

# Prior Written Notice: What, When, Why and How


Presented by Dr. Brenda de la Garza

1

## Today's Outcomes

Define	Participants will define of Prior Written Notice (PWN)
Learn	Participants will learn when PWN must be provided to parents or guardians
Understand	Participants will understand why PWN is an important part of the IEP process
Write	Participants will write a PWN that complies with IDEA requirements


© Region One ESC Special Education Program




5

5

# PWN: What?



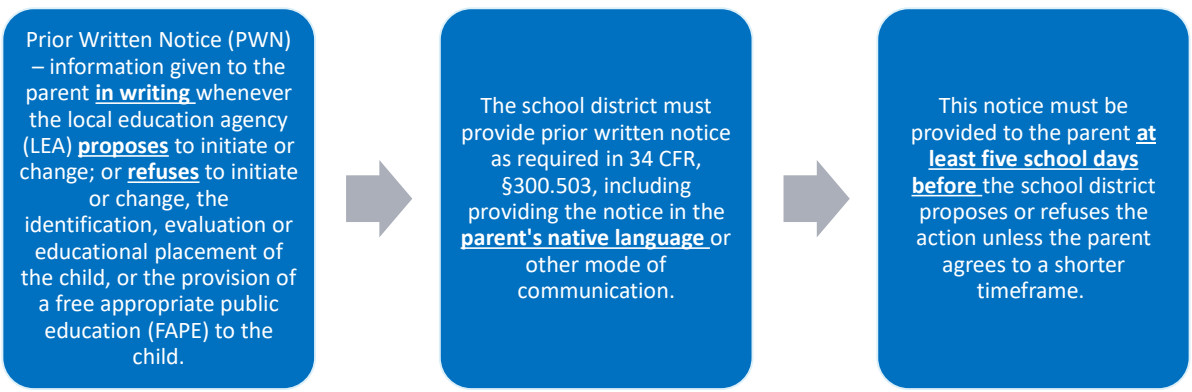
© Region One ESC Special Education Program



6

6

## Definition




Prior Written Notice (PWN) – information given to the parent in writing whenever the local education agency (LEA) proposes to initiate or change; or refuses to initiate or change, the identification, evaluation or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child.

The school district must provide prior written notice as required in 34 CFR, §300.503, including providing the notice in the parent's native language or other mode of communication.

This notice must be provided to the parent at least five school days before the school district proposes or refuses the action unless the parent agrees to a shorter timeframe.

© Region One ESC Special Education Program



7

7

## Definition

### Notice.

Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency—



### Proposes or Refuses

(1) **Proposes** to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

(2) **Refuses** to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.



8

## Tip - don't be confused by "prior" or "propose"



Make sure that staff and parents understand the distinction between a **meeting notice** and **prior written notice**.




Remember . . . The purpose of prior written notice is to document decisions made by the LEA and is intended to give parents adequate notice **before the decision is implemented**.



9

**PWN: Why?**

© Region One ESC Special Education Program



10

10


**Purpose**

To ensure that a **parent understands** the special education and related services which an LEA has proposed or refused to provide to a student.

If a parent does not understand the services being proposed, it follows that the parent could not have agreed to the proposed services.

*Letter to Boswell, 49 IDELR 196, (OSEP 2007)*

© Region One ESC Special Education Program



11

11



# PWN: When?

© Region One ESC Special Education Program




12

12


## Is the prior written notice given before a decision is contemplated or before a decision is acted upon?

A public agency meets the requirements in §300.503 so long as the prior written notice is provided a reasonable time before the public agency implements the proposal (or refusal) described in the notice.



Reasonable time is defined for PWN purposes as 5 school days in Texas

© Region One ESC Special Education Program




13

13

## When

Identification	Evaluation	Placement	FAPE (proposed services)	Consent
Does the child have a disability or need special education from education?	Initial evaluation, re-evaluation, dismissal	A change in the IEP and where the IEP will be implemented	How the child will be provided a "Free Appropriate Public Education".	Revoke consent for special education services

© Region One ESC Special Education Program




14

14

## Identification

- Refers to the identification of a child as a child with a disability, including the specific disability category or categories.
- Equate identification with labeling
- PWN should fully explain the actions being proposed & would include proposed category of disability
- Must list the labels in the PWN along with proposed services
- Parent requests a change in identification and the LEA refuses – must have PWN

© Region One ESC Special Education Program



15

15

## Evaluation

**In Texas there is a combined notice of consent for evaluation & services**

- **Definition of evaluation – means procedures that are used in accordance to determine if a child has a disability, the nature & extent in special ed. services**
- **Screening is NOT an evaluation & does not require PWN.**
- **Difference in screening & evaluation is the “why” – screening determines the instructional strategies for curriculum – not eligibility**



16

## Placement

Placement refers to a particular level on the continuum of alternative placements such as instruction in regular classes, special classes, special schools, home instruction, instruction in hospitals

- Educational placement means educational program-not the institution where that program is implemented
- Placement does not mean site location.



PWN must be given when there is a change in the continuum of LRE but not required if LRE does not change even if there is a change in location



17

## FAPE

Means special education and related services provided to the student due to their disability and individual needs without charge



PWN must be given when the elements of the IEP change including a proposal or refusal to revise a child's IEP

Change would include Type-Amount-Location; must be specified in the IEP



PWN may or may not be needed in a change of electives- depends on if the elective is part of the IEP

### Questions to consider

- Is the student receiving accommodations in the current class?
- Will the student need accommodations in the new class?



18

## Revocation of Special Education

Parent revokes special education services

- Must be a complete revocation of services – parent not allowed to pick & choose what services they want

PWN must be given before stopping services






LEA must state in specifics ALL services that will no longer be given



19



## Let's summarize

-  PWN must be given when a parent disagrees w/ decisions of the ARD committee before implementing the decision.
-  PWN is not limited to non-consensus ARD meetings.
-  PWN is also required when the request of change was made by the parent.
-  PWN is required when the parent agrees with changes in the IEP proposed by the ARD committee
-  Providing PWN after ARD allows the parent time to fully consider the change & determine if he/she has additional suggestions, concerns, questions



20

## Tip - PWN and Recessed ARD Meeting



If an ARD committee recesses, then a PWN is not required until the final determinations are made in the reconvened ARD committee meeting.




When a school district and a parent or an adult student cannot reach agreement about all of the required elements of an IEP, the school district 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 school district must provide the parent or adult student with prior written notice that it will implement the IEP that it has determined to be appropriate.**




22

### Tip - Questioning Need for PWN




If you are questioning whether a specific situation warrants the need for prior written notice, it is recommended that you prepare a properly comprised prior written notice to address the issue.



Better to have provided the notice and find that it was not required than to have not provided the notice and find that it was required.

© Region One ESC Special Education Program



23

23

**The following chart identifies when a Prior Written Notice is required**


Proposal or refusal to initiate or change something related to:	Yes	No
<b>Identification of Student</b>		
Screening		X
Response to Intervention		X
Eligibility for Special Education	X	
Category of Eligibility	X	

© Region One ESC Special Education Program


24


24

Proposal or refusal to initiate or change something related to:	Yes	No
<b>Evaluation of the Student</b>		
Collection of new data for initial evaluation and reevaluation	X	
Review of Existing Evaluation Data		X
Parent request for FIE	X	
Parent request for IEE and district agrees		X
Parent requests IEE and district refuses	X	
Refusal to Evaluate	X	

© Region One ESC Special Education Program  25

25


Educational Placement of the Student	YES	NO
Initial educational placement into special education.	X	
Relocation of the special education program (placement is not the same as location)		X
Move to more restrictive environment	X	
Move to less restrictive environment	X	
Dismissal from Special Education	X	
Graduation with regular diploma	X	
Disciplinary removal for more than 10 consecutive school days	X	
Disciplinary removal for not more than 10 school days		X
Relocation to DAEP for more that 10 days (provided after the manifestation review)	X	

© Region One ESC Special Education Program  26

26

Provision of FAPE to the Student	YES	NO
Deletion or addition of instructional or related services	X	
Increase or decrease in special education instructional services or related services	X	
Refusal to increase or decrease an instructional or related service	X	
Changes to the IEP(For inst. or related services)	X	
Changes, additions, or deletions to classroom accommodations	X	
Changes, additions, or deletions to classroom accommodations (For inst. or related services)	X	
Changes, additions or deletions of annual goals and objectives	X	
Changes, additions or deletions of annual goals and objectives (for inst or related services)	X	
Change in how a student will participate in statewide assessment	X	
Consideration of the 11 Autism Strategies	X	


© Region One ESC Special Education Program




27

27

# PWN: How?










© Region One ESC Special Education Program



28

28

## Content of PWN:

-  Description of the action proposed or reviewed
-  Explanation of why (rationale)
-  Description of each evaluation (justification) [formal & informal data]
-  Statement of parent's protections (procedural safeguards)
-  Sources for parents to contact to obtain assistance in understanding the provisions of this part
-  Description of other options that were considered & why those were rejected
-  Opportunity to describe other factors relevant to proposal or refusal



29

## NOTICES:

Two types connected with ARD

### Notice of ARD

1. Is an **invitation** to the ARD meeting (must include **specific purpose**-that the parent fully participates in the meeting). Commissioner's rules state the invitation must include elements of PWN. No predetermined determined decisions are made but must include actions that are to be **proposed** and an explanation of **why**.

**\*\*\*Make sure invitation notice does not suggest that a decision has already been made.**

### Prior Written Notice (Notice of Decision)

2. PWN is the notice that is provided **after** decisions are made at ARD. It indicates the time (5 school days) before changes agreed upon at the ARD are to take place.

**\*\*\* Make sure the PWN is done after the ARD, before would indicate predetermined.**



30

## Waiving 5 day notice:

### Discipline

- In case of PWN for discipline – recommend the LEA try to get parent to waive the 5 days to implement the ARD decisions at the time the disciplinary proposes disciplinary actions that would result in a disciplinary change of placement. Otherwise, must wait 5 days before discipline actions can take place.

### Parent not in attendance

- ARD attendance cannot give 5 day waiver verbally, but parents must have written document with PWN in hand before waiving 5 days & starting services immediately.

### No change

- Do not stop services that are a “no change” when there is no 5 day waiver

### Changes

- Must wait 5 days for changes to be implemented.



31

## ARD report as PWN:

**ARD report can be used as part of the PWN as long as the document the parent receives has all the components of the PWN.**

**ARD report naturally covers the proposals but does not naturally cover the refusals.**

**PWN must include the “Rest of the Story.”**

**Well written minutes (deliberations) often provide much of the information that is part of the PWN that is not reflected in the rest of the ARD report.**

***i* However, a well structured PWN form that would take the place of the minutes may be the best option.**



32

**Description of the action proposed or refused**

**The description should be written based on factual information rather than vague or generic.**

**Example**

- (initial)The school district is proposing to conduct an evaluation. Specific assessments are documented in the attached evaluation plan
- (reevaluation with existing information) The school district is proposing to conduct a 3 year evaluation using existing data including behavior logs, reading test results, observations, and teacher reports.
- The school district is denying your request for an evaluation for special education for your child Xavier.
- The school district is proposing to implement the IEP discussed at the IEP team meeting on (insert date). Please see attached IEP.

**Non-example**

- The annual IEP is due.
- See attached IEP.
- Billy is being evaluated for special education.
- Jessie needs an IEP.



**An explanation of why the action is proposed or refused detail of LEA's rationale for proposal/refusal**

**Example**

- (reevaluation) Johnny has not made sufficient progress on his IEP goals and continues to demonstrate a need for special education and related services.
- Jessie has difficulty following classroom and school behavior rules and expectations and his aggressive behavior is unsafe and disruptive in the general education classroom.

**Non-example**

- Billy needs an evaluation.
- A three-year evaluation is due.
- Lucy needs speech therapy.
- Johnny qualifies for special education



## Tip - Refusal of Parent Request



To avoid predetermination arguments, especially when the ARD committee has refused a request made by parents, include a definitive statement regarding their request and explain how the IEP team considered their request, their written and/or oral input, and any concerns they expressed, before reaching its decision to refuse their request.



Remember . . . be sure that considerations of any information provided by the parents from an outside resource such as their private physician, tutor, or advocate are documented.



35

### Description of each evaluation procedure, assessment, record or report the lea used as a basis for the proposed or refused action.

#### Example

- (reevaluation) Teacher and parent reports, work samples, a review of special help given to Billy in his current classroom and school records were used to make a decision to evaluate Billy for special education.
- (annual IEP) Billy's performance on IEP goals and objectives, MAP and MCA measures remain below grade level and Billy has difficulty processing information.
- (initial IEP) The need for special education is based on the results of standardized and informal ability and achievement tests and procedures that included observation, review of school records, teacher and parent reports, identification of an information processing problem and review of work samples.

#### Non-example

- The assessment team reviewed the special education referral.
- Prior interventions weren't successful in improving Jessie's behavior.
- An ARD committee meeting was held.



36



## Tip - information provided by parent



Be sure to document any oral or written information provided by the parent from a private provider, including identifying the provider by name and somehow ensuring that the written documentation can also be easily identified, such as, the type of information being provided (i.e., psychological evaluation, observation, recommendation), the date the document was prepared and/or provided, or the date that it was signed by the provider.



37

### Description of any other options the IEP team considered and reason for the rejection of those options detail of LEA's consideration of option and why they were rejected

#### Example

- There were no other factors, outside of those listed above, that were considered by the IEP team. Neither the parents, nor any LEA personnel participating in the meeting, presented any other factors that needed to be considered.
- (considering a more restrictive placement) The team considered placing Johnny in a setting 4 placement but decided against that option because his is making sufficient progress in the setting 3 placement as indicated by progress reports and teacher input.

#### Non-example

- No other options needed to be
- Billy is being served in regular education (i.e., the least restrictive environment) so no other options needed to be considered. considered.
- No other options are needed.



38

**Description of any other factors that are relevant to the LEA's proposal or refusal.**

May include language/cultural issues, communication concerns, behavior concerns, harmful effects of the program/placement, & Assistive technology

**Example**

- (Evaluation OHI considerations) Mary has a diagnosis of ADHD and will need testing sessions broken into smaller segments to obtain optimal results.
- (evaluation ELL) Jose is not a native English language speaker. Some accommodations will be made for the evaluation.
- (IEP health factor) Pierre has a health condition that requires frequent restroom breaks. This accommodation is addressed in the attached IEP.

**Non-example**

- None
- Not applicable



**Tip - Comprehensiveness of PWN**



While it is important to ensure that the prior written notice document is comprehensive enough to address each of the LEA 's proposed and/ or refused actions, it is difficult to define what satisfies "comprehensive". The prior written notice, ***when properly written***, eliminates all doubts and/or misunderstandings.



### Tip - Document



Avoid leaving blanks and/or using terms such as, “not applicable,” “none,” and “NA” when completing the prior written notice document.



If using an IEP program to prepare the prior written notice document, do not let the prescribed allowance of characters limit the content and/or length of the document.



Avoid “cutting and pasting” from previously completed prior written notice documents, especially when it involves another child, and have someone “proofread” the prior written notice document prior to issuing it to the parents.



### Tip - Date and Document



It is advised to add

The date PWN was prepared

The date PWN was provided to the parent

Method of delivery



## In Summary....

### **Prior written notice is needed when...**

- There is a change in IEP regarding identification
- There is a change in IEP regarding evaluation
- There is a change in IEP regarding educational programming (including type/amount/location of services)
- Parent agrees with change in IEP
- Parent disagrees with change in IEP
- District initiates the change in IEP
- Parent initiates the change in IEP
- IEP is amended with/without ARD meeting
- Parent requests an evaluation through RTI
- Student graduates from High School
- Schedule changes affecting classes which have IEPs goals tied to them – including electives
- Student transfers from Part C to Part B and evaluation process is initiated

### **What Prior Written Notice is not..**

- Invitation to ARD
- Pre-determination of ARD decisions



44




## Intellectual Property Statement

All materials, content, and forms contained in this training/presentation are the intellectual property of the Region One Education Service Center and are intended for use by session participants at the classroom, campus, or district level only. Materials are to be used “as is” without modification.

Materials may not be used for personal benefit or financial gain or for use outside of the school system.




49



# Contact

Dr. Brenda I. De La Garza  
Special Education Coordinator  
956-984-6202  
[bdelagarza@esc1.net](mailto:bdelagarza@esc1.net)

© Region One ESC Special Education Program



50