



# Know Your Parental Rights: The meaning and importance of Prior Written Notice and Parent Consent

The federal special education law IDEA (Individuals with Disabilities Education Act) gives **parents a legal right and responsibility to participate in the education of their child with disabilities**. The special education services for a child are developed in a decision-making process involving the child's parents and school district staff. Prior Written Notice and giving parent consent are important parental rights in special education. These rights are in IDEA and in Minnesota Statute.

- Prior Written Notice means that before (prior to) the school district taking or refusing to take certain actions, they must give parents information in writing (the notice) stating what the action is and why they are taking or not taking it.<sup>1</sup>
- Parent consent means that parents have an opportunity and responsibility to agree or disagree with actions the school district wants to take (proposes) or refuses to take.
- Parents may make requests for changes regarding their child's special education evaluation, identification, or Individualized Education Program (IEP) including educational placement.

## **When does the school need to give Prior Written Notice to parents?**

**Prior Written Notice is required** whenever the school district:

- proposes to begin or change the identification, evaluation, or educational placement of a student
- refuses to begin or change the identification, evaluation, or educational placement of a student
- proposes or refuses changes to the provision of a free, appropriate public education of a student

In addition, the notice is required when a parent revokes consent (withdraws or takes back agreement made previously) in writing for special education services to continue for their child.

**Parents can expect to receive a Prior Written Notice:**

- after an IEP meeting has been held, and a new or annual IEP has been written
- whenever the school district and parents make an evaluation plan for the child, either for the first time (initial) or for a reevaluation (usually every three years)
- whenever parents make requests for changes on their child's identification, evaluation, or IEP including educational placement (PACER recommends that parents put requests to the school in writing)

<sup>1</sup> There is no required form, or title of the form, but the notice must be in writing and cover all the required components. The Minnesota Department of Education Model Form Instructions for the Prior Written Notice Form can be found at <http://education.state.mn.us/MDE/dse/sped/du>. School districts may use this model form to develop their Prior Written Notice. The district will need to insert the required parent, child, and situation-specific information according to these requirements. Parents have a right to receive the information in a way they can understand. The notice must be in the native language of the parent if the parent does not understand English. Translation may be either oral or written. If it is oral, there should be documentation of the oral translation and of understanding by the parents in writing and in the student's file. It should not use abbreviations, jargon, or acronyms.

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## **What is included in the Prior Written Notice?**

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The Prior Written Notice will give parents more information about what will or will not be included in the IEP or evaluation plan. The notice the school sends to parents must include:

- clear and specific description of the action the school proposes or refuses (what has been added, changed, or removed from the IEP or evaluation plan); for an evaluation, the “action proposed” should include the specific evaluation procedures and evaluators (i.e., a list of specific tests and specifically by whom they will be done)
- the reason why the school district is making the proposal or refusing the request
- description of the evaluations, assessments, records, or reports the district used to make their decision
- description of what other options were considered by the IEP or evaluation team, and why they were rejected
- description of other factors affecting the proposal or refusal
- statement informing the parents of the protections they have under IDEA’s procedural safeguards and how they can get a copy of Minnesota’s procedural safeguards
- resources for parents for help in understanding the Prior Written Notice and procedural safeguards
- an explanation that, if the parent objects to a proposal or refusal in the Prior Written Notice, parents must have an opportunity for a conciliation conference to try to resolve the disagreement. The school district must hold a conciliation conference within ten days from the date the district received the parent’s objection to a proposal or refusal in the Prior Written Notice. The school district must also inform parents of other alternative dispute resolution procedures such as mediation or facilitated IEP team meetings.<sup>2</sup>

**Timeline:** The school must give parents this notice no less than 14 calendar days before the proposed date of the IEP change or the evaluation. If the notice only includes a refusal of a request, it must be given to parents within 14 calendar days of the date the request was made.

## **How can parents agree or disagree?**

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Parents will receive a Parental Consent or Objection Form along with the Prior Written Notice. Parents have 14 calendar days from the date the forms were given or sent by the school to them to respond.<sup>3</sup>

### **For an IEP, if parents:**

- agree with the proposed IEP, they will check “yes”
- disagree with the entire proposed IEP, they will check “no” on the form; to begin the process of resolving the disagreement, request a conciliation conference or other dispute resolution option
- agree with some but not all of the proposed IEP, they will sign that they agree with some of the proposals and also write down objections to other proposals (some school district forms include a specific place for this; others do not) to begin the process of resolving the areas of disagreement

**It is important to note** that if the child is already receiving special education services (has an IEP) and parents do not sign the form with agreement or disagreement, the changes will go into effect by the 14-day deadline.<sup>4</sup>

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<sup>2</sup> PACER recommends that if parents object to a proposal or refusal they do so in writing.

<sup>3</sup> Parents, guardians, surrogate parents, and students 18 or older who have had rights transferred to them are the only people who can legally consent or object to an IEP.

<sup>4</sup> If the child is not currently receiving special education services (initial IEP), the school may not move forward to provide services when a parent does not consent to the IEP in writing. The school also may not override a parent’s written refusal to reevaluate. However, the school may do a review of the child’s records without written parental consent.

**After parents check the appropriate box they should:**

- sign the form
- make a copy of the form for their records, if possible
- return it to the person whose name appears on the form within the 14-day timeframe

The school should begin the services to which the parents agree and set up the process of resolving any disagreement. For questions or information on methods to resolve IEP disagreements, contact PACER Center.

In summary, parents have the right to receive the Prior Written Notice and have the responsibility to agree or disagree with the school district's proposals. These parental rights and responsibilities are essential parts of the special education process and the education of a child with a disability. For more information parents may call PACER Center and ask to speak to an advocate.

**For an IEP, the process would look like this:**

