

Prior Written Notice (PWN): A Guide for School District Staff

Purpose and Overview of the Document

This document aims to provide clear, practical guidance on the use of prior written notice (PWN), ensuring that school district and program staff understand its requirements, benefits, and best practices for implementation. While it offers suggestions intended to help staff fulfill their obligations effectively, it does not replace or diminish the responsibility to comply with all legal requirements. This guidance does not constitute legal advice, nor should it be considered definitive or legally binding. ODE recommends that school districts consult with their own legal counsel to understand their obligations. ODE may amend or clarify this information as needed.

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Introduction

As written documentation of decisions related to the identification, evaluation, educational placement, or the provision of a free appropriate public education (FAPE) for students experiencing disabilities and disabled students¹, PWN is a powerful tool for all parties involved in an individualized special education decision making process (e.g., individualized education program (IEP) or individual family service plan (IFSP) development). While special education decisions are usually made by the IEP or IFSP team, there are specific circumstances when this is not the case. However, local educational agencies (LEAs) (i.e., school districts and programs) must provide PWN for all LEA decisions related to the identification, evaluation, educational placement, or provision of FAPE for students experiencing disabilities and disabled students, whether or not they were made by an IEP or IFSP team.

Under Oregon² and Federal³ law, PWN must include sufficient detail to inform parents or adult students about the action that is being proposed or refused, the reasons for taking the action, and all procedural safeguards that are available to the parent and adult student. This enables LEA officials to provide clear explanations for the important and careful decisions they make for the education of students experiencing disabilities and disabled students. It also allows parents to fully understand LEA decisions and participate meaningfully in the IEP or IFSP process, including recognizing and acting when they disagree with district or program decisions.

LEAs must make FAPE available for each student experiencing disability and disabled student. Just as progress monitoring can be used to show that FAPE has been provided, PWN can be used to show that the IEP or IFSP and the student's education were reasonably designed to enable progress appropriate in light of the student's circumstances.

PWN:

- Is a formal written notice that an LEA must provide to parents or adult students before implementing or refusing to implement certain actions related to their child's or their own special education.
- Provides a clear, compelling explanation of the decisions the LEA made about a child or student's provision of FAPE.
- Plays a central role in ensuring that parents and adult students are informed and can participate meaningfully in decisions about their child's or their own education.
- Helps ensure transparency and accountability in the IEP and IFSP processes.
- Promotes collaboration between LEAs and families, making the educational decision-making process clearer and more inclusive.

¹ The Individuals with Disabilities Education Act (IDEA) supports the education of eligible individuals from birth to age 21. Although various terms (e.g., infants, toddlers, children, youth, students, adult students) are used to describe these individuals, this document will generally use the term 'child' to refer to family relationships and 'students' to refer to school relationships for members of any of these groups.

² ORS 343.041, OAR 581-015-2310, OAR 581-015-2745

³ 34 CFR § 300.503, 34 CFR § 300.421

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Content Requirements for PWN

The PWN provided to parents and adult students must contain specific information:

- a description of the action proposed or refused;
- an explanation of why the school proposes or refuses to take the action;
- a description of each evaluation procedure, assessment, record, or report the school used as basis for proposed or refused action;
- a description of the other options the agency or IEP/IFSP team considered and reasons why they were rejected;
- a description of any other factors relevant to the proposal or refusal;
- a statement that the parents and adult students have parental rights under the law; and
- sources for parents and adult students to contact to assist in understanding their rights.
- Additionally, if the notice is to propose to conduct an initial evaluation or a reevaluation, the notice must describe any evaluation procedures that the school proposes to conduct.

The notice is to be provided in language understandable to the general public, and in the native language of the parent or adult student unless it is clearly not feasible to do so. Additionally, if the native language or other mode of communication of the parent or adult student is not a written language, the school must take steps to ensure that: (a) the notice is translated orally, or by other means, to the parent or adult student in their native language or other mode of communication (such as sign language); (b) the parent or adult student understands the content of the notice; and (c) there is written documentation that these requirements are met.

Distinguishing PWN from Meeting Notices

IEP team members may confuse PWN and Meeting Notices, as both are forms of written notices required by the Individuals with Disabilities Education Act (IDEA).

A Meeting Notice is a formal invitation provided to parents or adult students to inform them of an upcoming IEP meeting, IFSP meeting, or other special education-related meeting. It is designed to ensure that parents and adult students have the opportunity to participate actively in the decision-making process regarding their or their child's education. This notice must include essential details such as the date, time, location of the meeting, who will be invited, and the topics to be discussed. In contrast, PWN is issued after key decisions have been made, generally by the IEP or IFSP team, and shares key information about those decisions, but before those decisions are implemented.

Both Meeting Notices and PWN have distinct required procedural elements as they serve different roles in the special education process. A **Meeting Notice** must be provided to parents and adult students **before the scheduled meeting** to allow them sufficient time to prepare and arrange their participation. Among other things, Meeting Notices must include information about who will attend, the purpose of the meeting, and how parents or adult students can contribute to the discussion.

On the other hand, **PWN** must be provided **within a reasonable time after the meeting** or decision-making process, **but before any proposed actions are implemented**. This timing ensures that parents

and adult students have an opportunity to review the decisions made, ask questions, and, if necessary, exercise their procedural safeguards, such as requesting mediation or a due process hearing.

The Role of PWN in Ensuring Procedural Safeguards

Why is PWN Required?

One of the procedural safeguards afforded to parents and adult students by the IDEA is the required PWN of certain special education actions. PWN ensures that each decision made by school officials about the identification, evaluation, educational placement, or provision of FAPE for a student experiencing disability or disabled student is clearly documented, with specific information, to help parents, adult students, and families understand the decision.

Benefits for School Districts and Programs

PWN provides school districts and programs with an essential tool to document the IEP or IFSP team's decision-making process regarding the identification, evaluation, educational placement, or provision of FAPE to a student experiencing disability or disabled student. This documentation not only fulfills a legal requirement but also adds a layer of transparency to the decisions being made.

While PWN is just one component of a comprehensive student record, it helps ensure that key decisions are clearly communicated and justified. This record can be particularly valuable during staff transitions, where incoming personnel can use PWN as a reference to quickly understand the decisions made by previous teams. Though PWN is not the sole source of information, it provides a concise overview that complements other detailed records within the student's file, offering context for the decisions made and helping team members align with established plans.

Additionally, well-documented PWN helps school districts and programs demonstrate that decisions were made in compliance with IDEA's requirements. This transparency helps to build trust with families and reinforces the district's commitment to adhering to established processes and ensuring that all educational decisions are appropriate, properly documented, and effectively communicated.

Benefits for Parents, Adult Students, and Families

PWN enhances parent and adult student participation by providing clear information, ensuring that parents and adult students are fully informed, and supporting parents' and adult students' ability to engage meaningfully in the IEP or IFSP process. By receiving detailed explanations of the decisions and a description of the data and information on which they are based, parents and adult students are better equipped to ask informed questions, express concerns, and provide valuable input. When parents and adult students have a complete understanding of the services being received, they are better able to support their own or their child's educational needs. This empowers parents to advocate for their child and adult students to advocate for themselves. It also fosters a collaborative partnership between families and educators. PWN accordingly helps parents and adult students work more effectively with the IEP or IFSP team to develop and implement an educational program that is tailored to their or their child's strengths and challenges.

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Ultimately, PWN plays a vital role in building trust, transparency, and mutual respect in the special education process, ensuring that educational decisions are made collaboratively and with full consideration of the child's unique needs. They equip parents with the necessary information to understand and respond to LEA decisions which supports their role as equal members of the IEP or IFSP team and ensures their rights are protected.

When is PWN Required?

PWN must be provided to parents and adult students on or after the date a decision is made by a school district or program to **propose or refuse to initiate or change** any of the following for students experiencing disabilities and disabled students, but within a reasonable amount of time before the date the decision will be implemented or otherwise go into effect:

- **Identification:** The process of determining whether a student experiences disability or is a disabled student and is eligible for early intervention/early childhood special education (EI/ECSE) or special education services.
- **Evaluation:** The comprehensive assessment of a student's abilities, skills, strengths, and needs to determine eligibility for special education services and to identify specific educational needs.
- **Educational Placement:** The determination of the most appropriate educational setting for a student experiencing disability or disabled student from the available settings within the LEA's continuum, which must include instruction in regular classes, special classes, or special schools; home instruction; and instruction in hospitals and institutions.
- **Provision of FAPE:** The delivery of educational services, including special education and related services, as well as supplementary aids and services, that are designed to meet the unique needs of a student experiencing disability or disabled student, ensuring that they receive FAPE.

Events which Require PWN

PWN must be provided within a reasonable time before implementing decisions related to identification, evaluation, or eligibility of a student, or the provision of FAPE to a student. This includes, but is not limited to:

- **Initial Evaluations and Reevaluations:** When a student is first evaluated to determine their eligibility for early intervention, early childhood special education, or special education services or when a reevaluation is conducted to reassess the student's continued eligibility and educational needs. This includes changes while conducting the evaluation process.
- **Changes in Placement:** When there is a proposed or refused change in the educational placement for a student experiencing disability or disabled student, including transitions to more restrictive or less restrictive environments between regular classes, special classes, or specialized programs. This also encompasses changes that alter the student's access to general education settings (e.g., non-academic time such as lunch or recess).

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- **Changes to Services:** When there are modifications to the services, supports, or accommodations outlined in the student’s IEP or IFSP, including increases or decreases in the intensity, frequency, or type of services provided. This also applies when the scope of related services or supplementary aids is altered in a way that could impact the student’s ability to access both the general education curriculum and FAPE.
- **Disciplinary Actions Involving Changes in Placement:** When disciplinary measures result in a change in the student’s placement, such as suspensions, expulsions, or removals that constitute a significant change in the educational environment. This includes situations where disciplinary actions may affect the student’s continued access to special education services and supports.
- **Parent Requests:** When a parent or adult student requests an action related to the identification, evaluation, placement, or the provision of FAPE to them or their child, and the LEA proposes or refuses to take the requested action. The LEA must meaningfully consider the parent’s or adult student’s request and provide PWN to ensure that parents and adult students are informed of the rationale behind the LEA’s response, whether it is to accept or deny the requested action.

Timeline for PWN

The IDEA requires that PWN be provided within a reasonable amount of time before a decision is implemented. There can be no universal definition of reasonable, as the amount of time that can be considered reasonable depends on the nature of the decision and the individual circumstances of the student. However, each PWN is to be provided within a reasonable amount of time before the decision is implemented to allow parents and adult students the opportunity to challenge decisions. Districts and programs should refer to local policies, practices, and procedures in regards to determining reasonable timelines for providing PWN prior to implementing a decision that has been made.

Any delay in providing PWN may also result in a delay providing services to a student. Therefore, school districts and programs should provide PWN to the parent or adult student as soon as possible after a decision was made to ensure the decision can be implemented in a timely manner. It is also important to note the requirement that, as soon as possible following development of the initial IEP, special education and related services must be made available to the child in accordance with the child’s IEP. A universally required minimum number of days that every PWN must be provided before the decisions can be implemented may result in an unnecessary delay of special education and related services.

Methods for Distributing PWN

School districts and programs must ensure that PWN is provided to parents or adult students in a manner that is both timely and accessible. The chosen method of distribution should take into account the needs and preferences of the family while also complying with legal requirements. PWN must be written in a language understandable to the general public and provided in the native language of the parent or adult student or other mode of communication used by the parent or adult student unless it is clearly not feasible to do so. This includes a requirement to translate the notice orally or by other means to the parents or adult student in the parents’ or adult student’s native language and other mode of

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communication. In the instance of oral translation, school districts and programs are required to ensure that the parent or adult student understands the notice and there is written evidence that the requirements for the PWN have been met.⁴ If PWN is provided orally to a parent or adult student to meet their language needs, a written copy must also be provided in English to meet the requirement of being understandable to the general public.

Here are some common methods for distributing PWN:

- **Delivery At Meeting:** PWN may be delivered directly to the parent or adult student, orally and in writing, during a meeting, such as an IEP or IFSP meeting. This method allows for immediate discussion and clarification of the PWN's content, which can be beneficial if the parent or adult student has questions or concerns.
- **Delivering Written Notice:** PWN may be delivered via postal mail or hand-delivered to the parent or adult student. To ensure the PWN is received and avoid any delays, districts should confirm that the mailing address on file is current.
- **Electronic Communication:** Depending on district or program policies, practices, and procedures, and parent or adult student preferences and needs, electronic communication can expedite the process and ensure that PWN is received promptly.

Best Practices for Drafting PWN

ODE suggests the following best practices for developing components of PWN, drafting clear and concise notices, and engaging with parents and adult students.

Developing Components of PWN

- **Description of the Proposed or Refused Action:** Clearly outline the specific action the LEA is proposing or refusing to take, whether it involves identification, evaluation, educational placement, or the provision of FAPE. This description should be detailed and precise, ensuring that parents and adult students understand exactly what is being proposed or refused. Avoid ambiguity and provide enough context to make the action clear to someone who may not be familiar with educational or legal terminology, or was unable to attend the meeting.
- **Explanation of Why the LEA Proposes or Refuses to Take Action:** Provide a thorough explanation of the reason(s) behind the LEA's decision. This rationale should specifically address how the decision meets the child's unique needs, cite relevant data, or reference legal standards where applicable. The explanation should connect the decision to the child's individual situation, ensuring that parents and adult students can see how the decision was reached in the context of their child's overall educational program.

⁴ ORS 343.041, OAR 581-015-2310, OAR 581-015-2745, 34 CFR § 300.503, 34 CFR § 300.421

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- **Description of Each Evaluation Procedure, Assessment, Record, or Report Used:** Detail all evaluation procedures, assessments, records, reports, and any other information used to inform the decision. This includes formal assessments, observations, academic records, and other data considered by the IEP/IFSP team. Ensure that each piece of information is referenced clearly so that parents and adult students can understand how each contributed to the decision-making process.
- **Sources for Parents to Contact for Assistance:** Provide specific contact information for individuals or organizations that can assist parents and adult students in understanding the PWN and their rights. This might include contact information for the school's special education coordinator, local advocacy organizations, community parent organizations, or statewide resources like FACT Oregon, Oregon's Parent Training and Information Center (PTI).
- **Description of Other Options Considered and Reasons for Rejection:** Explain any alternative actions that were considered by the IEP/IFSP team, such as different educational placements or services, and provide the rationale for why these alternatives were not chosen. This helps demonstrate that the decision was made after considering multiple options and that the chosen action is appropriate.
- **Description of Other Factors Relevant to the LEA's Decision:** Include any additional information that was relevant to the decision-making process. This might encompass contextual factors such as the student's recent progress, behavioral considerations, or input from other professionals that influenced the final decision. Providing this context helps parents and adult students understand the broader picture and how various factors were weighed in reaching the final decision.

Drafting Clear and Concise Notices

- There is nothing in the IDEA, its implementing regulations, or Oregon authorities that requires a specific format for PWN, so long as all legal requirements are met. That said, using a PWN template form, such as [ODE's sample PWN form](#), can help ensure that no required components are overlooked.
- Ensure that the notice is written in clear, straightforward language that parents and adult students can easily understand. Avoid educational jargon, technical terms, and legalistic language wherever possible. The goal is to communicate effectively so that all parents and adult students understand the information provided.
- Draft the notice in a way that honors and aligns with the linguistic and cultural needs of the family. This includes translating the notice into the parent or adult student's preferred language and providing it in a format that they can easily understand and engage with. The objective is to ensure that all families, with their unique linguistic and cultural contexts, can understand the information and feel valued throughout the process. Thoughtful consideration should be given

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to each family's communication preferences and cultural context, ensuring the notice is accessible, respectful, and meaningful.

- Offer comprehensive reasons for the decisions made, providing enough detail for parents and adult students to fully understand the context of the decisions. While it's important to avoid unnecessary length and complexity, ensure that the explanations are sufficiently detailed to give parents confidence that the decision was well considered and made.

Engaging with Parents and Adult Students

- The IDEA requires that school districts and programs engage parents and adult students as active participants in the decision-making process. This includes seeking their input, considering their concerns, and ensuring that they feel heard and valued throughout the process. Effective collaboration fosters trust and helps the final decisions reflect a shared understanding of the child's needs.
- Record how parent or adult student input was considered and addressed in the decision-making process. This documentation should reflect how the LEA responded to parent or adult student concerns, whether by integrating their suggestions into the final decision or by providing clear reasons why certain suggestions were not adopted. This transparency is key to maintaining a positive and collaborative relationship with parents and adult students.

Timeline for PWN and Responding to Parent Requests

- If practicable, provide PWN on the day a decision is made. Providing copies of IEP meeting paperwork before parents or adult students leave the meeting ensures that all paperwork is received. Even when that is not possible, in all cases, it must be provided to parents and adult students before the decision takes effect.
- Consider the implementation timeline of decisions being proposed following parent or adult student receipt of PWN. In some instances, decisions may be able to be implemented once the parent or adult student receives PWN. In other situations, more time for the parent or adult student to review and consider the decision or otherwise prepare for implementation may be warranted.
- Parents and adult students may make requests related to the identification, evaluation, educational placement or provision of FAPE to them or their child experiencing disability. School districts have a responsibility to meaningfully consider these parent and adult student requests of the IEP/IFSP team and provide a response with PWN. Unless there is an unusual circumstance that warrants a delay, ODE suggests that districts provide parents and adult students with PWN within 15 school days in response to any such parent request.