



## SPECIAL EDUCATION LAW

# Prior Written Notice

### *Procedural Safeguards*

The sections of this document that refer to Procedural Safeguards contain the language from the 2018 revised document entitled, “*IDEA Part B Parents’ Rights in Special Education (Age 3-21) Procedural Safeguards Notice.*” The Individuals with Disabilities Education Act (IDEA), the Federal law concerning the education of students with disabilities, requires schools to provide parents of a child with a disability with a notice containing a full explanation of the procedural safeguards available under the IDEA and the federal regulations. A copy of this notice must be given to parents only one time a school year, except that a copy must be given to the parents: (1) upon initial referral or parent request for evaluation; (2) upon receipt of the first State complaint under 34 CFR §§300.151 through 300.153 and upon receipt of the first due process complaint under §300.507 in a school year; (3) when a decision is made to take a disciplinary action that constitutes a change of placement; and (4) upon parent request.

### *Prior Written Notice*

#### **NOTICE**

Your school district must give you written notice (provide you certain information in writing), whenever it:

- Proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; **or**
- Refuses to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of FAPE to your child.

#### **CONTENT OF NOTICE**

The written notice must:

- Describe the action that your school district proposes or refuses to take;
- Explain why your school district is proposing or refusing to take the action;
- Describe each evaluation procedure, assessment, record, or report your school district used in deciding to propose or refuse the action;
- Include a statement that you have protections under the procedural safeguards provisions in Part B of the IDEA;
- Tell you how you can obtain a description of the procedural safeguards if the action that your school district is proposing or refusing is not an initial referral for evaluation;
- Include resources for you to contact for help in understanding Part B of the IDEA;
- Describe any other choices that your child’s individualized education program (IEP) Team considered and the reasons why those choices were rejected; **and**
- Provide a description of other reasons why your school district proposed or refused the action.

## NOTICE IN UNDERSTANDABLE LANGUAGE

The notice must be:

- Written in language understandable to the general public; **and**
- Provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so.

If your native language or other mode of communication is not a written language, your school district must ensure that:

- The notice is translated for you orally by other means in your native language or other mode of communication;
- You understand the content of the notice; **and**
- There is written evidence that 1 and 2 have been met.

## Nebraska Rule 51

The sections of this document that refer to Nebraska Rule 51 contain the language from the 2017 revised document entitled, “*Nebraska Department of Education Rule 51: Regulations and Standards for Special Education Programs. Title 92, Nebraska Administrative Code, Chapter 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.

**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 school 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 cooperative 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 Chapter.

**009.05C** The notice must be written in language understandable to the general public, and provided in the native language of the parents or other mode of communication used by the parents unless it is clearly not feasible to do so.

**009.05D** If the native language or other mode of communication of the parents is not a written language, the school district or approved cooperative shall take steps to ensure:

**009.05D1** That the notice is translated orally or by other means to the parents in his or her native language or other mode of communication;

**009.05D2** That the parents understand the content of the notice; and

**009.05D3** That there is written evidence that the requirements of this section have been met.

If you have additional questions regarding prior written notice, see the Nebraska Department of Education's 2017 Guidance Document entitled, "Prior Written Notice Guidance Document." <https://cdn.education.ne.gov/wp-content/uploads/2017/11/PWN-Guidance-Combined-Final-2017.pdf>

For more information about prior written notice, contact your child's special education teacher, a PTI Nebraska parent/professional at (800) 284-8520 and [pti-nebraska.org](http://pti-nebraska.org), or the Nebraska Department of Education at (402) 471-2471 and [education.ne.gov/sped/](http://education.ne.gov/sped/).

The Individuals with Disabilities Education Act (IDEA) is a law that makes available a free appropriate public education to eligible children with disabilities throughout the nation and ensures special education and related services to those children. See <https://sites.ed.gov/idea/> for more information on IDEA.

Rule 51 is the document that outlines regulations and standards for special education programs in Nebraska. Rule 51 can be found on the Nebraska Department of Education's website: [https://cdn.education.ne.gov/wp-content/uploads/2017/10/Rule51\\_2017.pdf](https://cdn.education.ne.gov/wp-content/uploads/2017/10/Rule51_2017.pdf).

Rule 55 is the document that outlines rules of practice and procedure for due process hearing in special education contest cases. Rule 55 can be found on the Nebraska Department of Education's website: [https://cdn.education.ne.gov/wp-content/uploads/2017/10/Rule55\\_2012.pdf](https://cdn.education.ne.gov/wp-content/uploads/2017/10/Rule55_2012.pdf)