

II. PRIOR WRITTEN NOTICE

§300.503 Prior notice by the TEST_DISTRICT_NAME; content of notice.

(a) **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 TEST_INITIAL_DISTRICT_NAME--

- (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.

According to OSEP Letter to Lieberman August 15, 2008, the Prior Written Notice form must be sent to the parents or adult student:

- *after an IEP meeting to inform parents of the final action on a proposal or refusal to initiate or change the identification, evaluation, or educational placement of the student or the provision of a FAPE,*
- *regardless if the parent is in attendance and in agreement with decisions,*
- *regardless if the parent requests the change or the district is making a change,*
- *after a proposal to revise a child's IEP, which typically involves a change to the type, amount, or location of special education and related services being provide to a child.*
- *the TEST_INITIAL_DISTRICT_NAME may use the IEP as part of the prior written notice so long as the IEP / document(s) the parent receives meet all the requirements in §300.503 Fed.Reg.46691(August 14, 2006)*

(b) **Content of notice.** The notice required under paragraph (a) of this section must include--

- (1) A description of the action proposed or refused by the agency;
- (2) An explanation of why the agency proposes or refuses to take the action;
- (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
- (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;
- (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
- (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
- (7) A description of other factors that are relevant to the agency's proposal or refusal.

The regulation §300.503 is required for all Notices including:

- *Notice of Evaluation,*
- *Notice of ARD / IEP Meeting, and*
- *Notice of Proposal or Refusal.*

All Prior Written Notice forms will contain the required information listed above. All areas will be addressed when completing the appropriate Notice form.

(c) **Notice in understandable language.**

- (1) The notice required under paragraph (a) of this section 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.

- (2) If the native language or other mode of communication of the parent is not a written language, the TEST_INITIAL_DISTRICT_NAME must take steps to ensure--
- (i) That the notice is translated orally or by other means to the parent in his or her 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 (c)(2)(i) and (ii) of this section have been met.
- (Authority: 20 U.S.C. 1415(b)(3) and (4), 1415(c)(1), 1414(b)(1))

§300.505 Electronic mail.

A parent of a child with a disability may elect to receive notices required by §§300.503 (*Prior Written Notice*), 300.504 (*Proc. Safeguards/Notice*), and 300.508 (*Due Process complaints*) by an electronic mail communication, if the TEST_INITIAL_DISTRICT_NAME makes that option available. (Authority: 20 U.S.C. 1415(n))

TAC §89.1045. Notice to Parents for Admission, Review, and Dismissal (ARD) Committee Meetings.

- (a) The TEST_INITIAL_DISTRICT_NAME shall invite the parents and adult student to participate as members of the admission, review, and dismissal (ARD) committee by providing written notice in accordance with 34 Code of Federal Regulations (CFR), §§300.300, 300.322, and 300.503.
- (b) A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services. The TEST_INITIAL_DISTRICT_NAME must respond to the parent's request either by holding the requested meeting or by requesting assistance through the Texas Education Agency's mediation process. The TEST_INITIAL_DISTRICT_NAME should inform parents of the functions of the ARD committee and the circumstances or types of problems for which requesting an ARD committee meeting would be appropriate.

In Texas, the invitation to the ARD/IEP meeting must include the content requirements of the Prior Written Notice. The TEST_INITIAL_DISTRICT_NAME ensures these requirements are met while caution is taken to convey that no decisions have been made in advance of the IEP meeting. The notice provided to the parents and/or adult student in advance of the IEP meeting is a proposal to convene the meeting.

Timeline for Notice (Mutually Agreeable Time)

TAC §89.1015. Time Line for All Notices.

"Reasonable time" required for the written notice to parents under 34 Code of Federal Regulations (CFR), §300.503, is defined as at least five school days, unless the parents agree otherwise.

§300.322 Parent Participation.

- (a) TEST_INITIAL_DISTRICT_NAME responsibility—general. The TEST_DISTRICT_NAME must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including--
 - (1) **Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and**
 - (2) **Scheduling the meeting at a mutually agreed on time and place.**

3 Attempts

After the first Notice of ARD Meeting is provided, if the parent does not respond, the TEST_INITIAL_DISTRICT_NAME will document and send a second Notice of ARD. Again, if the parent still does not respond, a third Notice will be sent in an attempt to get parental participation. After 3 attempts and no response, the TEST_INITIAL_DISTRICT_NAME may go forward with the ARD Meeting as scheduled. The first attempt MUST be in written form, the second should be in writing and the third may be a follow-up phone call. All dates and personnel initials must be documented on the form.

Purpose, Time, Location, Attendance - (Notice)

§300.322 Parent Participation.

(b) Information provided to parents.

- (1) The notice required under paragraph (a)(1) of this section must--**
 - (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; *The TEST_INITIAL_DISTRICT_NAME will indicate the positions, and not the names, of those individuals participating in the IEP meeting.* and**
 - (ii) Inform the parents of the provisions in §300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and §300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act).**
- (2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice also must--**
 - (i) Indicate--**
 - (A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with §300.320(b); and**
 - (B) That the agency will invite the student; and**
 - (ii) Identifies any other agency that will be invited to send a representative.**
- (c) Other methods to ensure parent participation . If neither parent can attend an IEP Team meeting, the TEST_INITIAL_DISTRICT_NAME must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with §300.328 (related to alternative means of meeting participation).**
- (d) Conducting an IEP meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the TEST_INITIAL_DISTRICT_NAME is unable to convince the parents that they should attend. In this case, the TEST_INITIAL_DISTRICT_NAME must keep a record of its attempts to arrange a mutually agreed on time and place such as:**
 - (1) Detailed records of telephone calls made or attempted and the results of those calls;**
 - (2) Copies of correspondence sent to the parents and any responses received; and**
 - (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.**
- (e) Use of interpreters or other action, as appropriate. The TEST_INITIAL_DISTRICT_NAME must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.**
- (f) Parent copy of child's IEP. The TEST_INITIAL_DISTRICT_NAME must give the parent a copy of the child's IEP at no cost to the parent. (Authority: 20 U.S.C. 1414(d)(1)(B)(i))**

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