

STATE OF WISCONSIN  
Department of Health Services  
Division of Long-Term Care

**DLTC Numbered Memo Series 2010-01**  
**Date:** January 14, 2010  
**Index Title: LEA Notification Opt Out Policy**

**To:** Listserv

**For:** County Birth to 3 Program Coordinators  
Area Administrators / Human Services Area Coordinators  
County Departments of Developmental Disabilities Services Directors  
County Departments of Human Services Directors  
County Departments of Social Services Directors  
County Waiver Coordinators  
County DD Coordinators  
Tribal Chairpersons

**From:** Susan Crowley  
Administrator

**Subject:** LEA Notification Opt Out Policy

### **Document Summary**

Counties are required under the IDEA section 637(a)(9)(A)(ii)(I), 34 CFR §303.148(b)(1), and the Office of Special Education Program's (OSEP) 2004 Letter to Elder, to disclose limited child find information (i.e. child's name, date of birth, parent contact information) to the local education agency (LEA) where the child resides unless the lead agency has adopted an opt out policy and the parent opts out. The lead agency may not require affirmative parental consent for this limited disclosure.

The Birth to 3 LEA Notification process is designed to increase the opportunities of children transitioning from the B-3 program to receive supports or services from which the children may benefit by sending the child's name, date of birth, and parental contact information (limited contact information) to the LEA that serves children over age three with disabilities. In Wisconsin, families are an integral part of the transition process. With this philosophy in mind, the Wisconsin Birth to 3 Program proposed an opt out policy that allows families that do not want the limited contact information provided to the LEA to be able to "opt out" of having this information sent. As part of the OSEP approval process, the proposed Opt Out policy was posted on the Wisconsin Birth to 3 Website on May 30, 2009. The Department began accepting public comments via the Website on May 30, 2009. Comments were collected through the date of the public hearings. The Department held one set of public hearings on June 30, 2009 at five different sites across the State. This Opt Out Policy has been approved by OSEP on September 23, 2009. Please see the Opt Out Policy attached.

With the Opt Out Policy approved, Wisconsin Birth to 3 Programs need to institute the necessary processes to: 1) assure families are aware of the Opt Out Policy; and 2) show how to process an Opt Out request from a family.

Birth to 3 Programs are required to send LEA Notification with the limited child find information unless an Opt Out request form has been signed by the family. LEA Notification in WI is sent to the LEA when the child is 2 years, 3 months of age. To assure families are aware of the Opt Out Policy, the Birth to 3 Program staff will provide the family with information about the LEA Notification process early in the

child's participation in the program, at the point of the initial Individualized Family Service Plan (IFSP). It is recommended that families be informed of the upcoming LEA Notification process at an IFSP meeting close to the child's age of 2 years.

If the family chooses to "opt out," the parent would sign and return the "Opting Out of LEA Notification to the LEA" form. If the "Opting Out of LEA Notification to the LEA" form is returned to the Birth to 3 Program before the child is 27 months of age, the limited contact information would not be sent to the LEA. If the "Opting Out of LEA Notification to the LEA" form is not received by the time the child is 27 months of age, then the requirement to send limited contact information to the LEA would be carried out by the Birth to 3 Program.

When an "Opting Out of LEA Notification to the LEA" form is received from a family by the Birth to 3 Program, the program will document the decision of the parent in the Program Participation System (PPS) Transition/Program Exit page. This documentation inhibits the LEA Notification information from being sent to the LEA.

The Opt Out Policy will go into effect starting January 1, 2010. At that time, all Birth to 3 Programs will be required to inform new families—families with an initial IFSP on or after January 1, 2010—of the Opt Out policy. Birth to 3 Programs may choose to distribute the Opt Out Policy to families already participating in the Birth to 3 Program, however Birth to 3 Programs are not required to inform families already enrolled in Birth to 3.

#### **Summary of Requirements:**

Birth to 3 Programs are required to send LEA Notification with the limited child find information unless an Opt Out request form has been signed by the family. LEA Notification in WI is sent to the LEA when the child is 2 years, 3 months of age.

Birth to 3 Programs are required to make families aware of the Opt Out Policy. With the Opt Out Policy in place, Birth to 3 Programs are required to document a family's decision to "opt out" of the LEA Notification in PPS to assure the limited contact information typically sent as part of the LEA Notification process is not sent.

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MEMO WEB SITE: [http://dhfs.wisconsin.gov/dsl\\_info/](http://dhfs.wisconsin.gov/dsl_info/)

Attachments: [Opt Out Policy](#)