



Tips for Special Education Directors from OSCAS

OSCAS “Tips” are offered to support local education agencies in their efforts to ensure special education compliance. Tips serve as easy-to-reference reminders of existing regulatory requirements and are not intended as supplementary guidance.

Topic: Prior Notice

Be sure that your special education policies, procedures and practices include written notice to parents, both **before and after** applicable special education meetings. Notices that invite parents to certain meetings, as well as notices that reiterate decisions resulting from such meetings, are a basic requirement of IDEA and the Rhode Island Board of Regents for Elementary and Secondary Education Regulations Governing the Education of Children with Disabilities.

Meeting Notes: Note-taking during special education evaluation and IEP team meetings is a common practice, with meeting notes maintained as a part of student records. These are routinely shared with parents along with other student records such as evaluation team reports and IEPs. Although meeting notes can be useful in capturing the nature of dialogue, they do not necessarily contain all required elements of prior notice. Following an evaluation or IEP meeting, the provision of meeting notes in place of written prior notice may jeopardize the LEA’s compliance with regulatory requirements by failing to inform parents of all information and due process options to which they are entitled.

Meeting invitations: Written notice inviting parents to a special education meeting should clearly indicate the nature and purpose of the meeting, as well as other applicable elements. Other than initial special education referral and evaluation meetings, which are evaluation team meetings, most special education meetings are IEP meetings. IEP meeting purposes include IEP development, IEP review, reevaluation planning or review, eligibility reconsideration, progress reporting, and other matters related to providing a free, appropriate public education (FAPE) for an eligible student with a disability. IEP meeting notice and content requirements are delineated in Section 300.322, excerpted in this document.

Prior Notice: Team decisions arising from evaluation team meetings, in which initial referrals are reviewed, need for evaluation is determined, initial evaluations may be identified, completed evaluations are reviewed, and/or initial eligibility determination is made, must be conveyed to parents through written notice following the meeting. Team decisions arising from IEP meetings, in which a student’s individualized educational program is designed or revised, a student’s reevaluation is determined or reviewed, or a student’s identification is changed, must be conveyed to parents through written notice following the meeting. Written notice to parents must be provided within a reasonable time before the LEA proposes or refuses action to initiate or change the student’s identification, evaluations, or educational placement or its provision of FAPE to the student. Prior notice and content requirements are delineated in Section 300.503, excerpted in this document.

Please see reverse side.

300.322 Parent participation.

(a) *Public agency responsibility -- general.* Each public agency 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 ten (10) school days prior to the meeting to ensure that they will have an opportunity to attend (the parent may agree to waive the ten (10) day notice requirement in order to expedite the IEP Team meeting); and
- (2) Scheduling the meeting at a mutually agreed on time and place.

(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; 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 at age 14, or younger, if determined appropriate by the IEP Team, the notice 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) Identify any other agency that will be invited to send a representative.

300.503 Prior notice by the public agency; 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 within a reasonable time (ten school days) before the public agency--

- (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.

(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.

(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 public agency 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.