

Frequently Asked Questions Prior Written Notice

Question 1: **When is a local educational agency (LEA), a school district or charter school, required to provide a parent or an adult student with prior written notice?**

Response: The Individuals with Disabilities Education Act (IDEA) requires that an LEA provide a parent or an adult student 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 free appropriate public education (FAPE). An LEA is also required to provide prior written notice to a parent or an adult student before it ceases to provide special education and related services in response to the parent's or adult student's revocation of consent for the continued provision of services. In addition, an LEA must provide prior written notice before implementing an individualized education program (IEP) with which the parent or adult student disagrees.

Some examples of when an LEA must provide prior written notice are when it proposes or refuses to:

- Conduct an initial evaluation of the student;
- Change the student's placement from a special education classroom to a general education classroom; or
- Change the types or amounts of related services the student receives.

Question 2: **Is there a timeline for when an LEA must provide a parent or an adult student with prior written notice?**

Response: Yes. An LEA must provide prior written notice at least five school days before it implements the proposal or refusal described in the notice, unless the parent or adult student agrees otherwise. This means that a student's new or revised IEP cannot be implemented until at least five school days after the LEA provides the prior written notice.

Question 3: **Can a parent or an adult student waive the five-day notice requirement so that a change to the student's IEP can be implemented sooner?**

Response: Yes. The parent or adult student may waive the five-day notice requirement. The Texas Education Agency (TEA) recommends that LEAs implement policies and procedures that address how a waiver of the five-day notice requirement should be documented.

Question 4: **Must an LEA provide a parent or an adult student with prior written notice in every instance where a student's IEP is changed?**

Response: Yes. Prior written notice is required whenever a student's IEP is changed.

Question 5: Must an LEA provide prior written notice to a parent or an adult student even if the parent or adult student has agreed to the proposed change?

Response: Yes. An LEA must provide prior written notice regardless of whether the parent agrees or disagrees with the change.

Question 6: Must an LEA provide prior written notice to a parent or an adult student even if the proposed change was initiated by the parent or adult student?

Response: Yes. An LEA must provide prior written notice regardless of who initiated the change.

Question 7: Must an LEA provide prior written notice to a parent or an adult student when a student's IEP is amended outside of an Admission, Review, and Dismissal (ARD) committee meeting?

Response: Yes. If an LEA and a parent or an adult student agree to amend the student's IEP without convening an ARD committee meeting, the LEA must provide the parent or adult student with prior written notice of the amendment.

Question 8: Must an LEA provide prior written notice to a parent or an adult student when the student graduates from high school?

Response: Yes. Provisions at 34 CFR §300.102 read in part, "Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with §300.503."

Question 9: Is there a specific form that LEAs must use for prior written notices?

Response: No. The federal regulations specify the content that must be included in a prior written notice, but do not require that a standard form be used.

Question 10: What information must the prior written notice contain?

Response: In accordance with §300.503(b), the prior written notice must include the following:

- (1) A description of the action proposed or refused by the LEA;
- (2) An explanation of why the LEA proposes or refuses to take the action;
- (3) A description of each evaluation procedure, assessment, record, or report that the LEA used as a basis for the proposed or refused action;
- (4) A statement that the parent (or adult student) has protection under the procedural safeguards of Part B of IDEA and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

- (5) Sources to contact to obtain assistance in understanding the provisions of Part B of IDEA;
- (6) A description of other options that the ARD committee considered and the reasons why those options were rejected; and
- (7) A description of other factors that are relevant to the LEA's proposal or refusal.

Question 11: Can the record from the ARD committee meeting itself constitute the prior written notice rather than requiring a separate document?

Response: Yes. The record from the ARD committee meeting, which includes among other things the proposed IEP, can be used for the prior written notice as long as the documents the parent or adult student receives contain all of the content that must be included in a prior written notice. (See Response to Question 10.)

Question 12: Does the five-day notice requirement apply to notices of ARD committee meetings?

Response: Yes. An LEA must provide a parent or an adult student with a notice of the student's ARD committee meeting at least five school days before the meeting, unless the parent or adult student agrees otherwise.

Question 13: When must an LEA provide prior written notice that it will implement an IEP with which the parent or adult student disagrees?

Response: When an LEA and a parent or an adult student cannot reach agreement about all of the required elements of an IEP, the LEA must offer the parent or adult student one opportunity to have the ARD committee recess for a period not to exceed 10 school days. If the parent or adult student refuses the offer to recess the meeting or if the ARD committee still cannot reach agreement after reconvening, the LEA must provide the parent or adult student with prior written notice that it will implement the IEP that it has determined to be appropriate.

Question 14: What if a parent's native language is not English?

Response: A prior written notice must be provided in the parent's native language or other mode of communication, unless it is clearly not feasible to do so. If the native language or other mode of communication is not a written language, the LEA must take steps to ensure that: (a) the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; (b) the parent understands the content of the notice; and (c) there is written evidence that the LEA met these requirements.