



Child Find and the Prior Written Notice: Connections and Considerations

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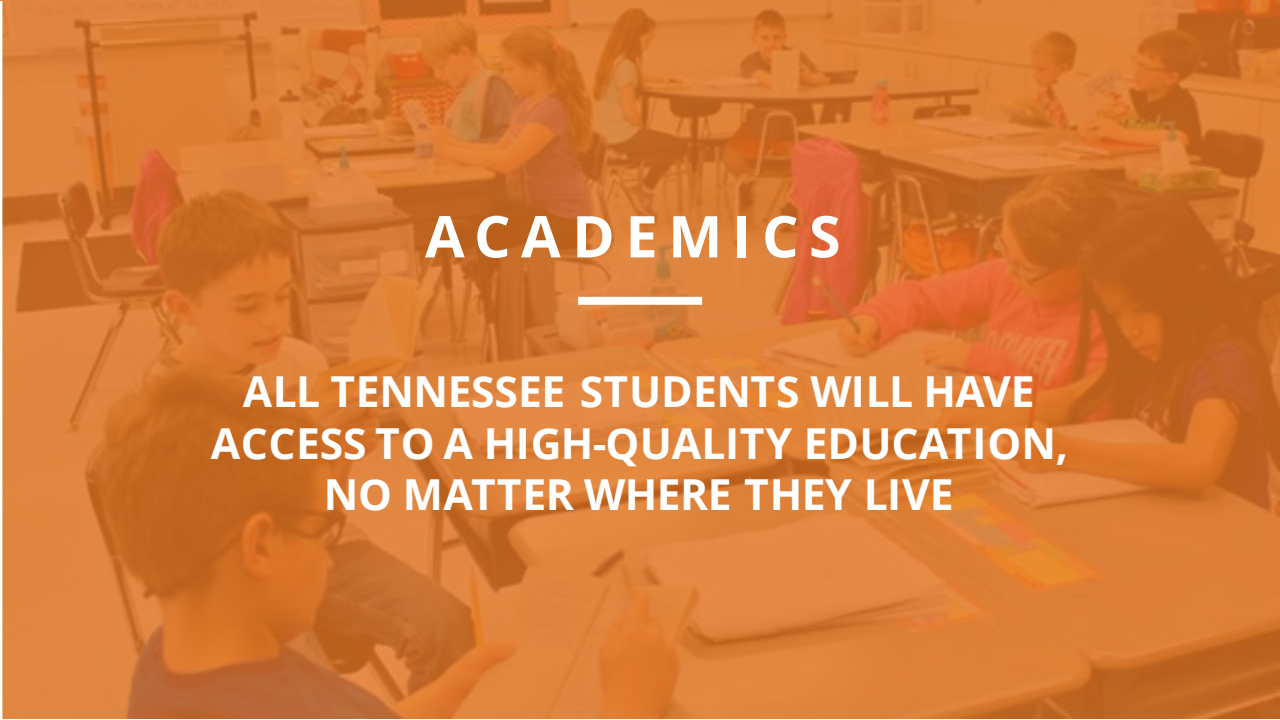
Director of Psychological and Behavioral Supports & Speech Language and Related Services Coordinator | Division of Special Populations





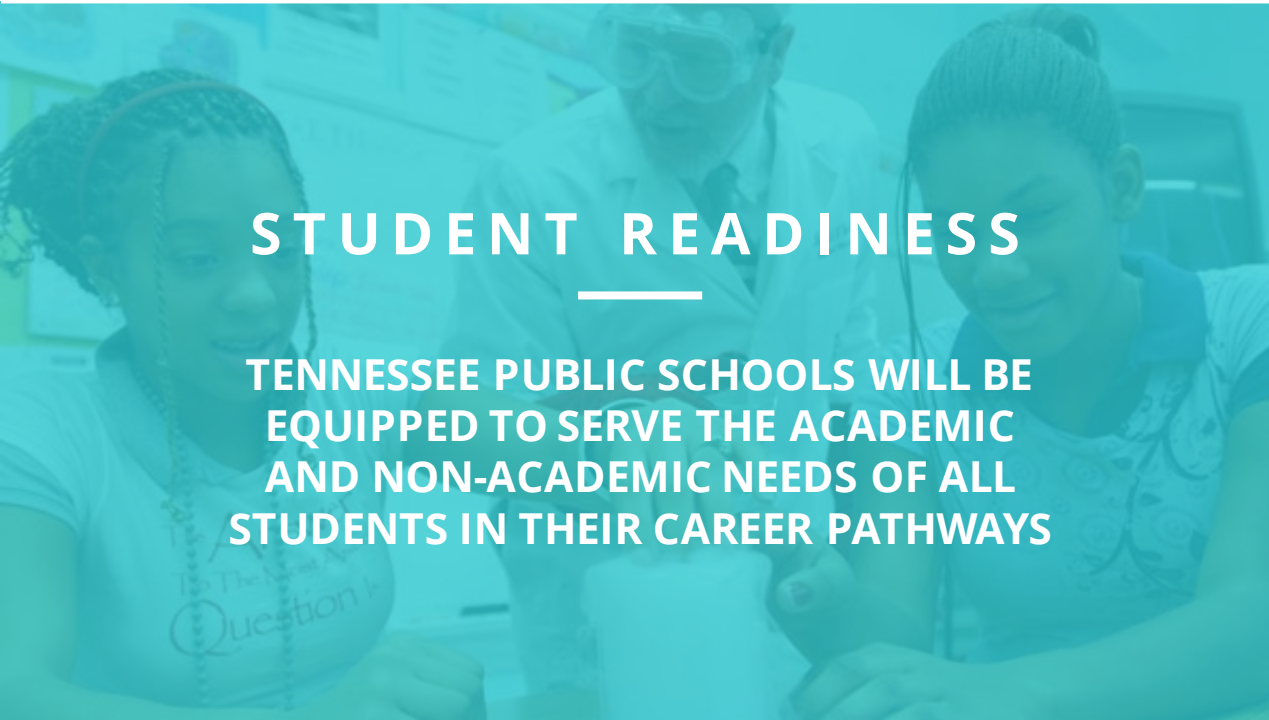
BEST FOR ALL

We will set all students on a path to success.



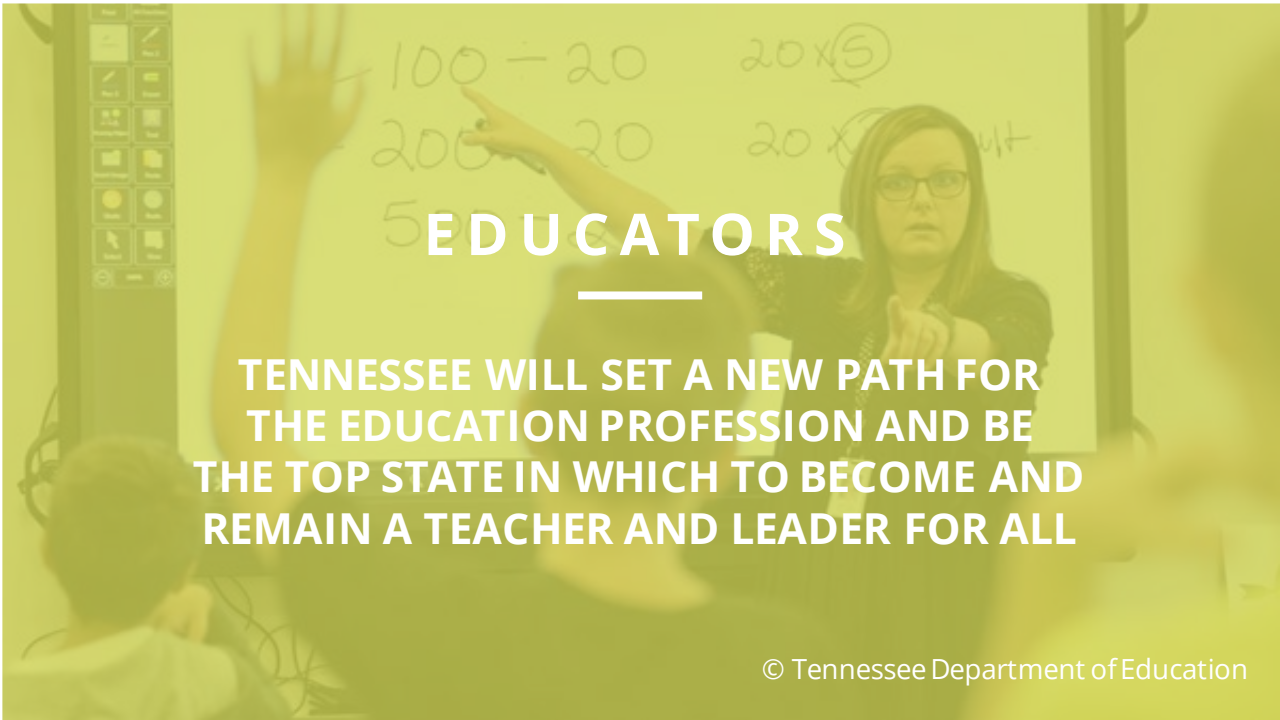
ACADEMICS

ALL TENNESSEE STUDENTS WILL HAVE ACCESS TO A HIGH-QUALITY EDUCATION, NO MATTER WHERE THEY LIVE



STUDENT READINESS

TENNESSEE PUBLIC SCHOOLS WILL BE EQUIPPED TO SERVE THE ACADEMIC AND NON-ACADEMIC NEEDS OF ALL STUDENTS IN THEIR CAREER PATHWAYS



EDUCATORS

TENNESSEE WILL SET A NEW PATH FOR THE EDUCATION PROFESSION AND BE THE TOP STATE IN WHICH TO BECOME AND REMAIN A TEACHER AND LEADER FOR ALL



Tennessee Technical Assistance Network (TN-TAN)

provides school districts, administrators, educators, and families access to high-quality training, resources, and supports designed to improve outcomes for students with disabilities, ages 3-22.

Intensive Behavior

TRIAD at Vanderbilt University Medical Center provides technical assistance for complex behavior support needs and associated training. Supports include direct instruction for staff on behavior assessment and intervention implementation, as well as ongoing coaching to help students engage within their least restrictive environments.

Preschool

AnLar assists in building capacity and systems to support meaningful access to preschool for students with disabilities. Supports include strategic action planning, professional development, leadership coaching, preschool program evaluation and support implementing evidence-based practices in inclusive settings.

RTI²-A+RTI²-B

Tennessee Tiered Supports Center assists districts and schools as they build and implement an aligned student support system. The center provides training, coaching, and resources for building an aligned framework for tiered academic and behavioral supports.

Autism

TRIAD at Vanderbilt University Medical Center provides training, consultation, and coaching services designed to support educators in their classrooms and develop school and system-wide supports to address needs specific to students with autism spectrum disorder (ASD).

Assistive Technology

The Assistive Technology Project (ATP) assists districts and staff in building capacity to provide assistive technology supports for students with disabilities. Supports include strategic action planning, professional development, direct coaching for staff, and access to AT equipment-lending libraries for assessment trials.

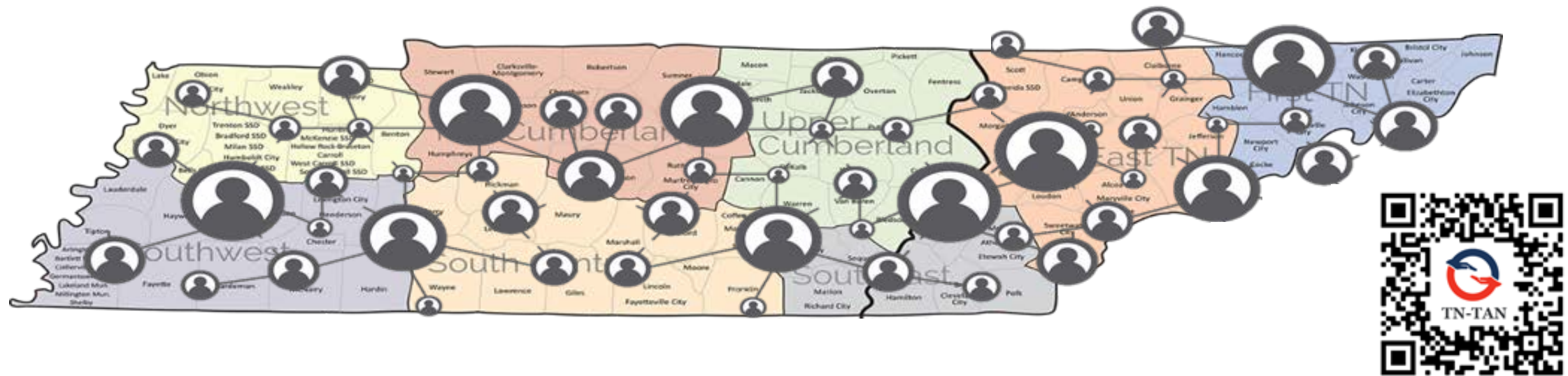
Secondary Transition

Transition Tennessee provides a range of services to transition stakeholders to improve in-school and post-school outcomes for transition-aged students (14-22) with disabilities. Supports include tiered technical assistance for in-school transition stakeholders and resources and services specific to educator and family needs.

TN-TAN: The Vision

tn-tan.tnedu.gov

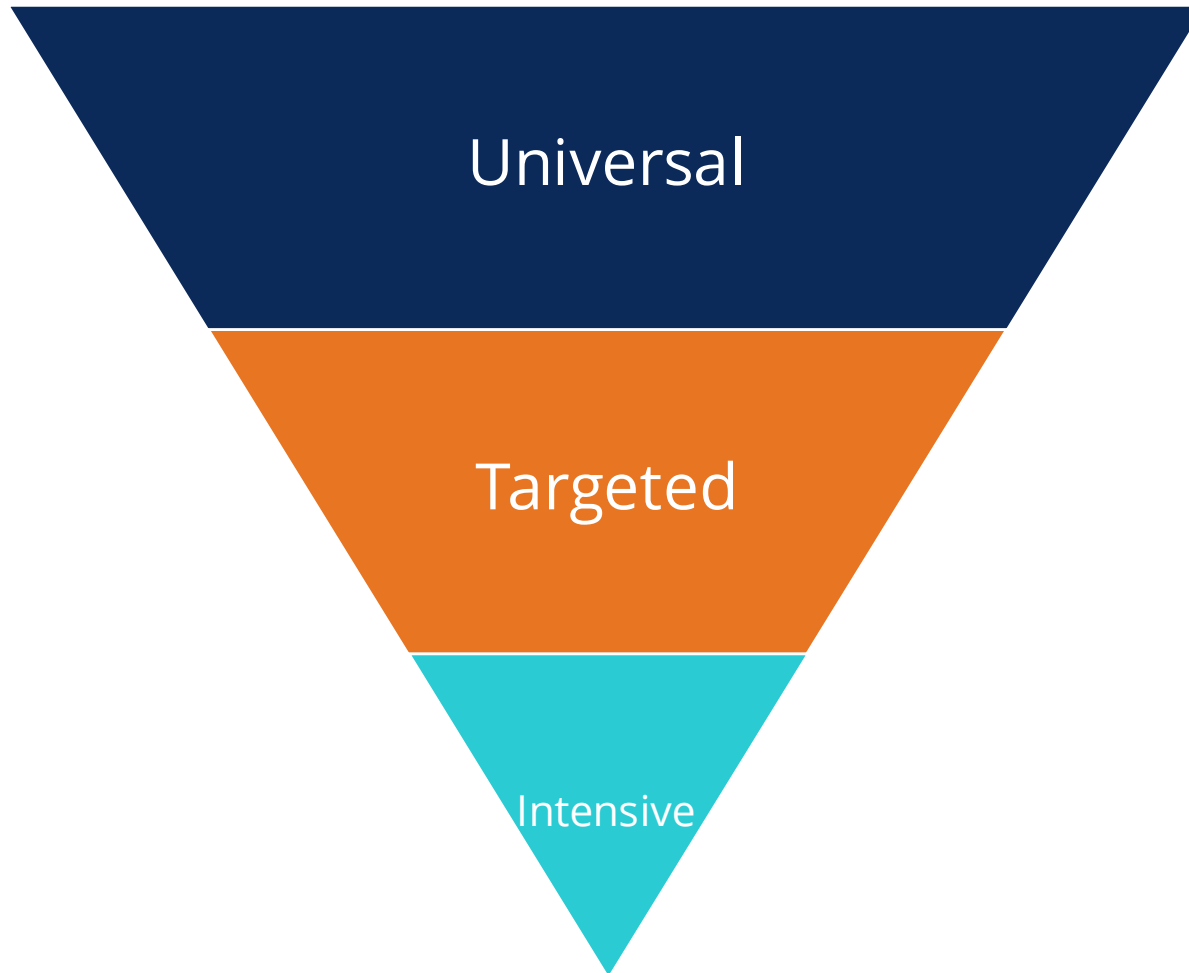
A coordinated network that implements strategic supports to school districts, administrators, educators, and families through high-quality training, resources, and supports designed to improve outcomes for students with disabilities, ages 3-22.



Autism • Inclusive Preschool • Intensive Behavior • RTI²-A+RTI²-B • Family Engagement
• Assistive Technology • Secondary Transition



TN-TAN: The Vision



- TN-TAN Website
- Online Modules
 - Materials and Resources
 - CoPs

- Referrals
- Requests via TN-TAN Website
 - Priority assignments by the Department

- Intensive District Support
- Support/Partnerships that extend over months/years



TDOE Coordination of Special Education



Office of Academics

Programmatic Design



Office of the Commissioner

Data Reporting



CORE Regional Intervention Specialists

Implement Strategic Support



Tennessee Technical Assistance Network

Implement Strategic Support



Office of Operations

Monitor Programs and Supports



Office of General Counsel

Interpret the Law





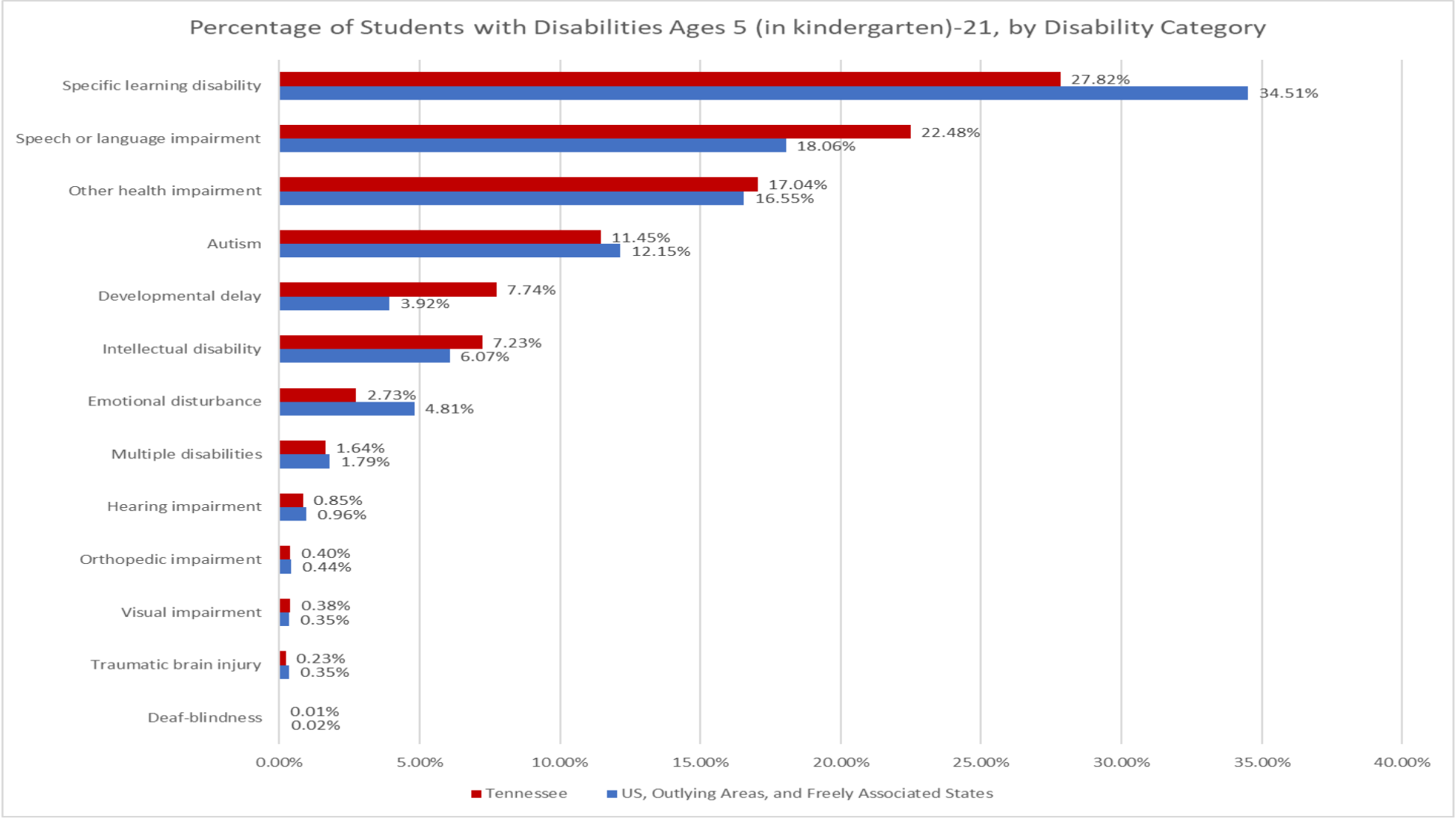
- Child find requirements
- Pre-referral and early interventions
- Referrals
- Prior Written Notices
- Connecting Child Find and the Prior Written Notice



Child Find

Requirements and Regulations

Looking at the Data (2023)





Child Find

District requirements:

- Schools **seek out, identify, and evaluate** all youth (ages 3–22) with disabilities
 - whether or not they are homeless or enrolled in a public or private school;
 - regardless of the severity of their disability
 - including students who are migrants, English learners (EL), and those in correctional facilities.

- Child find regulations: 34 C.F.R. § 300.111
- Child find regulations regarding parentally-placed private school children with disabilities: 34 C.F.R. § 300.131
- Tennessee State Board of Education Rule 0520-01-09-.05(1)



Why Child Find?

- Ensure that all children receive a **free appropriate public education**
- Includes any special education and related services needed to meet educational needs and prepare a student for further education, employment, and independence
- Development of robust early intervention programs that prepare children for further education, employment and independence



Participating in Child Find

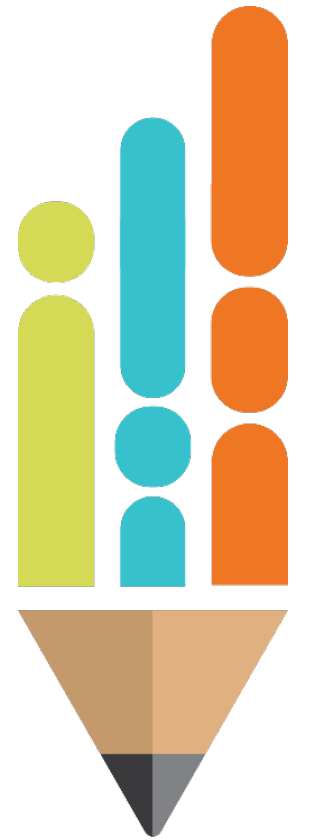


- With the person next to you, review some of the ways in which your district supports Child Find.

3 minutes

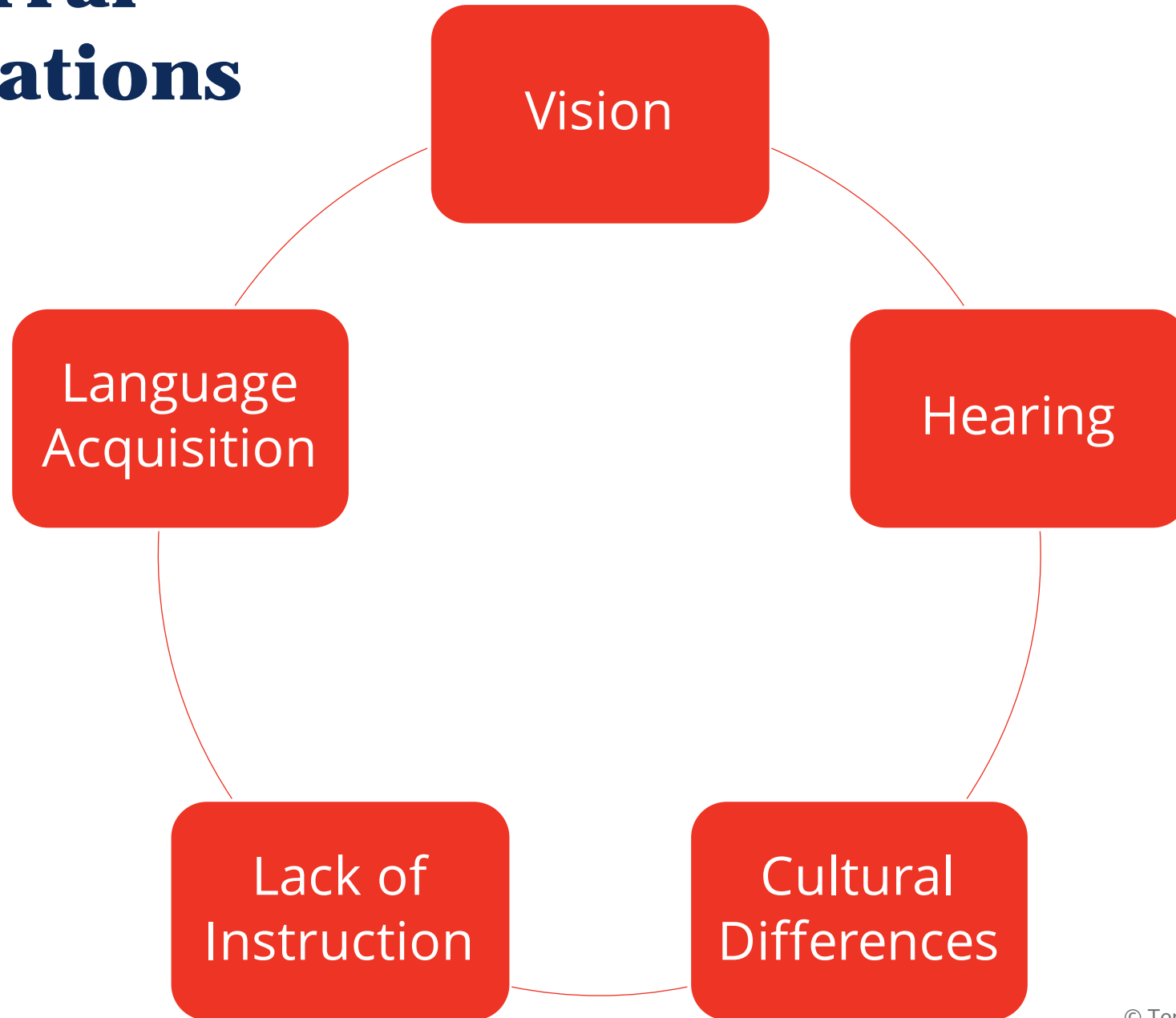
Debrief

- How does your district allow for Child Find?
- Here are some possibilities:
 - Surveys (parents, private schools)
 - Public mailings
 - Physician referrals
 - Daycare contacts
 - Professional development



Pre-referral and Early Interventions

Pre-Referral Considerations



Debrief

- Which of those five areas on the previous slide lead to the most discussion in your district?



Referrals

Referral Process

School districts should establish and communicate clear referral procedures to ensure consistency throughout the district.

A parent or the district may refer a child for an evaluation to determine if the child is a child with a disability.

The team must consider and decide if a disability is suspected.

If the team suspects a disability, they must propose an initial evaluation and determine assessment plans.

Parental consent is needed for an evaluation.

The parent must receive prior written notice of the evaluation or refusal to complete the evaluation.

Referral for Special Education

Common Mistakes	Best Practice Examples
Predetermination of eligibility before evaluating	Written referral procedures
Delay of evaluation	Written referral procedures to include a timeline for referral decisions; decisions are based on whether the team suspects a disability
Incomplete assessment plan (e.g., missing evaluation procedures)	Utilization of the assessment documentation forms
Incorrect date of initial informed consent	Written procedures for the consent date (i.e., date the school received informed initial consent)
Missing or incomplete prior written notice	Self-monitoring protocols throughout the year



Prior Written Notice

Prior Written Notice

- Written notice must be given to the parents of a child with a disability within at least 10 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.

See 34 C.F.R. § 300.503; State Board of Education Rule 0520-01-09-.15(4).




Activity

When do you think an IEP team needs to complete a Prior Written Notice?

- Turn to the person on your right or left and review.
- Be prepared to discuss as a whole group.



Language of Notice

- 
- (1) The notice required [34 C.F.R. §300.503(a)] 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 [34 C.F.R. § 300.503(c)(2)(i) and (ii)] have been met.





Document decisions
made, ***but not yet
acted upon***, by the IEP
team and the basis for
those decisions



When to provide the Prior Written Notice



After the Meeting

The notice must be sent after the team decision is made to propose or refuse a change, not before the team meeting. 71 Fed. Reg. 46,691 (2006)



Timely

The notice must be provided so that parents have enough time to fully consider the change and respond to the action before it is implemented.

Tennessee state rules provide that the notice must be sent "at least 10 school days prior..."



Parent Input

"Providing prior written notice in advance of meetings could suggest, in some circumstances, that the public agency's proposal was improperly arrived at before the meeting and without parent input. Therefore, we are not changing Section 300.503 to require the prior written notice to be provided prior to an IEP Team meeting."

Addressed To: Mary Test

Student: Angela Test

School: Test School

Grade: 8th Grade

Date of Decision(s): 06/06/2023

Date Sent: 06/06/2023

Purpose of Notice: This document outlines important decisions made about your student's special education program. This notice is required **after** a decision has been made regarding matters affecting your student's IEP or eligibility for special education, but **before** any decision is implemented or changes to your student's program take place. Specifically, this notice must be given to you within at least ten (10) school days following the school district either proposing or refusing to initiate or change the identification, evaluation, or educational placement of your student, or the provision of a free appropriate public education (FAPE) to your student.

1. Description of the action proposed or refused by the school district:

Action proposed narrative.

2. Explanation of why the school district proposes or refuses to take this action:

Reason proposed narrative

3. Description of any options the school district considered prior to this proposal:

Other options considered narrative

4. Reasons the above listed options were rejected:

Options rejected narrative

5. Description of evaluation procedures, tests, records, or reports the school district used as a basis for the proposal or refusal:

Evaluation procedures narrative

6. Other factors relevant to the action proposed are:

Other factors narrative

Parents of a child with a disability are entitled to certain procedural safeguards as outlined in the **Notice of Procedural Safeguards**. Rights include the right to request a Due Process Hearing or to request mediation if there is disagreement with the services planned. If you would like a copy of the **Notice of Procedural Safeguards** and one was not included with this notice, you may request one through the contact listed below. We will be glad to answer any questions concerning the information or the rights outlined in this document.

Contact Name: Ms. Teacher Test

Contact Number: 123-456-7890

Contact Email: teacher@gmail.123

Events that call for a Prior Written Notice

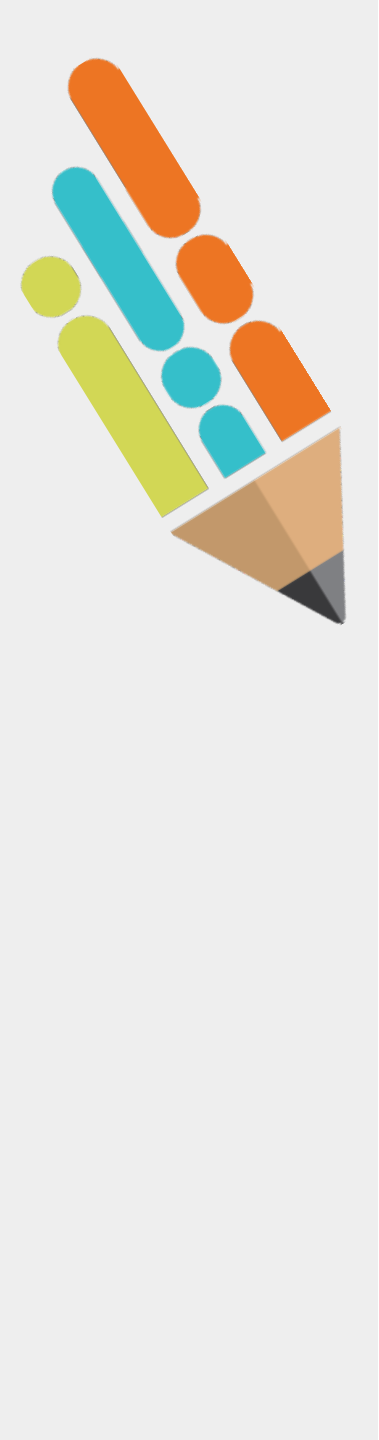
Prior written notice is required when the public agency **proposes** or **refuses** to initiate or change a student's:

Evaluation

Identification

Educational Placement

Provision of a free and appropriate public education (FAPE)



Evaluation

- Proposal to conduct an initial evaluation
- Proposal to conduct a comprehensive reevaluation
- Proposal to conduct other evaluations (e.g., functional behavior assessment, occupational and physical therapy evaluations, etc.)
- Refusal to conduct an evaluation
- Refusal to provide an independent educational evaluation (IEE)



Identification

Determination of
eligibility

Change or
additional of
category of
eligibility

Termination of
eligibility

Educational Placement

- Initial placement determination
- Refusal to change placement when requested by a parent
- Change in educational placement or least restrictive environment (LRE)
- Change in placement for disciplinary reasons
- Unilateral parental placement in a private school



Source: Wright, Brandon K. (2018, June). Prior Written Notice: Practical Tips for Legal Compliance. National Institute on Legal Issues of Educating Individuals with Disabilities, Dallas, TX.



Provision of FAPE

- Proposal of an initial IEP
- Amendment of an IEP
- Changes in special education or related services
- Changes in accommodations or modifications
- Refusal to change a special education or related service
- Changes in transportation which is required for FAPE
- Revocation of parental consent

Source: Wright, Brandon K. (2018, June). Prior Written Notice: Practical Tips for Legal Compliance. National Institute on Legal Issues of Educating Individuals with Disabilities, Dallas, TX.



Provision of FAPE, cont.

- Refusal to convene an IEP at parental request
- Provision of comparable services when a student transfers
- Determination of need for extended school year (ESY)
- Graduation with a regular diploma
- Termination of services
- Manifestation determination decisions

Source: Wright, Brandon K. (2018, June). Prior Written Notice: Practical Tips for Legal Compliance. National Institute on Legal Issues of Educating Individuals with Disabilities, Dallas, TX.

Prior Written Notice Contents

- The prior written notice must include:
 - A description of the action proposed or refused by the district.
 - An explanation of why the district proposes or refuses to take the action.
 - A description of each evaluation procedure, assessment, record, or report the district used as a basis for the proposed or refused action.
 - A statement that the parents have protection under Part B's procedural safeguards and, if the notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained.
 - Sources for parents to contact to obtain assistance in understanding the provisions of Part B.
 - A description of other options that the IEP team considered and the reasons why those options were rejected.
 - A description of other factors relevant to the district's proposal or refusal.

See 34 C.F.R. § 300.503(b).





Description of the Action(s)

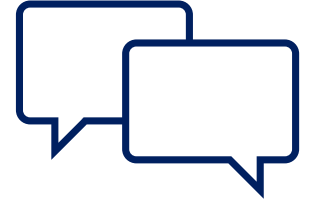
- Includes description of the action(s) proposed or refused by the school district
 - Clear explanation of **each** proposal and/or refusal
 - Sufficient detail of the actions

Case law:

- *Nicholas H. v. Norristown Area School District*, 69 IDELR 118 (E.D. Pa. 2017)
 - Services on the IEP did not include sufficient detail.
 - Written documentation needed to prove district's case.
 - Parents awarded costs of unilateral placement.



Description of the action proposed or refused



On 8/5/23, the IEP team met to consider testing.

- **Lack of specific information in this statement**
- **What type of assessment is being considered?**

Note: This example is used for training purposes only.





Explanation

- **Explanation of why the school system proposes or refuses to take this action.**
 - Vague or general statements not sufficient
 - **Each action** taken must have a reason

Case law:

- *Fern Ridge Sch. Dist. 28J*, 16 IDELR 676 (Ore. Dep't of Educ. 1990)
 - Prior written notice did not specify any of the placement options considered or why they were rejected



Explanation of why the school system proposes or refuses to take this action



The student's test scores are below average when compared with same-age peers, and therefore, testing was agreed upon to consider both specific learning disability and language impairment.

- **Lack of specific information in this statement**
- **What was used to consider the need for testing?**

Note: This example is used for training purposes only.



Other Options Considered

- **Any and all options that the school district considered prior to this proposal.**
 - Include all options considered including parent requests

Case law:

- *Cincinnati Public Schools*, 116 LRP 11536 (Ohio Dep't of Educ. 2016)
 - Prior written notice stated, "no other options were considered."



A description of any options that the school district considered prior to this proposal

We considered not testing.



- **Lack of specific information in this statement**
- **What else is the district using to address educational needs?**
- **Did the parent request something that was not considered?**

Note: This example is used for training purposes only.



Reasons for Rejecting

- **Reasons the above listed options were rejected.**
 - State why the team did not move forward with any of the above considerations.



Reasons the above listed options were rejected

The student is below average, so testing from the school psychologist is needed to determine the presence of a disability.



- **Lack of specific information in this statement**
- **What does below average really mean?**
- **What has been implemented so far?**

Note: This example is used for training purposes only.



Description of Procedures

- **Description of evaluation procedures, tests, records, or reports the school district used as a basis for the proposal or refusal.**
 - Clear and specific about the information used
 - Ensures parents know which records to review or request in order to participate in a meaningful way



Description of evaluation procedures, tests, records, or reports the school district used as a basis for the proposal or refusal



The team considered parent input, student input, teacher input, hearing and vision screenings, and benchmark testing.

- **Lack of specific information in this statement**
- **What benchmark testing was reviewed?**

Note: This example is used for training purposes only.



Other Factors

- **Other factors relevant to the action proposed**

Additional contents:

- Can use this to document important information
- Be careful about including superfluous information
- Statement of the protections available under IDEA and the means by which a copy of the procedural safeguards may be obtained
- Source for the parent to contact to obtain assistance in understanding the provisions of the notice

Case law:

Ms. M. v. Falmouth School Department, 69 IDELR 86 (1st Cir. 2017)

- References to methodology could have potentially caused issues.



Other factors relevant to the proposed action



The team will reconvene when testing is complete to review testing results and consider eligibility for specialized instruction.

- **Meeting participants**
- **Provision of the safeguards to the parent**

Note: This example is used for training purposes only.

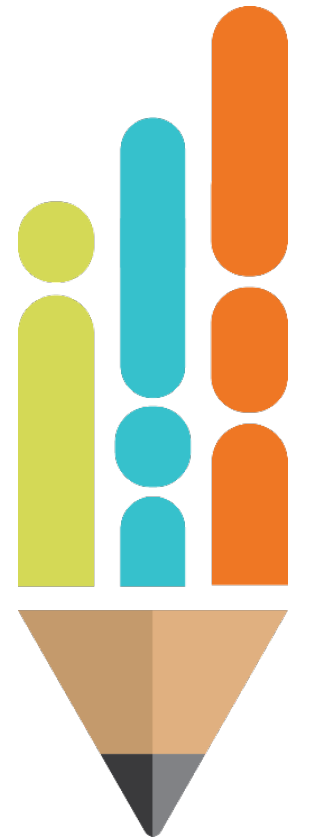
Other Considerations



- U.S. Dep't of Educ., *Letter to Atkins-Lieberman*, [56 IDELR 141](#) (2010)
 - PWN under [34 C.F.R. § 300.503](#) must include the student's category of eligibility when doing so is necessary to affect the purpose of notice
- U.S. Dep't of Educ., *Letter to Anonymous*, [59 IDELR 14](#) (2012)
 - Districts must provide PWN when proposing a functional behavioral assessment for the purpose of determining a child's eligibility and need for special education and related services.
- PWN must provide sufficient detail to allow parents to participate in their child's educational services decisions in an informed way. *See Smith v. Squillacote*, [19 IDELR 265](#) (D.D.C. 1992)
 - A hearing officer erred in finding that the district's notice of a proposed change in placement violated the IDEA by failing to explain the reasons for the student's classification as "multiply handicapped" and by failing to adequately detail the rationale for rejecting two private school placement options.

Other Considerations

- Generally, a district isn't required to provide a Prior Written Notice when it refuses to utilize a particular educational methodology requested by a parent.
 - However, if the current methodology is part of the provision of FAPE as outlined in the child's IEP, the district would be required to provide a Prior Written Notice.
 - In *Alaska Gateway School District*, [116 LRP 15983](#) (Alaska Dep't of Educ. 2016), the IEP listed "E-Therapy" as the location of the child's services. Because the parents asked that the services be provided in-person, the district was required to formally notify the parents of its decision to continue providing the therapy online.



Receipt of Notice

- The IDEA does not require that districts ask parents to acknowledge the receipt of PWN.
 - However, given the potential ramifications for not sending notice, districts should consider how to document the fact that notice was sent.
 - *Columbus City Sch. Dist.*, [114 LRP 52959](#) (Ohio Dep't of Educ. 2014) (noting that the parents' signature on the student's IEP, coupled with the checkmark next to a box stating that the parents received a copy of procedural safeguards, showed that the district adhered to the IDEA's notice requirements).



How does your district consider receipt of the Prior Written Notice?

Prior Written Notice Without Meeting

- There may be times when Prior Written Notice is required without an IEP meeting ever having been convened.
- Any proposal or refusal, even if there was no meeting convened to discuss the proposed or refused action, requires prior written notice.
 - For example, the refusal to conduct an evaluation or a change in services agreed via IEP amendment would each trigger the duty to provide prior written notice.



Source: Wright, Brandon K. (2018, June). Prior Written Notice: Practical Tips for Legal Compliance. National Institute on Legal Issues of Educating Individuals with Disabilities, Dallas, TX.



Best Practices

1

Avoid leaving blanks and/or using terms such as not applicable, none, or NA.

2

Write the prior written notice for a reader who is not conversant in special education terminology—avoid abbreviations and jargon.

3

Make sure to **proofread** and avoid cookie-cutter prior written notice statements—also, ***be sure the dates are correct.***

4

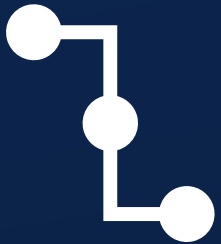
Ensure that the prior written notice is comprehensive and encompasses all proposed and/or refused actions, even when there is agreement with the proposal.

Cautions



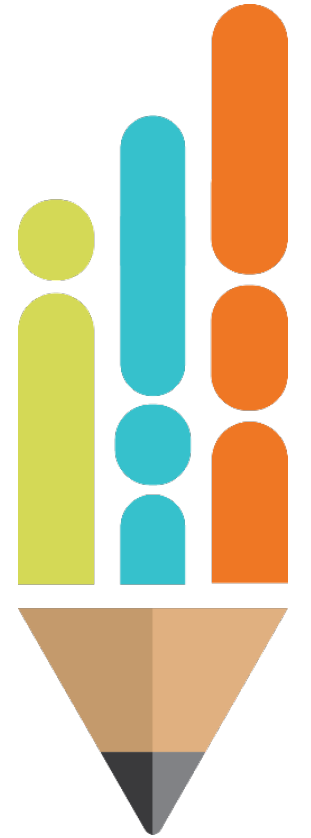
- Providing parents with verbal notice as a substitute for written notice does not fulfill the PWN requirements of the IDEA, regardless of whether the verbal notice is substantively proper.
 - *Union Sch. Dist. v. Smith*, [20 IDELR 987](#) (9th Cir. 1994), *cert. denied*, [109 LRP 36508](#), 513 U.S. 965 (1994) (A district never formally offered placement in its program for students with autism through PWN as required by the IDEA).
- A district violated the IDEA by failing to provide the prior written notice to reflect a change in the student's educational placement.
 - *Pikes Peak Bd. of Coop. Educ. Servs.*, [9 ECLPR 15](#) (Colo. Dep't of Educ. 2011).
- A district's failure to provide PWN within a reasonable time before it implements a change constitutes a procedural violation that may result in a denial of FAPE.
 - *See El Paso County Sch. Dist. 2*, [113 LRP 44602](#) (Colo. Dep't of Educ. 2013).

Making the Connection



Both Child Find and the Prior Written Notice

- Require strong internal processes and procedures
- Call for specificity
- Establish the foundation for educational programming and planning





Thank You!

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Tuesday-Thursday

Please Share Your Feedback:

You may access the PD by navigating here:

https://stateoftennessee.formstack.com/forms/2023fpi_pd_survey

