



TOPIC: Procedural Safeguards- Prior Written Notice

“The school district receives a request from a child’s parent for a multidisciplinary evaluation. Because the district determined that the child was not eligible for special education services based on an evaluation conducted three months prior, the Special Education Director phoned the parent and advised the parent the School District will not be conducting a new evaluation. Does the Special Education Director’s phone contact with the parent fulfill the notice requirements?”

No. Providing parents with verbal notice as a substitute for written notice does not fulfill the prior written notice requirements set forth in 92 NAC 51-009.05. Pursuant to 92 NAC 51-009.05, prior written notice must be in writing when a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education. While the district may verbally discuss the circumstances with the parent; the refusal notice must be in writing, and the contents of the notice must meet the requirements of 92-NAC 51-009.05B1-009.05B7.

009.05B Such prior written notice shall include:

- 009.05B1 A description of the action proposed or refused by the school district or approved cooperative;
- 009.05B2 An explanation of why the district or approved cooperative proposes or refuses to take the action;
- 009.05B3 A description of other options the IEP Team considered and the reasons why those options were rejected;
- 009.05B4 A description of each evaluation procedure, assessment, record, or report the school district or approved cooperatives uses as a basis for the proposal or refusal;
- 009.05B5 A description of any other factors which are relevant to the school district’s or approved cooperative’s proposal or refusal;
- 009.05B6 A statement that the parents of a child with a disability have protection under the procedural safeguards of this Chapter and, if this notice is not an initial referral for evaluation, the means by which a copy or description of the procedural safeguards can be obtained; and
- 009.05B7 Sources for parents to contact to obtain assistance in understanding the provisions of this part.



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“What is a reasonable time for the district to provide notice?”

92 NAC 51 and IDEA require prior written notice be provided a **reasonable time** before the district actually implements the action. The purpose of prior written notice is to give parents the opportunity to fully consider a decision about FAPE. The district should include in its procedures the number of days which the district considers reasonable (for example 10 school days). However, whether that number of days is reasonable must be based on individual circumstances and may be shortened or lengthened as necessary.

Nebraska’s 92 NAC 51 (Rule 51) 009.05 **Prior Written Notice**

009.05A Prior written notice shall be given to the parents of a child with a disability a reasonable time before a school district or approved cooperative:

- 009.05A1 Proposes to initiate or change the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education; or
- 009.05A2 Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.