

§303.421 Prior written notice and procedural safeguards notice.

(a) *General.* Prior written notice must be provided to parents a reasonable time before the lead agency or an EIS provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of their infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant's or toddler's family.

(b) *Content of notice.* The notice must be in sufficient detail to inform parents about—

(1) The action that is being proposed or refused;

(2) The reasons for taking the action; and

(3) All procedural safeguards that are available under this subpart, including a description of mediation in §303.431, how to file a State complaint in §§303.432 through 303.434 and a due process complaint in the provisions adopted

under §303.430(d), and any timelines under those procedures.

(c) *Native language.* (1) The notice must be—

(i) Written in language understandable to the general public; and

(ii) Provided in the native language, as defined in §303.25, 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 or designated EIS provider must take steps to ensure that—

(i) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(ii) The parent understands the notice; and

(iii) There is written evidence that the requirements of this paragraph have been met.



§303.420 Parental consent and ability to decline services.

(a) The lead agency must ensure parental consent is obtained before—

(1) Administering screening procedures under §303.320 that are used to determine whether a child is suspected of having a disability;

(2) All evaluations and assessments of a child are conducted under §303.321;

(3) Early intervention services are provided to the child under this part;

(4) Public benefits or insurance or private insurance is used if such consent is required under §303.520; and

(5) Disclosure of personally identifiable information consistent with §303.414.

(b) If a parent does not give consent under paragraph (a)(1), (a)(2), or (a)(3) of this section, the lead agency must make reasonable efforts to ensure that the parent—

(1) Is fully aware of the nature of the evaluation and assessment of the child or early intervention services that would be available; and

(2) Understands that the child will not be able to receive the evaluation, assessment, or early intervention service unless consent is given.

(c) The lead agency may not use the due process hearing procedures under this part or Part B of the Act to challenge a parent's refusal to provide any consent that is required under paragraph (a) of this section.

(d) The parents of an infant or toddler with a disability—

(1) Determine whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service under this part at any time, in accordance with State law; and

(2) May decline a service after first accepting it, without jeopardizing other early intervention services under this part.



§303.7 Consent.

Consent means that—

(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language, as defined in §303.25;

(b) The parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent form describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released; and

(c)(1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

(2) If a parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked).