

Procedural Safeguards - 5.1 Prior Written Notice

State Performance Plan (SPP):

(See Overview in the Introduction for more information on the SPP.)

SPP 8:

Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities. (20.U.S.C. 1416 (a) (3) (A))

Intent:

To notify the parents of a child with a suspected or confirmed disability, within a reasonable time, what specific action a school district (LEA) will initiate regarding identification, evaluation, educational placement or provision of FAPE. The notification also may inform parents of the district's refusal of action.

Timelines:

Notice shall be provided:

Before the school district proposes or refuses to take specific actions

Prior written notice must be given to the parents of a child with a suspected or confirmed disability within a reasonable time **before the school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.**

A list of actions requiring prior written notice and when it must be provided is included on the chart at the beginning of the Procedural Safeguards section. See "When to Provide Prior Written Notice, Informed Consent, and Procedural Safeguards Notice (Whose IDEA Is This?)."

REQUIREMENT

3301-51-05

(H) Prior notice by the school district; content of notice

(1) Notice

Written notice that meets the requirements of paragraph (H) (2) of this rule must be given to the parents of a child with a disability a reasonable time before the school district of residence:

- (a) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
- (b) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(J) Electronic mail

A parent of a child with a disability may elect to receive notices required by this rule by an electronic mail communication, if the school district makes that option available.

GUIDANCE

Prior notice by the school district

A list of actions requiring prior written notice is included on the chart at the beginning of the Procedural Safeguards section. See "When to Provide Prior Written Notice, Informed Consent, and Procedural Safeguards Notice (Whose IDEA Is This?)."

The school district provides parents with a completed Prior Written Notice to Parents PR-01 form within a reasonable time before the school district proposes or refuses to take specific actions as described in the Requirements above.

- A "reasonable time" is considered to be two to three weeks.

Electronic mail

The school district may make the Prior Written Notice to Parents PR-01 form, the procedural safeguards notice (*Whose IDEA Is This?*) and the notification of a due process complaint available by electronic communication if the parents choose to receive notices electronically. If so, the school district should document this request; for example, district personnel make a notation in the child's file of the parents' verbal request, including the date and place of the request (e.g., parent conference, hallway conversation, IEP meeting).

Note: If the school district communicates with the parents by electronic mail, these communications become part of the child's education record.

REQUIREMENT

3301-51-05

(H) Prior notice by the school district; content of notice

(2) Content of notice

The notice required under paragraph (H) (1) of this rule must include:

- (a) A description of the action proposed or refused by the school district;
- (b) An explanation of why the school district proposes or refuses to take the action;
- (c) A description of each evaluation procedure, assessment, record, or report the school district used as a basis for the proposed or refused action;
- (d) A statement that the parents of a child with a disability have protection under the procedural safeguards of this rule 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;
- (e) Sources for parents to contact to obtain assistance in understanding the provisions of this rule;
- (f) A description of other options that the IEP team considered and the reasons why those options were rejected; and
- (g) A description of other factors that are relevant to the school district's proposal or refusal.

GUIDANCE

Content of notice

The school district adopts the Prior Written Notice to Parents PR-01 form included in this guidance document.

- This notification is intended to give parents a full explanation of what actions the school district is proposing or refusing to take and gives the parents an opportunity to agree or disagree with those actions.

REQUIREMENT

3301-51-05

(H) Prior notice by the school district; content of notice

(3) Notice in understandable language

(a) The notice required under paragraph (H) (1) of this rule must be:

- (i) Written in language understandable to the general public; and
- (ii) Provided 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.

(b) If the native language or other mode of communication of the parent is not a written language, the school district must take steps to ensure:

- (i) That the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;
- (ii) That the parent understands the content of the notice; and
- (iii) That there is written evidence that the requirements in paragraphs (H) (3) (b) (i) and (H) (3) (b) (ii) of this rule have been met.

GUIDANCE

Notice in understandable language

If the school district has a parent mentor, it may request the parent mentor to assist in explaining the notice to the parents.

If the parents' native language is not English, the school district checks the ODE Web site at [http:// education.ohio.gov](http://education.ohio.gov), keyword search: *prior written notice* to determine if the Prior Written Notice PR-01 form has been translated into the language of the parents. If the form is available in the parents' native language, the school district downloads a copy of the form and arranges for the notice to be completed in the parents' language. If the Prior Written Notice PR-01 form has not been translated into the parents' native language, the school district arranges (if such translation services are available) to have the notice translated.

If it is clearly not feasible to provide the parents with a written translation of the notice, the school district should make arrangements for a bilingual interpreter, who speaks the parents' language, to meet with the parents at a mutually agreed upon time and place to explain the notice.

For assistance with translation (native language other than English) or recommendations of translators or oral interpreters, contact:

- Ohio Department of Education

Lau Resource Center

Telephone: (614) 466-4109

If the parents are visually impaired or blind, the school district provides the notice orally or in large print or Braille.

For information on large print or Braille production, contact:

- Center for Instructional Supports and Accessible Materials (CISAM)

Ohio State School for the Blind

Telephone: (614) 644-8465 or (614) 644-8423 (Braille Production Program)

[http:// cisam.ossb.oh.gov](http://cisam.ossb.oh.gov)

If the parents are hearing impaired or deaf, the school district arranges for interpreting services. The district should schedule a meeting at a mutually agreed upon time and place for the interpreter to explain the notice to the parents.

The school district must document steps taken to ensure that the notice was explained and that the parents understand the content of the notice (e.g., record meeting date, time and place where interpreter services were provided) and include this documentation in the child's education record.

REQUIREMENT

3301-51-05

(H) Prior notice by the school district; content of notice

(4) Additional notice requirements

- (a) Prior written notice shall be provided to the parents of a child with a suspected or confirmed disability within thirty days of the date of referral.
- (b) Prior written notice shall be provided to the parents of a child with a suspected or confirmed disability prior to a change of placement that is a result of a disciplinary action.
- (c) The IEP shall serve as written notice unless the parent disagrees with the IEP. If the parent disagrees, written notice shall be provided prior to the implementation of the IEP.

GUIDANCE

In addition to the requirement for providing prior written notice to parents within a reasonable time before the school district proposes or refuses to take an action, the school district provides the Prior Written Notice to Parents PR-01 form in accordance with the timelines stated in the above requirement.

IEP as written notice

If the school district and the parents agree to the IEP as a result of the IEP meeting, the IEP serves as prior written notice.

If the parents disagree with the IEP, the school district completes and provides the parents with the Prior Written Notice to Parents PR-01 form addressing the area of disagreement before implementing the IEP.

LEGAL CITATIONS:

Federal Statutes:

20 USC 1415(b) (3) and (4)

Federal Regulations:

34 CFR §300.503

Ohio Revised Code:

Operating Standards: (Procedures)

3301-51-05(H) and (J)

FORMS (* = required)

- Prior Written Notice to Parents PR-01*
- IEP PR-07*