

The Power of Notice

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Overview

Federal Regulations/
State Rules/Guidance
Documents and
Resources

Prior Written Notice
(purpose, what it must
contain and when it is
used)

Notice for Provision of
Services and
Programs Model Form

Notice in Native
Language

MARSE Timelines

Notice vs. Notification

Notice vs. Consent

Examples
How you can use the
Power of Notice

Governance and Guidance

Individuals with Disabilities Education Act (IDEA)

§300.503 (Prior notice by the public agency; content of notice)

§300.29 (Native language)

Michigan Administrative Rules for Special Education (MARSE)

R 340.1721a (Timelines – Initial evaluation)

R 340.1721b(1) (Timelines – Written notice)

R 340.1721b(3) (Timelines – Notice of offer of FAPE)

Guidance Documents and Resources

Notice is important because...

It's a legal requirement under the Individuals with Disabilities Education Act (IDEA)

It's a procedural safeguard for parents and students

It protects a student's right to a free appropriate public education (FAPE)

It provides written information about a district's offer of a FAPE for the student

Parents have the right to agree or disagree with changes that the school wants to make regarding their child. Notice gives parents information to make informed decisions.

Prior Written Notice (PWN)

PWN is written information given to parents by the school to explain decisions about the child's education and the reasons for those decisions.

School must provide written notice whenever it wants to (or refuses to):

- evaluate a child
- change a child's disability identification
- change a child's educational placement
- change the way in which a child is provided with a free appropriate public education (FAPE)

PWN is required before the school requests parental consent to evaluate a child and the first time a child will receive special education and related services.

Written notice must...

Describe **the action** that the school proposes or refuses to take;

Explain **why** the school is proposing or refusing to take the action;

Describe each evaluation procedure, assessment, record, or report the school district used as a **basis for their decision**;

Statement that parents of a child with a disability have **protection** under the procedural safeguards and how they can get a copy of them;

Provide **resources where parents can go to get help** in understanding the procedural safeguards;

Describe **any other options** that a child's Individualized Education Program (IEP) Team considered and why those options were rejected;

Provide a description of **other reasons** why the school proposed or refused the action



Important Notice

Notice must be in understandable language

Must be provided in a parent's native language or other mode of communication the parent uses, unless it is clearly not feasible to do so.

Notice must be written in a language understandable to the general public.

If native language or other mode of communication is not a written language, school must ensure that:

- Notice is translated orally or by other means in the parent's native language or other mode of communication.
- Parents understand the content of the notice.
- There is written evidence that the above requirements have been met.

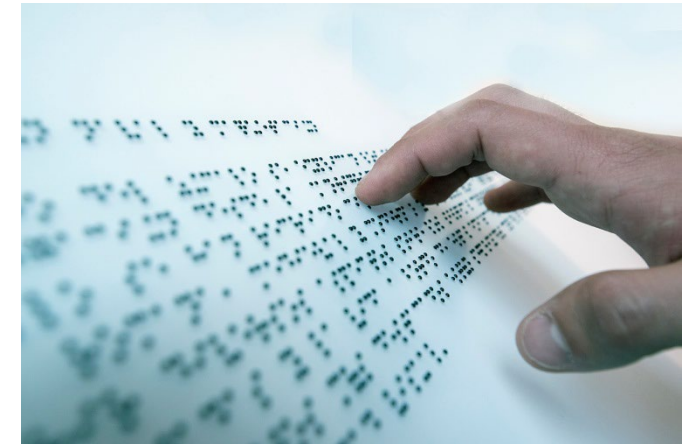
If the school offers the option, parents can receive the notice by email.

Native Language

Native language, when used with an individual who has limited English proficiency, means:

- The language normally used by the person or the child's parents
- In all direct contact with the child (including evaluation of the child), the language normally used by the child in their home or learning environment

For a person who is deaf or blind, or with no written language, the mode of communication is what the person normally uses (sign language, Braille, or oral communication).



Notice for Provisions of Services and Programs - Model Form

Notice for Provision of Services and Programs

Michigan Department of Education Office of Special Education
August 2022

The *Individuals with Disabilities Education Act* (IDEA) mandates public agencies to provide prior written notice to a parent a reasonable time before proposing or refusing to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education (FAPE) to the student.

You are receiving this notice, in your native language, for:

(student name)

Purpose

A description of the action proposed or refused:

The district proposes refuses the following, regarding the request or action
(*rationale*):

Describe the evaluation procedures, assessment, record, or reports the district used to make the data-based proposal or refusal described above:

Notice Timelines – Determining Eligibility



Within 10 school days: School provides written notice and requests consent after receiving a parent's request for any evaluation

Within 7 school days from the Individualized Education Program (IEP) meeting: School provides parent written notice of an offer of a free appropriate public education (FAPE) or determination of ineligibility for special education programs and services

Within 10 school days: Parent provides school with written consent to provide initial special education services after receiving the initial offer of FAPE

As soon as possible or not more than 15 school days: Proposed special education IEP must start after parent receives written notification and provides consent to provide services (unless parent has filed an appeal)

Not more than 30 school days: The time from when the school receives parent's consent for an evaluation to the notice of a FAPE or ineligibility for services

- **30 school days includes the requirement to receive notice within 7 days of the IEP meeting**

Notice vs. Notification

Prior Written Notice (PWN) or Notice is the formal written document the district must provide parents when the district proposes to initiate or change certain things or refuses to initiate or change certain things.

- PWN must be given to a parent **BEFORE** the any proposed changes are made.

Notification is less formal, does not have the content requirements of notice, and does not have to be in writing such as:

- classroom/course changes
- bus schedule change
- state/district assessments
- general screenings or observations not part of an evaluation



Notice vs. Consent

Notice is not the same as consent

- **Notice:** written information to parents to explain an activity the school wants to do/refuses to do
- **Consent:** process of getting formal permission for the school to complete an activity

Written notice must always be given before consent is requested

Consent must always be in writing

Schools must clearly state the reason consent is being requested

Schools must inform parents that their consent is voluntary and can be withdrawn at any time

PWN is required

Examples

Evaluation

- Prior to requesting consent
- When the school says “no, not now”
- Following a verbal or written request for an evaluation
- When no further information is necessary to continue eligibility

Identification

- Prior to identification as a student with a disability
- Following a parent’s refusal to give consent
- Following a request for change in eligibility

Placement

- Initial placement determination
- Change in least restrictive environment (LRE)
- Refusal to change placement requested by a parent
- Change in placement due to disciplinary reasons

PWN is required

Examples

Free Appropriate Public Education (FAPE)

- After IEP is proposed by district
- IEP amendment
- Change in services, accommodations, or modifications
- Removing specialized transportation from the IEP
- Provision of services when a student transfers to a new school district
- Graduation with a diploma
- Termination of services

Other

- Refusal to convene an IEP team meeting after a parent's request
- Revocation of parental consent
- Refusal to provide services to a student who is parentally placed in a private school when a parent requests services
- Transfer of rights at age of majority
- Independent Educational Evaluation (IEE)

PWN is NOT required

Examples

- General screenings (not evaluations)
- Observations conducted for instructional purposes
- State/district assessments
- Evaluation progress on annual goals
- Developing intervention strategies
- After each IEP meeting in a series of meetings (meeting reconvened)
- Change in classroom/teacher assignment/course schedule
- Change in school building location
- Following general meetings that do not result in proposal/refusal related to identification, evaluation, reevaluation, placement, FAPE
- To excuse an IEP team member from attending the IEP meeting

If the school finds a student ineligible for special education services after a 3-year reevaluation?

If the school finds a student ineligible for special education services after a 3-year reevaluation?



PWN is required if the school finds a student ineligible for special education services after a 3-year re-evaluation

**If a parent asks for their child to
spend more time in a less restrictive
environment?**

If a parent asks for their child to spend more time in a less restrictive environment?



PWN is required if a parent asks for their child to spend more time in a less restrictive environment

After each meeting in a series of meetings?

After each meeting in a series of meetings if nothing changes in the student's IEP?



PWN is not required
after each meeting in a
series of meetings that
don't result in changes to
the IEP

If a parent requests an IEP meeting to discuss adding additional therapy services into the IEP and the school says “no” to the request?

If a parent requests an IEP meeting to discuss adding additional therapy services into the IEP and the school says “no” to the request?



PWN is required if a parent requests an IEP meeting to discuss adding additional therapy services into the IEP and the school says “no” to the parent’s request.

If the Cognitive Impairment (CI) program a student attends moves to a different location?

If the CI program a student attends moves to a different location?



PWN is not required if the CI program changes to a different location

When the school refuses a parent's request for an Independent Educational Evaluation (IEE)?

When the school refuses a parent's request for an Independent Educational Evaluation (IEE)?



PWN is required if the school refuses a parent's request for an independent educational evaluation (IEE)

**To excuse a required IEP team member
from attending the IEP meeting?**

To excuse a required IEP team member from attending the IEP meeting?



PWN is not required if a required IEP team member cannot attend the IEP meeting

When the IEP team agrees to make a small change to an IEP with an amendment?

When the IEP team agrees to make a small change to an IEP through an amendment?



PWN is required if any changes to the IEP are made through an amendment

Options for Resolving Disagreements



Informal Meeting



Facilitated Meeting



Mediation



State Complaint



Due Process
Complaint/Hearing



**Special Education
Mediation Services**

I-833-KIDS-1ST

Wrap Up

Written notice is a legal requirement under the IDEA and part of your procedural safeguards.

Put your requests in writing, if possible.

If you need an IEP translated to meaningfully participate in your child's IEP meeting, **make the request in your native language.**

Document important process timelines for which the school must give you written notice. If you don't receive written notice when required, ask for it.

Keep written documentation of verbal conversations in which the school says they will do something or will not do something. Notice must still be given, even if something is proposed or refused verbally.

Know the required information that should be included in notice provided to you. If the information is not clear, ask questions. Schools do not need to use the model form to provide written notice, but all required information must be provided in writing.

Know that you can utilize dispute resolution options if you disagree with an IEP team decision.



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In collaboration with



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