

North Carolina Infant-Toddler Program Procedural Guidance

Reference: Procedural Safeguards Policy

Notice of Rights

Introduction

NC Infant-Toddler Program (NC ITP) service providers must ensure that the parent is informed of and understands his rights under the NC ITP. Both verbal and written notice should be provided at many points in the family's involvement with the Infant-Toddler Program. Repetition is necessary because the information is complex and the parent may need to hear and discuss his rights in his native language or mode of communication several times in order to fully understand them.

Requirements

In addition to following the requirements of the Individuals with Disabilities Education Act (IDEA) regarding notification of rights, service providers must adhere to the requirements of the Family Educational Rights and Privacy Act (FERPA); however, they are not required to meet the notification of rights requirements of the Health Insurance Portability and Accountability Act (HIPAA). (*For additional information, see the Procedural Safeguards Policy.*)

Documents and Guidance

The *North Carolina Infant-Toddler Program Notice of Child and Family Rights* document is for parents and serves as an official notification of their rights under federal law and regulations. A copy of this document is available at www.bearly.nc.gov.

The *North Carolina Infant-Toddler Program Parent Handbook* (often referred to as the “Parent Handbook”) is a document that explains the role and philosophy of the Infant-Toddler Program in family-friendly terms. The Parent Handbook includes a summary of child and family rights and procedural safeguards information.

The *North Carolina Infant-Toddler Program Procedural Safeguards Requirements Technical Assistance and Training Guide* is available to assist Children’s Developmental Services Agency (CDSA) staff in understanding when to provide notice of rights and which rights to share and discuss at those times.

Procedures

1. Notification of NC ITP rights (required)

- A. during initial contacts with the family when the Infant-Toddler Program is being explained and families are asked to give permission for eligibility determination;
- B. at least annually thereafter, as long as the child is enrolled in the Infant-Toddler Program, and
- C. whenever an agency proposes to take significant actions that will affect the child or family, such as:

- when the initial evaluation and/or assessment is proposed;
- when the eligibility determination is made;
- when the Individualized Family Service Plan is being developed or reviewed; and
- when a change in services is being proposed or refused.

2. **Written Acknowledgment of Receipt of Rights**

While there are numerous times when these rights must be reviewed and explained, written acknowledgement of the receipt of this information must be obtained from the parent on the following occasions:

- during initial contacts with the family when the Infant-Toddler Program is being explained, using the *North Carolina Infant-Toddler Program Prior Written Notice and Consent for Evaluation and Assessment* form; and
- when the Individualized Family Service Plan (IFSP) is being reviewed, at least semi-annually and annually, using the *North Carolina Infant-Toddler Program Individualized Family Service Plan Agreement Form or Review Form*.

3. **Informing Parents and Documentation**

The Children’s Developmental Services Agency is responsible for ensuring that parents are informed of their rights and that acknowledgment of the receipt of these rights is obtained at the required times. It is the responsibility of the Service Coordinator to obtain the parent's written acknowledgement that his rights were reviewed and explained at the specified times and to record this information in the agency’s record on the child. Service Coordinators and other service providers must document in their agency records other occasions when rights under the Infant-Toddler Program are reviewed and explained to the parent. Notes documenting the explanation of rights to the parent must be filed in the Children’s Developmental Services Agency’s record on the child at occurrence.

4. **Ensuring Understanding and Documentation**

While giving parents a copy of the *North Carolina Infant-Toddler Program Notice of Child and Family Rights* document is required and helpful in sharing information about rights and procedural safeguards, this is only the first step. Service Coordinators and other service providers must review the rights verbally with the parent, discussing them in the context of whatever action is being taken, and inquire if the parent understands. To make informed decisions, parents need to fully understand what is being proposed, what options are available, and what the consequences of their choices may be. Documenting parent’s understanding of the relevant right(s) in the agency record is necessary.

5. **Mode of Communication**

Any notification of rights, verbal and written, should be by a means of communication understandable to the parent. (*For additional information, see the Native Language Procedural Guidance.*) Verbal notice should be provided in the natural flow of conversation and should emphasize parental freedom of choice. Verbal notification of rights at the required points of contact with the parent does not have to include a detailed review of all rights and procedural safeguards. The parent should be reminded that there are numerous rights, but verbal review may consist of only those rights that are pertinent to the action being proposed or taken. It is recommended that the Service Coordinator document in the record the specific rights that were reviewed with the parent and through what mode of communication rights were conveyed.

6. Notice of Rights at Referral

The parent must be informed of his rights related to confidentiality during the referral process. The Service Coordinator should ensure that parents are aware of the nature and scope of their rights at referral by providing parents with the *North Carolina Infant-Toddler Program Notice of Child and Family Rights* handbook or form. The CDSA must give notice of rights when a child is referred, even if a child is not evaluated, that is adequate to fully inform parents about confidentiality rights appropriate to the referral process, including document retention and destruction procedures. Providing the *North Carolina Infant-Toddler Program Rights at Referral Letter* and *North Carolina Infant-Toddler Program Notice of Child and Family Rights* handbook or form meets this requirement.

7. Notice of Rights at Transition

The parent should be informed of his rights related to Preschool Disability Program services during the transition process. The notification regarding transition rights should be no earlier than when the enrolled child is 27 months old and no later than 33 months old, in advance of transition from the Infant-Toddler Program. This permits the parent to ensure that his child, if eligible, receives appropriate Preschool Disability Program services in a timely manner or is referred to appropriate community based supports and services. As the transition process nears the child’s third birthday, the Local Education Agency (public school system) will officially share Preschool Disability Program rights with the parent. There is a transition handbook that outlines the parent’s rights that should be given to the parent.

8. Notice of Retention and Destruction of Confidential Information

The parent is informed of his rights related to how long his child’s confidential information is kept and when it is destroyed. The Service Coordinator informs the parent at enrollment and again when the child exits the program, that when the personally identifiable information, that is collected, maintained, or used for his child under the Infant-Toddler Program, is no longer needed to provide services to his child, it is held at the local CDSA until the child turns five years of age. The child’s record is then transferred to the State Records Center in Raleigh and archived for an additional ten (10) years, at which point the record is destroyed. The Service Coordinator should encourage the parent to secure a copy of pertinent records of the child for the family’s intended purpose as the child exits the program.

Parents can request amendments to the record but cannot destroy or delete information in their child’s active record. No deletions are allowed, but a parent can place a statement in the record regarding the entry the parent wishes to correct or clarify. (*Please refer to the Parental Access to Records Procedural Guidance.*)

Parents may request that their child’s personally identifiable information be destroyed when that information is no longer needed to provide services to the child, that is, the child has aged out of or exited from the ITP. The Service Coordinator must inform the parent that the CDSA is required to maintain permanent early intervention records of the child’s name, address, phone number, and dates of early intervention services. For other personally identifiable information, if the parent exercises the right to have the information destroyed, then the medical records supervisor or designee will follow local procedures to destroy the requested personally identifiable information.