE) available to the student because of the failure to provide the student with further special education and related services; and
4. Is not required to convene an IEP team meeting or develop an IEP under section 300.320 and 300.324 for the student for further provision of special education and related services.

Legal References

EC 56500.4; EC 56500.5; EC 56502, 34 CFR 300.503; 34 CFR 300.508; 34 CFR 300.300(b)(4)

Timelines

The term 'reasonable amount of time' is not defined in either state or federal law. The SELPA therefore recommends that districts observe the following timelines:

1. High School Graduation - It is recommended that notice be provided to parents at least 30 calendar days prior to the date of graduation. This will allow parents ample time in the event they want to request an IEP meeting.
2. Response to Parent Requests - It is recommended that districts respond to parents within 15 calendar days of receipt of written requests.
3. district Proposals – districts must decide on a case-by-case basis when it is appropriate to notice parents regarding district proposals.
4. Response to Due Process Complaint - When responding to a due process complaint the district must respond within ten calendar days of receiving the due process complaint.

Local Procedures

Prior written notice (PWN) is one of those requirements in the law that, at first glance, appears clear cut, but is difficult to explain when it comes to actual practice. Most practitioners are well aware that parents are entitled to prior written notice (PWN) before a district takes any action relative to identification, assessment, educational placement of the student, the provision of services, etc. The question is, when is the district required to provide the prior written notice (PWN) defined in this section. Common examples are:

1. Cases where the IEP process is contentious and the district, after repeated attempts, is unable to finish writing the IEP or obtain consent for the IEP;

2. When a district receives a written request from a parent pertaining to the identification, assessment, or educational placement of the student, or the provision of a free appropriate public education (FAPE) to the student, and the district intends to refuse the request (which is inadvisable, as discussed elsewhere in this manual);
3. When a district wants to initiate a proposal regarding the identification, assessment, or educational placement of the student or the provision of a free appropriate public education (FAPE) to the student;
4. When a student is graduating from school with a general diploma;
5. While it is not required by law, best practices would suggest that it would be prudent to mail a prior written notice (PWN) letter regarding a student who is completing local requirements for a certificate of completion/achievement;
6. When a district receives notice of a due process complaint, it has 10 days to respond to the issues stated in the complaint; and
7. Any time subsequent to the initial provision of special education and related service, the parent of a student revokes consent in writing for the continued provision of special education and related services.

While these examples address the most common instances when prior written notice (PWN) is required, the list is definitely not exhaustive. districts are therefore advised to use prior written notice (PWN) whenever they deem necessary, especially when there is risk of litigation.

Prior Written Notice for Assessment

Districts meet the requirement for prior written notice (PWN) for assessment by developing and presenting parents with a properly completed copy of the SELPA approved Assessment Plan and the related prior written notice (PWN), located in SEIS.

FAQ's

Who is responsible for writing this notice?

It is the responsibility of the designated special education administrative representative.

REMINDERS

- A properly developed IEP constitutes prior written notice for the IEP.
- District refusals related to the identification, assessment, or educational placement of the student, or the provision of a free appropriate public education (FAPE) to the student require prior written notice.
- District proposals (other than assessment and IEP) related to the identification, assessment, or educational placement of the student, or the provision of a free appropriate public education (FAPE) to the student require prior written notice.
- Prior written notice must contain all of the required elements, including a copy of the Procedural Safeguards.
- If a district receives a due process complaint and has not previously provided prior written notice regarding the issues stated in the complaint, the district must provide the parent with prior written notice within 10 days of receipt of the complaint.
- A copy of all prior written notice forms/letters must be maintained in the student's confidential file.