

categories as needed. The professions or disciplines need not be limited to traditional occupational categories.

[58 FR 40959, July 30, 1993, as amended at 63 FR 18295, Apr. 14, 1998]

Subpart E—Procedural Safeguards

GENERAL

§ 303.400 General responsibility of lead agency for procedural safeguards.

Each lead agency shall be responsible for—

- (a) Establishing or adopting procedural safeguards that meet the requirements of this subpart; and
- (b) Ensuring effective implementation of the safeguards by each public agency in the State that is involved in the provision of early intervention services under this part.

(Authority: 20 U.S.C. 1439)

§ 303.401 Definitions of consent, native language, and personally identifiable information.

As used in this subpart—

(a) *Consent* means that—

- (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;

(b) *Native language*, where 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 this part;

(c) *Personally identifiable* means that information includes—

- (1) The name of the child, the child’s parent, or other family member;
- (2) The address of the child;
- (3) A personal identifier, such as the child’s or parent’s social security number; or

(4) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

(Authority: 20 U.S.C. 1439)

§ 303.402 Opportunity to examine records.

In accordance with the confidentiality procedures in the regulations under part B of the Act (34 CFR 300.560 through 300.576), the parents of a child eligible under this part must be afforded the opportunity to inspect and review records relating to evaluations and assessments, eligibility determinations, development and implementation of IFSPs, individual complaints dealing with the child, and any other area under this part involving records about the child and the child’s family.

(Authority: 20 U.S.C. 1439(a)(4))

§ 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 §§ 303.401–303.460 of this part; and
- (4) The State complaint procedures under §§ 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