

PRIOR WRITTEN NOTICE

What is prior written notice (PWN)?

Prior written notice is a legal requirement per the Individuals with Disabilities Education Act (IDEA), and is a protection afforded to parents/guardians per their procedural safeguards. The IDEA includes prior written notice as a measure to ensure that parents/guardians have adequate notification and understanding of special education decisions made about their child, including elements of providing a free appropriate public education (FAPE).

A prior written notice should provide comprehensive documentation of any and all actions proposed and/or refused by the District. The information included should be sufficient to ensure that the parents/guardian understand the rationale by which decisions were made, and all things that were considered. Providing prior written notice affords parents/guardians an additional opportunity to consider and/or object to decisions that were made prior to implementation by the school district.

Under what circumstances is prior written notice required?

Prior written notice is a document that is required following the proposal and/or refusal related to the initiation or change in the identification, evaluation, educational placement, or offer of FAPE. (34 C.F.R. § 300.503)

An IEP team may make decisions regarding the identification of a student including, but not limited to:

- Determination of initial identification (eligibility) for special education;
- Refusal to identify a student as eligible;
- Changing the identification of a student (eligibility category); and/or
- Termination of identification (student no longer found eligible).

An IEP team may make decisions regarding the evaluation of a student including, but not limited to:

- Requesting consent for initial evaluation;
- Requesting consent for reevaluation;
- Refusal to conduct an evaluation requested by a parent/guardian; and/or
- Proposal or refusal to provide a requested independent educational evaluation (IEE).

An IEP team may make decisions regarding the placement of a student including, but not limited to:

- Offering initial placement;
- Proposing a change in educational placement;
- Refusal to change placement as requested by a parent/guardian;
- Termination of special education placement due to student being found no longer eligible; and/or
- Proposal or refusal to offer placement of a student to a parent/guardian who has unilaterally placed that student with an IEP in a residential facility or nonpublic school.

Graduation with a regular high school diploma is also considered a change of placement, though not through IEP team decision, thus requiring the provision of prior written notice. Additionally, any disciplinary removal of more than 10 consecutive days, or a series of removals accumulating more than 10 days is considered a change of placement, triggering the prior written notice requirement.

An IEP team may make decisions regarding the provision of a FAPE to a student including, but not limited to:

- Changes in IEP services, including addition, deletion, change in minutes, frequency location, or refusal to change a service;
- Changes in accommodations/modifications or refusal to make a change, per parent/guardian request;
- Change(s) in annual goals or refusal to change goals per parent/guardian request;
- Changes in how a student will participate in statewide and districtwide assessments; and/or
- Refusal to provide a specific instructional methodology requested by a parent/guardian.

Any changes made to FAPE in an IEP through the amendment process also generates the requirement to provide prior written notice.

Parents/guardians may submit a letter revoking consent for special education services when they no longer wish for their child to receive special education services or be considered a child with a disability. The school District must terminate provision of special education services upon receipt of a revocation of consent, thus generating the requirement to provide prior written notice. When the District receives revocation of consent from a parent/guardian, they may offer a meeting to discuss the request, but the parent/guardian may not be required to attend any additional meetings and are not required to provide an explanation for their request. The U.S. Department of Education requires the District to “promptly” respond to a parent/guardian-written revocation letter with a PWN. (34 C.F.R. § 300.503(a)) The PWN must be provided prior to ending any services and allows the parent/guardian the opportunity to consider the change(s) that will result from revoking consent.

What are the required elements of prior written notice?

In order to be considered compliant, a prior written notice must include 7 required elements, including:

1. **Description of Proposed or Refused Action:** A description of the action proposed or refused by the LEA/District;
2. **Explanation of the Decision:** An explanation of why the LEA/District proposes or refuses to take the action;
3. **Basis for the Decision:** A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
4. **Relevant Factors:** A description of the factors that are relevant to the LEA’s/District’s proposal or refusal;
5. **Description of Other Options Considered:** A description of other options considered by the IEP Team and the reason why those options were rejected;
6. **Notice of Procedural Safeguards:** A statement that the parent/guardian of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards may be obtained; and
7. **Information Sources for Assistance:** Sources for parent/guardians to contact to obtain assistance in understanding the provisions of this part.
(34 C.F.R. § 300.504(c))

In addition to including these elements, PWN must be provided in language that is understandable to parents/guardians and the general public, and should be provided in the native language of the parent/guardian unless it is not feasible to do so. In order to ensure that the PWN is understandable, it is recommended that it be written without the use of acronyms or abbreviations. It should serve as a stand-alone document that can be understood by a person who does not have other reports and/or IEP documents to which they may refer. (34 C.F.R. § 300.504(d))

How soon after educational decisions should prior written notice be sent?

Though there aren't any specific timelines around when to provide prior written notice, it must be provided "within a reasonable timeline prior to action." (34 C.F.R. § 300.503(a).) This means the PWN must be given to the parent/guardian within a reasonable amount of time before the District implements that action, but after the District's decision on the proposal or refusal has been made. It should be provided after the meeting but soon enough so that a parent/guardian has time to review it and voice a response prior to implementation of the change in the IEP.

How should prior written notice be formatted?

Neither federal nor California special education regulations specify the format in which prior written notice must be provided. Permissible formats include formal letter on letterhead, use of fill in the blank forms (located in the Special Education Information System (SEIS) document library), and use of the IEP document, itself.

How should the District document that prior written notice has been provided?

The IDEA does not require that a parent/guardian acknowledge receipt of prior written notice. The District will maintain a record in the SEIS to document provision of prior written notices.