

Written Prior Notice

Introduction and Intent

Written Prior Notice is a safeguard to protect families. It requires service providers to give parents a written summary of any changes that are being proposed or denied. This summary must be provided before parents are asked to consent to the next steps. It also allows an opportunity to consider options and express any questions about proposed changes or challenge decisions regarding eligibility, identification, placement, and services before the decision is implemented. It is important that the notice be as clear and understandable to parents as possible.

This section includes information regarding:

- timeline for providing notice;
- specific actions that trigger a need for written notice;
- what should be included in the notice; and
- use of the family's native language or usual communication mode.

Federal Statute

TITLE I / C / SEC. 639. PROCEDURAL SAFEGUARDS.

(a) MINIMUM PROCEDURES.—The procedural safeguards required to be included in a statewide system under section 635(a)(13) shall provide, at a minimum, the following:

(6) Written prior notice to the parents of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or placement of the infant or toddler with a disability, or the provision of appropriate early intervention services to the infant or toddler.

(7) Procedures designed to ensure that the notice required by paragraph (6) fully informs the parents, in the parents' native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

Federal Regulations

Sec. 303.403 Prior notice; native language.

(a) General. Written prior notice must be given to the parents of a child eligible under this part a reasonable time before a public agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family.

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

- (1) The action that is being proposed or refused;
- (2) The reasons for taking the action;
- (3) All procedural safeguards that are available under Secs. 303.401-303.460 of this part; and
- (4) The State complaint procedures under Secs. 303.510-303.512, including a description of how to file a complaint and the 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 of the parents, 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 service provider, shall 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.
- (3) If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent (such as sign language, braille, or oral communication).

(Authority: 20 U.S.C. 1439(a)(6) and (7))

[58 FR 40959, July 30, 1993, as amended at 64 FR 12536, Mar. 12, 1999]

State Level Expectations/Guidance

From the: [Early On Michigan Procedural Safeguards Standards under Part C of the Individual with Disabilities Education Act](#)

NOTICE/NATIVE LANGUAGE

Std. 340.1920 Prior notice

(a) **General.** Written prior notice must be given to the parents of a child eligible under this part 7 calendar days before a public agency or service provider proposes or refuses to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family. A "public agency" includes the lead agency and any other political subdivision of the state that is responsible for providing early intervention services to children eligible under Part C and their families.

(b) **Content of notice.** The notice must be in sufficient detail to inform the 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 part.

Std. 340.1921 Notice of referral

The local lead agency must notify the parent of a referral for possible Part C services and request permission for evaluation within 10 calendar days of the receipt of the referral by a participating agency.

Std. 340.1922 Native language

(a) **Native language**, when used with reference to persons of limited English proficiency, means the language or mode of communication normally used by the parent of a child eligible under Part C.

(b) The notice must be:

- (1) Written in language understandable to the general public; and
- (2) Provided in the native language of the parents, or other mode of communication.

(c) If the native language or other mode of communication of the parent is not a written language, the public agency, or designated service provider, shall take steps to ensure that:

- (1) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;
- (2) The parent understands the notice; and
- (3) There is written evidence that the requirements of this paragraph have been met.

(d) If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent (e.g., sign language, Braille, or oral communication) and the parent shall have the right to an appropriate interpreter and explanation of the notice by a professional staff person.

Std. 340.1923 Waiver of timelines

Timelines for notice to parents may be contracted or extended for a specific period of time by the mutual consent of the parent and public agency/service provider. Such consent shall be documented by the public agency/service provider.

Implementation

Timeline

The federal regulations require providers to give Written Prior Notice (WPN) a reasonable length of time in advance of any proposed or impending change. Michigan has defined reasonable length of time to mean not less than seven (7) calendar days.

Form

A form, [Written Prior Notice: Birth to Three Years](#), meeting the WPN content requirements has been developed. Local service areas may elect to use the prototype WPN form or develop forms of their own that include all required content.

Content

WPN must include the following:

- Description of the action(s) proposed or refused;
- Explanation of why each action is proposed or refused;

- Statement that the family has protection under the procedural safeguards of federal and state law and the means by which a copy of the [Early On Family Rights](#) can be obtained. Parents must be made aware of their right to mediation or to file a due process complaint challenging the decision, the procedure for doing so, and the timeline to be followed.

Language

The notice must be provided to parents in their native language or mode of communication (such as oral, written, sign, or Braille). *Early On* must ensure that parents understand the content of the notice. Written evidence that these requirements were met must be documented. The WPN form, with additional comments regarding translation provided, can be used as evidence that the above requirements have been met.

Waiver of Timeline

Parents and service providers may agree to proceed earlier than the 7 days in order to expedite the proposed action; however, Written Prior Notice must still be given. The WPN form may be used for documenting the agreement to proceed earlier than the 7 days.

Delivery and Documentation

Written Prior Notice may be mailed, emailed, or handed to parents. Obtaining a signature of receipt of WPN is not required. A copy of the form used, including the date, should be kept as documentation in the child's file.

Circumstances

Early On must give parents WPN before proposing, initiating, or refusing a change in the identification, evaluation, placement or the provision of appropriate *Early On* services. The following situations delineate the circumstances in which WPN is or is not required. Links to additional charts which offer more details regarding each process are referenced following each circumstance.

Evaluation: Written Prior Notice is needed anytime an evaluation will be conducted that requires a signature on a [Consent to Evaluate](#) form. WPN is needed at least 7 days before asking parents to provide consent. [WPN Process Chart: Initial Evaluation](#) and [WPN Process Chart: \(Not Initial\) Evaluation](#)

Eligibility: When a child is determined to be either eligible or ineligible for *Early On* services, WPN must be provided. For ineligible children, WPN occurs following the eligibility decision. For eligible children, WPN is provided after the eligibility decision and at least 7 days before an Individualized Family Service Plan (IFSP)/Individualized Education Plan (IEP) meeting occurs. [WPN Process Chart: Eligible](#) and [WPN Process Chart: Not Eligible](#)

IFSP/IEP: During an IFSP/IEP meeting, the team develops an IFSP/IEP by discussing choices and making decisions. The WPN form should be filled out during this process to document the decisions proposed or denied and the reasons for those decisions. The WPN is provided to parents after the IFSP/IEP is developed but before parents are asked to sign it. WPN is required for all initial IFSP/IEPs. At subsequent IFSP/IEP meetings, WPN is required whenever any change in services is proposed or denied. The only time WPN is not required is if the services remain exactly the same on the new IFSP/IEP and no changes were proposed or denied during the IFSP/IEP discussion. Changes to the IFSP/IEP services that require WPN include: amount or intensity, type of service, location of service, or method of provision (e.g. group, individual). [WPN Process Chart: Initial IFSP/IEP](#) and [WPN Process Chart: Annual or Requested IFSP/IEP](#)

Exit/Transition: WPN is needed anytime a child exits *Early On* before age three. WPN is not needed for a child exiting *Early On* at age three. For a child who will potentially begin or continue Michigan Special Education services under Part B, the Michigan Administrative Rules for Special Education (MARSE) for WPN will apply and be the responsibility of Part B/Michigan Special Education. [WPN Process Chart: Exit or Transition](#)

**Dual Eligibility-
Early On and
Michigan Special
Education**

The prototype WPN: Birth to Three Years form is designed to meet all requirements of WPN for both *Early On* and Michigan Special Education for children from birth to age three. The form includes an additional section for providing detailed information about specific evaluations conducted as required for Michigan Special Education. For specific requirements regarding the circumstances when WPN is required for families of children enrolled in Michigan Special Education, refer to the MARSE.

Related Forms and Documents

[Consent to Evaluate form](#)

[Early On Family Rights \(Part 4 of the Early On Guidebook\)](#)

[Early On Michigan Procedural Safeguards Standards under Part C of the Individual with Disabilities Education Act](#)

[Federal Regulations](#)

[Federal Statute](#)

[Written Prior Notice: Birth to Three Years form](#)

[WPN Process Chart: Annual or Requested IFSP/IEP](#)

[WPN Process Chart: Eligible](#)

[WPN Process Chart: Exit or Transition](#)

[WPN Process Chart: Initial Evaluation](#)

[WPN Process Chart: Initial IFSP/IEP](#)

[WPN Process Chart: NOT Eligible](#)

[WPN: \(Not Initial\) Evaluation](#)