

Prior Written Notice (PWN)

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5 W's of Prior Written Notice (PWN)

- What is PWN and what must PWN include?
- Who must receive PWN?
- How must PWN be provided?
- Why is PWN required?
- When must PWN be provided?

August 5, 2022

Prior notice by the public agency; content of notice (34 C.F.R. § 300.503(a))

- **PWN Requirement: Written notice**
 - In language understandable to the general public; and 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.
 - If native language or other mode of communication is not a written language, the local educational agency must have written evidence that the notice is translated orally or by other means and the parent understands the content of the notice.

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Prior notice by the public agency; content of notice (34 C.F.R. § 300.503(a))

- **PWN Requirement: Given to parents of a child with a disability**

- A parent of a child with a disability may “elect” to receive PWN by an electronic mail communication if the public agency makes that option available.
- This is not automatic. Parent must agree to receive notices by email.
- Whatever mode is used, be sure to document when and how PWN was provided to the parent.

August 5, 2022

Prior notice by the public agency; content of notice (34 C.F.R. § 300.503(a))

- **PWN Requirement: A reasonable time before the public agency:**
 - Proposes or Refuses to initiate or change:
 - the identification of the child
 - the evaluation of the child
 - the educational placement of the child
 - the provision of a free appropriate public education (FAPE) to the child

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What does provide notice a “reasonable time” before the proposal or refusal mean?

- “There is no requirement in the [IDEA] regarding the point at which the written notice must be provided as long as it is provided a reasonable time *before* the LEA actually implements [or refuses to implement] the action.”
- “This provides parents, in the case of a proposal or refusal to take action, a reasonable time to fully consider the change and respond to the action before it is implemented.”
- [U.S. Department of Education, Office of Special Education Programs \(OSEP\) Letter to Chandler, April 26, 2012](#)

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Please note....

- Providing PWN in advance of an IEP Team meeting could suggest the LEA's proposal or refusal was determined before the meeting.
- PWN must be provided “irrespective of whether or not the proposal or refusal is made during the course of an IEP Team meeting. . .”
- OSEP Letter to Chandler, April 26, 2012.

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Please note...

- PWN must also be provided “in the circumstances where a public agency is not proposing a change, but rather agreeing with a change that has been proposed by a parent. . . Nothing in the statute or regulations indicates that the notice is related to a parent’s attitude toward any changes proposed or refused by the public agency.” [OSEP Letter to Leiberman, August 15, 2008.](#)

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The Why

- “Providing [PWN] following an IEP Team meeting where [] a change is proposed – or refused – allows the parent time to fully consider the change and determine if he/she has additional suggestions, concerns, questions, and so forth.” OSEP Letter to Leiberman, August 15, 2008.
- Making sure parents are informed participants through the special education process

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Prior notice by the public agency; content of notice (34 C.F.R. § 300.503(a))

- **PWN Requirement**: Meets the seven (7) requirements of **Content of Notice (34 C.F.R. § 300.503(b))**

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Content of Notice (34 C.F.R. § 300.503(b))

1. A description of the action proposed or refused by the agency;
 - Should be “specific” and not vague or implied
2. An explanation of why the agency proposes or refuses to take the action;
 - Should be “child-specific” and connect to the child’s needs that result from child’s disability

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Content of Notice (34 C.F.R. § 300.503(b))

3. A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
 - Must include “each” - meaning “ALL”
 - Examples:
 - Evaluation reports
 - IEP progress reports
 - Discipline records
 - Report cards
 - MTSS/RTI data
 - Teacher observations

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Content of Notice (34 C.F.R. § 300.503(b))

4. A statement that the parents of a child with a disability have protection under the procedural safeguards of this part 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;
 - Only requires the “statement” that parents have rights under IDEA and “how” they can obtain a copy of those rights unless the PWN is related to a referral for initial evaluation

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Content of Notice (34 C.F.R. § 300.503(b))

5. Sources for parents to contact to obtain assistance in understanding the provisions of this part;
 - Could include name and contact information for district-level staff
 - Could also include outside resources such as GaDOE Special Education Help Desk, Parent to Parent of Georgia, local advocacy groups

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Content of Notice (34 C.F.R. § 300.503(b))

6. A description of other options that the IEP Team considered and the reasons why those options were rejected; and
 - Should be “specific” and not vague or implied
 - Should be “child-specific” and connect to the child’s needs that result from the child’s disability
 - Just saying that it is not “appropriate” or not the student’s least restrictive environment (LRE) is NOT enough

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Content of Notice (34 C.F.R. § 300.503(b))

7. A description of other factors that are relevant to the agency's proposal or refusal.
 - This is not optional
 - Include other “child-specific” information that is relevant to the decision

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Tips

- Make sure the PWN is easy to read and understand. No “legalese” or “education-lese”
- Don’t use Individuals with Disabilities Education Act (IDEA) acronyms without writing them out first
- Use factual, objective statements
- Avoid emotional, speculative, and judgmental language
- Be specific and detailed
- Proofread

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IEP as PWN

- “[N]othing in the IDEA or the regulations would prohibit a public agency from *using* the IEP *as part of* the prior written notice so long as the document(s) the parent receives meets all the requirements in 34 C.F.R. §300.503.” OSEP Letter to Lieberman, August 15, 2008.

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IEP and other documents as PWN (Ga. Bd. of Educ. 160-4-7-.09(c))

- “In most cases,” the PWN requirements can be addressed by providing the parent(s) with a copy of documents such as:
 - Consent to evaluate
 - Consent for initial provision of special education services
 - Consent for accessing a child’s or parent’s public benefits or insurance
 - Evaluation report
 - Eligibility report
 - Invitation to a meeting
 - Full IEP with minutes, if taken and/or
 - Other relevant documents, as appropriate
- **BUT all required sections of PWN must be addressed**

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Remember...

- PWN must be in writing and must include all required information.
- Robust discussions during IEP Team meetings where issues and reasons were discussed at length CANNOT substitute for the written requirements of PWN.
- PWN is not a “nicety” but a “requirement”

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