



STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
 DIVISION OF SPECIAL EDUCATION
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 ACTING COMMISSIONER

MEMORANDUM

TO: Directors of Special Education

FROM: Bill Wilson, Attorney *BW*

DATE: February 19, 2008

RE: Prior Written Notice

The purpose of this memorandum is to clarify the use of prior written notice (34 CFR 300.503 and TN Rule 0520-01-09-.16). The term "prior written notice" refers to written notice that is required before (i.e. prior to) an action is taken. With the exception of a parent's request for initial evaluation, the need for prior written notice will not arise until the initial IEP is in place. Prior written notice is given primarily at the conclusion of IEP meetings or mailed to the parents after the IEP meeting. The following table is provided as a guide:

When is prior written notice required?	What is the content of the notice?
When the IEP team proposes to alter the educational placement or provision of FAPE of the child the LEA must give parents prior written notice 10 school days before (i.e. prior to) implementing this change in the new IEP. <u>This document may be given to the parent at the IEP meeting.</u>	<ol style="list-style-type: none"> 1. A description of the action proposed. 2. An explanation of why the LEA proposed the action. 3. A description of other actions considered and an explanation for their rejection.
When the IEP Team refuses a parental request to change the educational placement or the provision of FAPE to the child the LEA must give the parent prior written notice within 10 school days. <u>This document may be given to the parent at the IEP meeting.</u>	<ol style="list-style-type: none"> 1. A description of the change rejected. 2. An explanation of why the LEA rejected the request.
When a parent requests an initial evaluation in writing the LEA must give the parents written notice 10 school days before the evaluation is to begin. NOTE: LEA must obtain informed written consent before evaluation can begin.	Consent for testing form accompanied by a description of each evaluation procedure, test, or assessment tool to be used (<u>the explanation may be given orally in a meeting with the parent</u>); OR Written notice which informs the parents of the LEA's refusal to conduct an initial evaluation and their right to pursue this evaluation through due process.
When the LEA proposes to re-evaluate it must give the parents (assuming they can be located) written notice 10 school days before the evaluation is to begin.	If further testing is determined necessary a consent for testing form accompanied by a description of each evaluation procedure, test, or assessment tool to be used (<u>the explanation may be given orally in a meeting with the parent</u>).

It is important to remember that pursuant to T.C.A. §49-10-601(c)(1) and TN Rule 0520-01-09-.13, absent parental consent, no change in the educational placement or the provision of FAPE can be implemented for 14 calendar days to allow parents time to request a due process hearing.