

SPECIAL EDUCATION OPERATING PROCEDURES

ADMISSION, REVIEW, AND DISMISSAL COMMITTEE

PRIOR WRITTEN NOTICE

June 2022

K A T Y

PRIOR WRITTEN NOTICE

What is Required

Campus Special Education Personnel must provide Prior Written Notice to a parent before the District:

- Proposes or refuses to initiate or change the identification of the student;
- Proposes or refuses to initiate or change the evaluation of the student;
- Proposes or refuses to initiate or change the educational placement of the student;
- Proposes or refuses to initiate or change the provision of a free appropriate public education (FAPE) to the student;
- Proposes to convene an ARD Committee meeting as part of the invitation to the admission review, and dismissal meeting;
- Implements an IEP with which the parent disagrees; or
- Ceases the provision of special education and related services due to the parent's revocation of consent for services.

How and When the Notice Must Be Provided

Campus Special Education Personnel must provide the Prior Written Notice at least five school days before the District proposes or refuses the action, unless the parent agrees to a shorter timeframe.

If the parent submits a written request to the District's Special Education Director or to a Campus Administrator for an initial evaluation of the parent's child for special education services, District Special Education Personnel must, not later than the 15th school day after the date of receipt of the request, either:

- Provide the parent with Prior Written Notice of its proposal to conduct an evaluation, a copy of the *Notice of Procedural Safeguards*, and an opportunity to give written consent for the initial evaluation. See [CONSENT FOR INITIAL EVALUATION]; OR
- Provide the parent with Prior Written Notice of its refusal to conduct an evaluation and a copy of the *Notice of Procedural Safeguards*.

If a parent revokes consent for services, the District must provide Prior Written Notice to the parent before ceasing the provision of special education and related services to the student. *See [CONSENT FOR SERVICES]*.

The Prior Written Notice must be in a language understandable to the general public and 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 of the parent is not a written language, the District must take steps to ensure that the notice is translated orally or by other means for the parent in the parent's native language or other mode of communication and that the parent understands the content of the notice.

The parent may elect to receive Prior Written Notices by electronic mail communication, if the District makes that option available.

Content of the Notice

The District must include the following in the Prior Written Notice:

- A description of the action proposed by the District;
- An explanation of why the District proposes or refuses to take the action;
- A description of each evaluation procedure, assessment, record, or report the District used as a basis for the proposed or refused action;
- A description of other options that the ARD considered and the reasons why those options were rejected;
- A description of any other factors that are relevant to the District's proposal or refusal;
- A statement that the parent has protection under the procedural safeguards of the IDEA, and if the notice is not an initial referral for evaluation, the means by which a copy of the *Notice of Procedural Safeguards* can be obtained; and
- Sources for the parents to contact to obtain assistance in understanding the IDEA;

If the District is proposing to conduct an evaluation, it must also include in the Prior Written Notice a description of any evaluation procedure it proposes to conduct.

Definitions

“Consent for services” is the informed consent that the District must obtain before the initial provision of special education and related serves.

“Informed Consent” means that: the parent has been given all the information related to the action for which parental permission is sought in the parent's native language or other mode of communication; the parent understands and agrees in writing to the activity for which permission

is sought, and the written consent describes the activity and lists any records that will be released and to whom; and the parent understands that the granting of his/her consent is voluntary and may be withdrawn at any time.

Additional Procedures

The District must provide a parent with Prior Written Notice when it proposes or refuses to initiate or change the student's identification, evaluation, placement, or how the student is provided a FAPE, regardless of whether the parent or District initiated the change or whether the parent agrees or disagrees with the change, or whether the District refuses to make a change or provide a service requested by the parent.

Prior Written Notice should be provided to notify the parent of the scheduling of an ARD meeting. Campus Special Education Personnel will provide the parent a Prior Written Notice of the ARD meeting at least 5 school days prior to the date of the ARD. If the Prior Written Notice of the ARD meeting is received by the parent less than or equal to 5 school days prior to the ARD, the parent must sign that they waive their right to the 5-day notice, and the signed notice must be attached to the ARD paperwork. If the parent will not waive their 5-day notice, the ARD meeting must be rescheduled to give the parent the requisite notice.

Special Education Personnel will also create and send to the parent a Prior Written Notice after each and every ARD meeting, detailing the decisions of the ARD Committee and including a description of all of the actions the ARD Committee has decided upon regarding the student's IEP and all the actions that the ARD Committee rejected, an explanation of why the ARD Committee is proposing or refusing to do the stated actions, a description of all the alternate actions or options the ARD Committee considered, a description of the data and other relevant factors that the ARD Committee considered to make its decisions, a statement of the parent's procedural rights, and information about the District, state, and local sources the parent can contact for questions regarding their rights. None of the actions documented in the ARD Committee can be implemented until 5 school days after the parent has received a copy of the Prior Written Notice, unless the parent has waived the waiting period at the ARD meeting.

Further, Special Education Personnel will create and send to the parent Prior Written Notice are when:

- Campus or District Special Education Personnel propose or refuse to conduct an initial evaluation of a student. *See* [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES] and [CONSENT FOR INITIAL EVALUATION]
- Campus or District Special Education Personnel propose or refuse to conduct a reevaluation of a student. *See* [REVIEW OF EXISTING EVALUATION DATA] and [CONSENT FOR REEVALUATION]
- Campus Special Education Personnel refuse to schedule an ARD meeting at parent request. *See* [ARD COMMITTEE MEETING]

- Campus Special Education Personnel amend the IEP without an ARD meeting. *See* [AMENDMENT WITHOUT A MEETING]
- The parent has given the District written notice revoking consent for an evaluation. *See* [CONSENT FOR INITIAL EVALUATION] and [CONSENT FOR REEVALUATION]
- The parent has given the District written notice revoking consent for the student to receive special education services. *See* [CONSENT FOR SERVICES]

Furthermore, Campus Special Education Personnel should provide Prior Written Notice to a parent or an adult student when the student graduates from high school since graduation constitutes a change in placement. *See* [GRADUATION].

Drafting the Notice

The District must provide the parent with several pieces of information in the Prior Written Notice, including the following:

- A description of the action proposed or refused by the District. For example:
 - *The District is proposing to conduct a three-year evaluation using existing data that includes teacher observations, student test results, and behavior logs.*
 - *Student has displayed aggressive behavior in the classroom for the last three months. Due to observed behavioral problems the District is proposing an evaluation to determine if student has a disability.*
 - *The District will conduct a transition assessment to gather information intended to help your student prepare for leaving high school.*
 - *Due to student's below grade level academic skills, student will receive direct special education services for reading and math as indicated in the attached IEP.*
- An explanation of why the District proposes or refuses to take the action. For example:
 - *Student's reading skills are more than two years below grade level even after receiving small group instruction on specific skill deficits for the last six months.*
 - *Student is displaying severe aggressive behavior. An FBA will be conducted to analyze the factors that may be contributing to this behavior.*
 - *Student's speech or pronunciation at her age is not clear to teachers and parents. Teachers and parents have difficulty understanding her when she talks.*
- A description of each evaluation procedure, assessment, records, or report that the District used as a basis for the proposed or refused action. The basis for the proposed action or refusal could be:

- teacher and/or parent input,
 - classroom performance,
 - formal assessment results,
 - work samples,
 - behavior logs,
 - progress on previous IEP goals and objectives, and/or
 - results of prereferral interventions.
- A statement that the parent has protection under the procedural safeguards of Part B of the Individuals with Disabilities Education Act (IDEA) and, if this notice is not an initial referral for evaluation, the means by which a copy of the Notice of Procedural Safeguard can be obtained. For example, Campus Special Education Personnel may direct the parent to the link on the District’s website.
 - Sources to contact for the parent to obtain assistance in understanding the provisions of Part B of the IDEA. For example, the contact information for the District’s Regional Education Service Center.
 - A description of other options that the ARD Committee considered and the reasons why those options were rejected. Other options considered by the ARD Committee could include:
 - delaying an evaluation,
 - conducting additional prereferral interventions,
 - conducting different assessment procedures,
 - reviewing existing data,
 - adding or deleting services in an IEP,
 - adding accommodations and modifications to an IEP; or
 - considering the alternative placements on the continuum of placements.
 - A description of any other factors that are relevant to the District’s proposal or refusal. Other factors affecting a proposal or refusal could include language issues, cultural issues, communication concerns, health concerns, behavior concerns, and/or assistive technology. For example,
 - *Student is legally blind. District will conduct a Braille evaluation.*

- *Student's primary language is Spanish. Some accommodations will be made for student's evaluation.*
- *Student requires frequent restroom breaks due to student's health condition. Accommodations related to student's need for frequent breaks are addressed in the attached IEP.*

ARD Committee Record as Notice

The record from an ARD Committee meeting may be used for the Prior Written Notice so long as the documents the parent receives contain all the content that must be included in the Prior Written Notice as described above. It is often easier, and more efficient, to prepare a separate document identified as a Prior Written Notice to ensure that all required elements of the Prior Written Notice are included, especially if the deliberations of the ARD Committee meeting are incomplete.

Provide Notice in a Timely Manner

The law does not require that the Prior Written Notice be provided by a certain date after the ARD Committee makes its decision, but it should be done in a timely manner. Regardless, Campus Special Education Personnel must provide Prior Written Notice at least five school days before the District implements the proposal described in the notice, unless the parent agrees otherwise. The parent may waive the five-day notice requirement. If the parent waives the five-day notice requirement, Campus Special Education Personnel should maintain written documentation of the waiver.

Evidence of Implementation

- ARD/IEP
- Documentation of Parent Agreement/Disagreement
- Notice of ARD Meeting
- Prior Written Notice after ARD Meeting
- Prior Written Notice for Evaluation
- Prior Written Notice for Graduation
- Prior Written Notice for ARD Amendment
- *Notice of Procedural Safeguards*
- Evidence of Parent Receipt of *Notice of Procedural Safeguards*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Parent Revocation of Consent for Services
- Parent Request for Evaluation
- Parent Request for ARD Meeting

Resources

[The Legal Framework for the Child-Centered Special Education Process: Prior Written Notice - Region 18](#)

[Notice of Procedural Safeguards - Texas Education Agency](#)

[Parent's Guide to the Admission, Review, and Dismissal Process - Texas Education Agency](#)

[Prior Written Notice Questions and Answers - Region 13](#)

[Prior Written Notice - Region 4](#)

[OSEP Letter to Ferrara \(Feb. 29, 2012\) - U.S. Department of Education](#)

[OSEP Letter to Lieberman \(Aug. 15, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Spitzer-Resnick, Swedeen, and Pugh \(June 22, 2012\) - U.S. Department of Education](#)

[OSEP Letter to McWilliams \(July 16, 2015\) - U.S. Department of Education](#)

[OSEP Letter to Ward \(Aug. 31, 2012\) - U.S. Department of Education](#)

[OSEP Letter to Chandler \(Apr. 26, 2012\) - U.S. Department of Education](#)

[Prior Written Notice of Refusal - Partner Resource Network](#)

CITATIONS

Board Policy EHBAA; Board Policy EHBAE; 20 U.S.C. 1414(b)(1), 1415; 34 CFR 300.300, 300.304(a), 300.322, 300.503, 300.504, 300.505; 19 TAC 89.1011, 89.1015, 89.1045(a), 89.1050(h), 89.1055(g)

STAFF RESPONSIBLE

Questions related to Prior Written Notice can be directed to:

Director for Specialized Programs or to the Department of Special Education

(281) 396-2630