# North Carolina Infant-Toddler Program
# Procedural Guidance

**Reference: Procedural Safeguards Policy**

## *Native Language/Mode of Communication*

## Introduction

Families are better able to participate fully in the Infant-Toddler Program (ITP) when they are able to understand what is being communicated to them. Explaining the Infant-Toddler Program in ways that families understand is critical so that families can be informed decision makers. Communication can be challenging for the family when there are cultural differences between service providers or the Service Coordinator and the family, or when the family communicates in a different language. The family may have immigrated to this country, may not speak English, may be functionally illiterate, may use sign language or Braille for communication, or may not have a written language.

Regardless of the language or mode of communication used by the family, service providers and the Service Coordinator must make accommodations so that the family is able to participate in all aspects of the Infant-Toddler Program. Service providers should be sensitive to cultural differences related to the use of particular words, phrases, types of body language, or gestures. Misunderstandings resulting from an unintentional insult can effectively end efforts to communicate and, consequently, end a family's participation in the Infant-Toddler Program.

It is important to use the family's native language or mode of communication in all interactions with the family. However, there are certain times when it is required by federal and state law, unless it is clearly not feasible to do so. A list of those required times, information about expectations for documenting compliance, securing and funding translation and interpretation services, and defining "clearly not feasible" are included in this guidance.

### Definitions

1. ***Native language**,* when used with respect to an individual who is limited English proficient or LEP means—
    a. The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in (2); and
    b. For evaluations and assessments, the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.
2. ***Native language**,* when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication).

## Requirements

"Unless is clearly not feasible to do so" means that the CDSA and/or provider has made every attempt possible to accommodate the preferred native language used by the family.

The family's native language or other mode of communication must be used when providing:

1. **Procedural Safeguards** –

   Consent and Prior Written Notice – *Written Informed Consent is met when the family is provided with a fully completed document, in writing (or typed), and in the family's preferred Native Language (including English, Spanish, and other more common foreign languages), prior to requesting and/or obtaining a parent signature.*

   Complaint Resolution – *Conducted in native language of parent, unless clearly not feasible to do so.*

2. **Notice of Rights –** *Notice of rights and safeguards to be provided in the native languages of the various population groups in the State.*
3. **Family-Directed Assessment –** *Conducted in the native language of parent, unless clearly not feasible to do so.*
4. **Child Evaluation and Assessment –** *Conducted in native language of child (if determined developmentally appropriate for the child by the evaluator or assessor), unless clearly not feasible to do so.*
5. **Individualized Family Service Plan (IFSP) meetings –** *Conducted in native language of parent, unless clearly not feasible to do so.*
6. **Other contacts with families -** *The federal Part C regulations do not require native language be used in all direct contacts with the child and family. However, as recipients of Federal funds, Part C lead agencies must comply with Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin in programs or activities receiving Federal funds.*
7. **Speech Language Pathologist (SLP) therapy services -** *Medicaid requires SLP treatment be conducted in the child's native language. If no bilingual therapists are available, family network members (bilingual adult friends or family members) can be used to interpret for speech therapy sessions if they agree to provide the support and are available. If a family support person is not available for a speech therapy session, a qualified interpreter must interpret for the therapy session.*

## Determining Appropriate Native Language Supports

Because each family unit is unique, it is important to discuss the need for native language support and not make assumptions. A family's need for interpreter/translator services may vary across time and activities; therefore, it is appropriate to assess family satisfaction with native language support regularly during the child's participation in the program. Most families have a social network that may assist them if interpretation and/or translation are needed. A family's network of friends, relatives, co-workers, etc. offer valued support and may provide appropriate assistance during the family's participation in early intervention services. Family members under the age of 18 (minors) are <u>not</u> appropriate persons to use as interpreters/translators although they may participate in services occurring in natural routines and settings of the child.

The following interview questions are provided as a guide for use in determining the family's need for interpreter/translator assistance and identifying appropriate resources.

1. Do you sometimes need help in understanding English, such as at a doctor's appointment, at your workplace, with your child's teacher, etc.?
2. If you need help understanding English and there is not an interpreter available, whom do you ask for help?
3. Does this person(s) speak your native language and English very well?
4. How do you know this person(s)?
5. How often do you ask this person(s) to assist you with interpreting/translating?
6. Do you feel comfortable asking this person(s) for assistance?
7. Are you confident in the abilities of this person to help with interpreting/translating?
8. How often is this person(s) available to help you? Day? Evening?
9. Do you pay this person(s) to interpret/translate for you?
10. Are you comfortable with this person knowing potentially sensitive or private information about your child and family?
11. Are you comfortable asking this person(s) to assist you in participating in early intervention services?

### Procedures for Meeting Native Language Requirements

1. To ensure efficient use of program resources, all available methods for interpreting and translating information for families should be explored and utilized by staff. Use of electronic translation programs and phone-based interpreter services (see CDSA business office for current contract information) are recommended to the greatest extent possible. Local community-based programs may also provide interpreter/translator resources. Statewide efforts include the Refugee Assistance Program, NC DHHS https://www.ncdhhs.gov/divisions/social-services/refugee-services.
2. Obtain the parent's signature on the ***North Carolina Infant-Toddler Program Authorization to Disclose Health Information*** form to allow the use of an interpreter/translator who is not an employee of the ITP. Explain that all information discussed is kept confidential.
3. When using an interpreter, speak with the interpreter in advance of the meeting (or phone call) with the family to share purpose of the meeting and discuss details of how the meeting will be conducted. Clarify roles, boundaries, and strategies for the meeting.
4. Arrive at the face-to-face meeting together and introduce the interpreter to the family. Interpreters should not engage in any activity with the family beyond the role of interpreter. An interpreter should not hold the child or assist the service provider in any activities. Do not leave the interpreter alone at any time with the child and family.
5. The interpreter should never transport the child/family to any EI or non-EI services. The interpreter should not sight translate non-EI records (i.e. mail the family has received) nor make phone calls for the family beyond facilitating communication for EI services. The interpreter should not make phone calls to the family without the service coordinator or service provider being present.

6. During a meeting with the family, do not make comments to the interpreter that are not intended to be interpreted (e.g., no side conversations). Speak directly to the parent or family member and allow time for the interpretation before speaking again.
7. The interpreter should be positioned slightly behind the family member/caregiver. This position facilitates the communication between the service coordinator/provider and the family (rather than the interpreter and the family).
8. Certain service providers may prefer alternative positions for the interpreter depending upon the activity. For example:
    a. Speech Language Pathologists may want the interpreter to sit slightly behind the parent/caregiver when communicating with and teaching the caregiver techniques to support the child's development. Other times, the speech therapist may want the interpreter to sit beside them so the child will look in one general direction to prevent confusing the child who may otherwise be looking back and forth between people.
    b. Vision Services providers may want the interpreter to sit by them in a position best for the interaction that needs to occur between the child and therapist.
    c. Physical Therapists may require the interpreter walk or move around a lot to maintain the flow of interpretation but not to distract the child from the interaction he/she is having with the service provider.
9. When the meeting (or call) with the family has concluded, try to leave at the same time as the interpreter. The interpreter should never be left alone with the family. Schedule a time to debrief with the interpreter.
10. Debrief the meeting with the interpreter, if at all possible to discuss any issues that may have surfaced during the contact, and to share any relevant information about the family's culture, preferences, etc.
11. Documenting service coordinator activities regarding the need for interpreter/translator services and the use of such services is critical. Documentation should include conversations held with the family about the need for interpreters/translators and the family's response/request. Progress notes should include all persons present at a meeting (or call) including the interpreter. Any changes that occur or issues that arise around the use of an interpreter/translator should be documented in a progress note. Any documents that are translated specifically for an individual child and family (i.e., evaluation, assessment, IFSP) should be noted in a progress note and the translated copy filed in the child's record. It is not appropriate for an interpreter to make documentations in a child's record.
12. Before translating documents specific to the child and family (i.e., evaluation, assessment, IFSP) it is important to first discuss a parent's preferred language for written materials. A parent may be fluent in speaking a language but not have the literacy skills to read information written in that language.

    The translation of the IFSP (or other documents requiring written informed consent) will not delay the provision of services to a child/family, as the IFSP is not considered to be official until consent (by parent signature) has been obtained.

    - The family meets on 1/4/21 for eligibility determination evaluation and the family chooses to conduct the initial IFSP meeting as part of this appointment. The 45 days is met when the initial

IFSP meeting has been completed. The IFSP or report is completed & sent to translator to be translated on 1/8/21. The EISC and family meet on 1/14/21 to review the completed IFSP. The IFSP is sent to the family on 1/15/21 through DocuSign. The family returns the signed IFSP, using DocuSign on 1/18/21. The IFSP start date/parent signature date/plan signature date is 1/18/21. The IFSP cycle runs concurrent with the date in which the IFSP is signed.

13. All families are entitled to receive written results of all child evaluations and assessments and a copy of the ***NC ITP Individualized Family Service Plan (IFSP)***. The ***NC ITP IFSP Section II. Family Concerns, Priorities, and Resources*** includes the results of the family-directed assessment used in the development of the IFSP. The ***NC ITP IFSP Section III. Summary of the Child's Present Abilities and Strengths*** includes the results of all child evaluations and assessments used in the development of the IFSP. Providing a translated copy of the child and family's IFSP, including Sections II and III, shall meet the requirement of a family receiving a written copy of evaluation and assessment results.

14. Any parent who does not speak English must be given consent using the ***North Carolina Infant-Toddler Program Prior Written Notice and Consent for Evaluation and Assessment*** form and authorization using the ***North Carolina Infant-Toddler Program Authorization to Disclose Health Information*** form in his/her native language or mode of communication, unless clearly not feasible to do so. An individual who can interpret any questions from the parent and the answers to these questions should be present. A consent or authorization form that is written in English may be used if someone is available to interpret the form for the parent. The entire form must be read and questions answered. Recommended practice includes having the following statement translated on the form and having the parent sign it or having the parent write the statement in his native language and sign it: "This document has been explained to me and I understand it." The service provider must document how the consent or authorization was obtained, including any questions that were asked, the answers given and the name of the person interpreting.

15. If the parent is deaf, blind, totally or functionally illiterate, 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) and the parent must be given a written copy of all such communications.

16. If the parent is illiterate, the service coordinator or provider should have another family member present to hear the verbal explanation of the consent or authorization being sought, unless clearly not feasible to do so. The entire form must be read to the parent and any questions answered. The parent should place an "X" on the signature line and the parent's name printed on the signature line in order to identify the person making the "X." If another family member is present, it is recommended that that person also sign the form. The service provider must document how the consent or authorization was obtained, including any questions that were asked, answers given, and the name of the family member present, if appropriate.

17. It is unrealistic to expect every county to have someone available locally to respond to requests regarding all languages or modes of communication. Service providers are excused from meeting native language requirements where indicated "unless clearly not feasible to do so." This means the provider has made every attempt possible to accommodate the native language or mode of communication used by the family. Documentation of the provider's attempts should be included in a progress note along with explanation to the family.