

PROCEDURAL SAFEGUARDS PROCEDURE CHECKLIST
(INCLUDES CONFIDENTIALITY/FERPA, PARENTAL CONSENT, ACCESS RIGHTS, SURROGATE PARENTS AND
CONFLICT RESOLUTION, BEISFS COMPLAINT INVESTIGATIONS, MEDIATION AND DUE PROCESS)
Infant Toddler and Preschool

The Early Intervention program has procedural safeguard procedures in place that includes the following:

Confidentiality, including access rights:

- Who/what position(s) in the organization are assigned to manage the confidentiality of personally identifiable information.
- A list for public inspection, of the names and positions of those employees within the program who may have access to personally identifiable information.
- Providing parents, upon request, with a list of the types and locations of EI records collected, maintained and used by the agency that are not included in the statewide data information system.
- Maintaining a record of access for each child's file that includes the name of the person and their position, a date the record was reviewed and the purpose of the review.
- Providing parents upon initial contact with the standardized notice, *Understanding Early Intervention Data Systems*. **(Infant Toddler only)**
- Identification of the specific procedures the program will use to allow parents to inspect/review their child's record including:
 - Whom the parent should make the request
 - If the request must be in writing, indicate if a form will be used
 - The process the parent would follow to inform the program of who their representative is if the parent designates a representative to inspect/review the records
 - The process for responses to the parent on their request for explanations and interpretations of the record.
- Clarification that if any EI record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child.
- Amending information in the EI record, upon request, if they believe that information is inaccurate, misleading, or violates the privacy or other rights of the child or parent.
- Notifying parents of the program's decision to amend or their refusal to amend the information in a child's record to include: a timeline for notifying parents of the decision and providing notice to family in writing if refusing to amend the record.

- Opportunity for a hearing to challenge information in their child’s record to ensure that it is not inaccurate, misleading, or otherwise in violation of privacy or other rights (303.411)
- Parents of children receiving **Infant and Toddler** EI services will not be charged a fee for:
 - The search or retrieval of information from a child’s EI record
 - A copy of each evaluation, assessment of the child, family assessment, and IFSP as soon as possible after each IFSP meeting
 - An initial request for a copy of the child’s entire EI record.
- Parent of preschool EI services, providing an explanation that parents may be charged a fee for copies of records, if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.
- Maintenance of records for 4 years or until any audit or litigation is resolved.

Parent Notice and Consent

- Circumstances when parent consent must be obtained by the program before personally identifiable information are disclosed.
- Prior Written Notice must be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so. PRESCHOOL: NOREP should be issued anytime the family or preschool EI program is making a request or presenting one (e.g., Prior Written Notice)
- Definition of consent.
- If a parent revokes consent, it is not retroactive.
- Parental consent is obtained before:
 - Administering screening procedures, if applicable
 - Conducting evaluations
 - Initial provision of EI services or changes in placement
 - Accessing public benefits/insurance or private insurance
 - Disclosure of personally identifiable information
 - When a child no longer meets eligibility criteria and is exiting from the program.

- If a parent does not give consent for any of the above listed activities, reasonable efforts are made to ensure that the parent is fully aware of the nature of the activities where parental consent is sought; and understands that the child may not be able to receive the service unless consent is provided.
- When parents receive information on procedural safeguards:
 - Upon initial contact with the Early Intervention program or upon parent request for evaluation
 - Whenever there's a change in Early Intervention services or placement
 - If a parent files a complaint or any time the parent requests a copy
 - Offered annually to the parents of children receiving preschool Early Intervention services.
- Specific procedures the agency uses to ensure parents receive a copy of their procedural safeguards notice or Parents Rights Agreement.
- Who (role/position) is responsible for providing the parent with a copy of their procedural safeguards notice or Parents Rights Agreement.
- Parents may decline a service after first accepting it, without jeopardizing other Early Intervention services

Surrogate Parents

- Appointment of a surrogate parent for a child whenever reasonable efforts have been made to locate the biological parent and in instances when a child is a ward of the state.
- Consulting with local county children and Youth agencies for children who wards of the state or are in foster care.
- Criteria for the selection of a surrogate parent.
- The assignment of a surrogate not more than 30 days after there is a determination by the program that the child needs a surrogate.
- How the program the delivery of service is not delayed due to the appointment of a surrogate.

Conflict Resolution, BEISFS Compliant Investigations, Mediation and Due Process

- A process to address parental concerns at the local level including the scheduling of a meeting within seven days of the request.
- If the program and parent still disagree on a concern they have, informing the parent of the option to contact BEISFS for assistance with the dispute or by filing a written formal complaint with BEISFS and

the procedures and timelines associated with the process.

- How and when the program informs families that they can also contact the Office for Dispute Resolution for IFSP/IEP Facilitation, Evaluative Conciliation Conference, Mediation, and Due Process Hearings, including resolution meetings, and the timelines associated with each process if applicable.
- How and when the program provides the family with an overview of their options as well as explains the timelines for each of the option list above.
- How and when the program assists the families with locating the correct forms as well as the contact information for submittal of the forms to BEISFS or ODR.
- How and when the program explains to parents that they have the right to file any of the options above, at any time, and in any order.
- How and when the program explains the independent multidisciplinary evaluation (Infant Toddler) or independent educational evaluation as related to due process proceedings (Preschool).
- The criteria for when a family requests an independent educational evaluation as well as information on where families may obtain an independent educational evaluation.
- Ensuring staff are trained on new or updated procedures. *
- Effective date of the procedure.

*This item does not necessarily need to be found in every procedure; however, there must be at least one statement that indicates how training is provided on new or updated procedures.

REFERENCES

34 CFR §300.500 - 300.519
34 CFR §300.610 - 300.627
34 CFR §303.400 – 303.443
34 CFR Part 99
Announcement: 10- #02
Announcement: 11 -#01
Announcement: 12-#02
Announcement: 12-#03
Announcement: 12- #05