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## Parental Consent for Activities Concerning Eligibility Determination and the Receipt of Services Notice to Coordinators

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### BACKGROUND

The Individuals with Disabilities Education Act (IDEA) and *Early On*<sup>®</sup> Michigan requires that a local Part C entity obtain consent before an evaluation is administered to an infant and child. In addition, IDEA requires that a signature of a parent or legal guardian be obtained when an Individualized Family Service Plan (IFSP) is written and include each service to be rendered.

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### REQUIREMENTS

Consent must be obtained to:

1. Evaluate and assess the child to determine eligibility for *Early On*.
2. Share information on the results of the evaluation, the IFSP or any other documentation in the child's file.
3. Complete the IFSP.
4. Begin services that are agreed to on the IFSP.
5. Change an IFSP.
6. Destroy records of the child.

Each local lead agency shall ensure that the rights of children potentially eligible under Part C of IDEA are protected if:

1. No parent can be identified;
  2. The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or
  3. The child is a ward of the state under the laws of that state.
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### REFERENCES

The requirements delineated in this bulletin are referenced and supported in the following federal and state statutes, regulations, rules, and policies:

1. Public Law 108-446 Individuals with Disabilities Education Act 2004, Part C
  2. Part B regulations 34 CFR 300.515
  3. Part C regulations 34 CFR 303.19
  4. Part C regulations 34 CFR 303.401
  5. Part C regulations 34 CFR 303.404
  6. Part C regulations 34 CFR 303.405
  7. Part C regulations 34 CFR 303.406
  8. Michigan State Plan, Section VI and XI
  9. Michigan Department of Education, Revised Policy for the Appointment of Surrogate Parents for Special Education Services (2003)
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## DEFINITIONS

### **Consent** means

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;
2. The parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

### **Parent** means

1. A natural or adoptive parent of a child;
2. A guardian;
3. A person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare);
4. A surrogate parent who is assigned in accordance with Sec. 303.406; or
5. A foster parent, if the natural parents' authority to make decisions required of parents under Part C of IDEA has been extinguished under state law; and the foster parent has an ongoing, long-term parental relationship with child; and is willing to make decisions required of parents under Part C of IDEA; and has no interest that would conflict with the interests of the child.

The term "**surrogate parent**" is not expressly defined, but rather is functionally defined in the federal regulations

implementing the IDEA. There is no definitional equivalent for the term in state law. The regulations use the term "surrogate parent" and "surrogate for the parent" interchangeably.

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## **DISCUSSION**

Written parental consent must be obtained before conducting the initial evaluation and assessment of a child, initiating the provision of early intervention services, sharing personally identifiable information among agencies, and any change in the IFSP. The parents of a child eligible for Part C services may determine if they, their child, or other family members will accept or decline early intervention services under Part C.

When a natural or adoptive parent can not provide the written consent, documentation should be placed in the file to show that the person signing the consent is appropriate. Documentation may be evidenced by a court order or other legal document or a document from the Michigan Department of Human Services or their private agency stating that the child is placed with a family member.

When having a surrogate parent sign written consent all procedures set in place by Michigan must be followed. Public agencies, when selecting a surrogate parent for the child must ensure that the person selected has no interest that conflicts with the interest of the child he or she represents and that he or she has knowledge and skills that ensure adequate representation of the child. A person assigned as a surrogate parent may not be an employee of any state agency or a person or employee providing early intervention services to the child or to any family member of the child. A surrogate parent may represent a child in all matters related to the evaluation and assessment of the child, the development and implementation of the child's IFSP, including annual evaluations and periodic reviews, and the ongoing provision of early intervention services to the child.

A surrogate parent need not be assigned if the person providing written consent is a family member acting as the parent, or a foster parent when a natural parent no longer has parental rights or can not be located.

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