

Talking Points

Early Intervention Policies and Procedures Procedural Safeguards and Intake and Referral

Policies and Procedures Procedural Safeguards

Key Points

The *Rhode Island Early Intervention Procedural Safeguards and Funding* document is provided to all families at intake and annually thereafter.

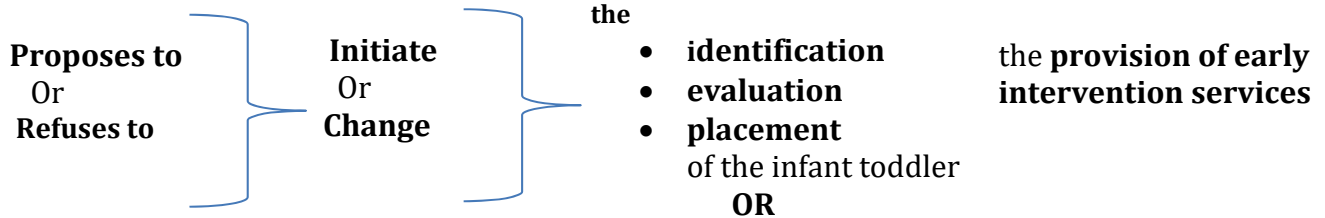
- Service Coordinators must review and **explain** *Rhode Island Early Intervention Procedural Safeguards and Funding* with each family involved in EI.

Prior Written Notice

Prior Written Notice

Section 303.421 of the IDEA Part C regulations states that, prior written notice must be provided to parents a reasonable time before the lead agency or an EIS provider proposes or refuses to initiate or change the identification, evaluation, or placement of their infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant's or toddler's family.

Prior Written Notice.....must be provided in a reasonable amount of time *before* the EI Provider...



Prior Written Notice must be provided in a reasonable amount of time:

When to give PWN	Purpose	What Form
Prior to a Multidisciplinary Evaluation/Assessment	To allow the family time to prepare and attend	<i>Rhode Island Early Intervention Prior Written Notice and Consent for Multidisciplinary Evaluation/Assessment and Eligibility/IFSP Meeting</i> <i>Prior Written Notice (for multiple events)</i>
Prior to an IFSP/Eligibility meeting	To give notice to the family that a decision will be made about eligibility	<i>Rhode Island Early Intervention Prior Written Notice and Consent for Multidisciplinary Evaluation/Assessment and Eligibility/IFSP Meeting</i> <i>Prior Written Notice (for multiple events)</i>

Prior to all IFSP meetings (including a transition conference)	To give notice to the family that a decision will be made to add services, change services (type, frequency, intensity or duration), end services or to refuse to add, change or initiate a particular service; and to allow sufficient time so the family can prepare and attend.	<i>Services Rendered Form</i> <i>Services Rendered Form IFSP Update</i> <i>Prior Written Notice</i> (for multiple events) faxing, emailing or mailing
After an IFSP/Eligibility meeting when the child is not eligible	To give notice to the family that the decision has been made about eligibility and to provide notice that the family can dispute the decision.	<i>Rhode Island Early Intervention Discharge/Exit Services Rendered Form</i>
After an IFSP meeting	To give notice to the family that the decision has been made and when it will be initiated; and to provide notice that the family can dispute the decision.	<i>Rhode Island Early Intervention IFSP signature page</i> <i>Rhode Island Early Intervention Program Services Rendered Form IFSP/Update</i>

Informed Written Consent

Consent means parent has been fully informed of all information relevant to the activity for which consent is sought (in native language) and parent understands and agrees in writing Informed Written Consent is needed:

- Prior to conducting a multidisciplinary evaluation/ assessment.
- Prior to initiating any services (including discipline specific evaluations and assessments) or changes in services on an IFSP.
 - the parent is fully aware of the impact of not consenting
- Prior to releasing records with personally identifiable information
- Prior to the releasing personally identifiable information necessary to bill private insurance.

Confidentiality

- IDEA regulations have clarified that Early Intervention records are protected from unauthorized disclosure by FERPA Personally identifiable information protected by FERPA is specifically *exempted* from the definition of "protected health information" that is subject to the provisions of the Health Insurance Portability and Accountability Act (HIPAA) privacy standards.
- This means parental consent is generally needed except between “participating agencies”. Participating agencies includes the lead agency and EI providers and any one providing EI services but excludes the primary referral source, public agencies, or private entities such as insurance companies that act solely as funding sources.
- This means that consent will be required prior to the release of personally identifiable information for:
 - KIDSNET

- Private Insurance (families with Medicaid have already provided consent as a condition of Medicaid)
 - Prior to responding to the primary referral regarding the results of the referral;
 - Prior to releasing the Physicians Authorization to the pediatrician.
- Consent forms must describe the activity and EI records (if any) that will be released and to whom.
 - Parents must understand that consent is voluntary and may be revoked at any time but revocation is not retroactive (i.e., does not apply to action that occurred before consent was revoked).

Parent access to records and amending records

- Providers must follow FERPA regarding access and amendment of records.
- There has been a regulation change that parents must be given access within 10 days of parent request rather than 45.
- The process regarding a parent request to amend a record has been specified.

Surrogate Parent

- IDEA defines a parent as:

(A) a biological, adoptive, or foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent);

(B) a guardian authorized to act as the child's parent (but not the State if the child is a ward of the State);

(C) an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(D) an individual who has been appointed under 303.422 or section 639(a)(5) to be a surrogate parent.

- This means that in Rhode Island if a child meets one of these categories that person can make IFSP decisions and a surrogate parent is not needed.
- In the unlikely event a child did not meet a category A-D (e.g. a child in a group home) DCYF would assign a surrogate parent via Form 175.

Complaint Procedures

Complaint procedures have been more specifically described in the policy.

There are two formal ways to resolve a complaint

- Written Complaint
- Request a Due Process Hearing

A Written Complaint:

- Can be made by anyone including a parent regarding a **specific regulation** that has not been followed.
- The complaint will be investigated by the lead agency and a decision issued in 60 days.
- The complaint must be filed using a new form *Written Complaint*.
- If the complaint is by a parent mediation will be offered as a voluntary first step

A Request for a Due Process Hearing:

- Is a complaint by a parent regarding:
 - A proposal to initiate or change the identification, evaluation or early intervention services of their child;
 - A refusal to initiate or change the child's identification, evaluation or early intervention services of their child
 - A parent has requested that information in their child's record be amended and the Early Intervention provider refuses to amend the record in accordance with the request (see Access to Records procedure).
- The request for a due process hearing must be filed using the new form *Request for a Due Process Hearing*.
- Mediation is offered as a voluntary first step.
- The due process hearing must be completed, and a written decision mailed to each of the parties within thirty (30) calendar days of the receipt of the request. Mediation if attempted must occur within the same thirty (30) days.