



Frequently-Asked Questions
Procedural Safeguards
5123-10-01

(B) Definitions

Q: I have a question about (B) (11) – definition of a Parent. If Children Service agency has custody of the child are they considered a guardian of the child? When it talks about person acting in place of the biological or adoptive parent with whom the child lives; is with whom the child is living with only for the person acting in place of the biological or adoptive parent or does that also mean the guardian?

A: The answer to this question depends on the situation. There are three situations relevant to determining the appropriate person to sign consents for EI. You can find more information in the Guidance Document, [Parents and Parental Consent in Early Intervention](#), on the EI website.

Q: Does a Guardian have to live with the child to be considered the Parent?

A: No, a parent does not have to live with the child to be considered the parent, whether biological or not.

(C) Parent’s consent and withdrawal of consent

Q: EI-01: Does the consent for screening (EI-01) include consent for the nutrition, vision, and hearing screenings in addition to developmental screenings?

A: Nutrition, vision and hearing are now included in the requirements for evaluation and assessment consistent with the federal regulations. This information will be covered in the training for Rule 5123-10-02. Form EI-01 as stated in the purpose statement is only applicable to the developmental screening.

Q: EI-07: Both this form and EIDS now use the language asking if the parent gives consent to a TPC. Our understanding is that EVERY child has a transition planning conference. Aren’t SCs required to do transition planning for all children even if the family does not want to invite the LEA? When is an example of when a parent can opt out of transition planning?

A: The new rules are aligned with the federal requirements that the parent provide consent. The TPC is only conducted with parent consent. Please see rule 5123-10-02 which includes the requirements for the transition planning conference. This is clarified in the training for rule 5123-10-02.

(D) Prior Written Notice

Q: Rule: 5123-10-01 D2c - If PWN must be in native language, shouldn't counties be provided with PWNs in languages of families served? If family is English speaking and can read and write in English can't PWN be in English.

A: There are hundreds of possible languages, so it would not be feasible to develop every form in every language. We will continue to have some forms available in Spanish language versions, and we will translate into other languages as necessary.

If the family is English-speaking and can read and write in English, we would provide the forms in English unless the family states English is not their primary language.

Q: Rule: 5123-10-01 D2c: Prior written notice must be provided in the native language of the parent. Who is responsible for this? If a service provider is completing the PWN, is their responsibility to submit the PWN to the SC in the family's native language? Does the SC need to get it translated and what means are available for doing so?

A: This requirement has not changed. Prior written notice and native language requirements are the responsibility of all EI service providers. Typically, the EI service coordinator will be providing prior written notice.

Q: Does the Waiver of PWN need to be completed every time a change to the IFSP is proposed?

A: Every time there is a proposed change to *services* (service type, frequency, intensity, duration, funding source), PWN must be provided and the parent will have the option to waive the 10 days.

(E) Retention of early intervention records

Q: The 9th birthday clarification--is this the responsibility of the County Board to retain records until the 9th birthday in addition to the Service Coordinator agency. OR does this pertain mostly to the Service Coordinator's agency?

A: Per 5123-10-01(E)(1)(a), any EI provider shall retain a child's early intervention records until the child's ninth birthday. This includes both the county board when the county board is providing EI services as well as the EI service coordination agency.

Q: Considering the change in record retention (keeping records until child's 9th birthday), does this apply only to children exiting after rule implementation 7/1? Can records be destroyed, as planned, for children previously exited with parents notified records would be destroyed 6 years after last payment?

A: This applies only to children exiting after rule implementation on 7/1/19.

(F) Confidentiality of personally identifiable information in early intervention records

Q: At our Welcome visits we are getting consent from parents to share information with our core team members that are not county board employees. Is that necessary since they are part of our 'EI system'?

A: No consent to share or release is required for EI service providers, as defined in (B)(7).

Q: If a family gives consent for EI to share information with the LEA are our core team members free to discuss the child with the school district or do they need to have separate consent?

A: The consent for share/release information with/to the LEA is applicable to the EI system. For sharing/exchange of information, the consent is for the EI system to share with the LEA.

Q: EI-06: The release says permission is needed to share information with persons/agencies who are not part of the EI system. Does this mean anyone who is listed on the IFSP is part of the EI system? If your county board is not at the same agency as service coordinators, is a consent for release of records needed? What about agencies other than the county board who are still EI providers and part of the IFSP? Is a consent to share information needed to take a child's information to the team meeting?

A: please see 5123-10-01 definitions for "early intervention program," "early intervention record," "early intervention service provider," and "participating agency." Any person, provider, agency providing services in accordance with the EI rules and procedural safeguards is part of the EI system.

Q: When the nurse with BCMH is involved with Early Intervention children do we need a separate release of information for the nurse to be involved in team meetings?

A: It depends on whether the nurse/BCMCH meets the definition of a participating agency. See 5123-10-01 (B) (27).

Q: Just to clarify - we do NOT need to add the LEA on the Consent to Share, because they are part of the EI system?

A: We need to obtain parent consent to share information with the LEA on EI-07. The LEA does not meet the definition of participating agency.

Q: Please clarify; are we able to contact a referral source to attempt to obtain updated contact information or to try to locate a parent? Or do we have to contact the parent and receive consent first to contact the referral source at all? The

specific example I'm thinking of would be cases referred to from Children services, where families are often difficult to contact/find.

A: You could contact the referral source if you suspect there is additional information available about the parent's location. You do not need to obtain consent from the parent to contact the referral source for additional contact information for a parent that referral source has referred.

Q: If a family chooses service providers that are outside the EI system, do they have to be listed on the IFSP so that Releases and Consents will apply to them also?

A: If outside the system, the providers would not meet the definition of participating agency so releases and consents would be required.

Q: Are the doctors that are caring for children in the EI system considered part of the EI system?

A: No. To be considered part of the EI system, they would have to be providing EI services and meet the definition of a participating agency. (5123-10-01(B) (27)

Q: Clarification needed please--Some families prefer schools not to be aware they have received EI services for fear their child would be "labeled" (per feedback from parents). In addition--school systems could be considered outside of EI services since the child cannot receive both services--and parents may not want the LEA to attend the meetings. Will the parents be made aware that their information will be shared regardless?

A. We will not share information with the LEA without parent consent, obtained on EI-07. The LEA does not meet the definition of participating agency.

Q: Rule: 5123-10-01 (F)(2)(a) This language goes along with form EI-06. Please provide clarity on who is not required to have a consent to release information and who is covered under "any participating agency in the early intervention program..."

A: Participating agency is defined in (B) (27): "Participating agency" means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements in part C with respect to a particular child. A participating agency includes the lead agency, early intervention service providers, and any individual or entity that provides any part C services (including service coordination, evaluations and assessments, and other part C services), but does not include primary referral sources or public agencies (such as the Ohio department of Medicaid) or private entities (such as private insurance companies) that act solely as funding sources for part C services.

Q: One area that is not addressed in rule, that is addressed in current rule, relates to when there is a record request via subpoena.

What are the requirements?

Do we need to notify the parent under these circumstances?

Do we obtain any type of consent from the parent?

How do we proceed if any information needs redacted?

A: You will need to look at the specific language of the subpoena regarding what the subpoena requires. Subpoenas are legal documents with which you must comply. Therefore, you would not need to notify the parents, obtain consent, or redact the documents. However, again, look at the language of the subpoena to tell you what you are required to do in each circumstance.

Q: I have some concerns about not having a release of information signed between our county board service providers and the service coordinators (who are employed by another agency). Service coordinators present new kids at team meetings prior to evaluation and plans being written. I don't understand how a release of information wouldn't be needed.

A: County Boards meet the definition of participating agency (5123-10-01 (B) (27) for EI. Therefore, consents are not required.

Q: EI-07 - it appears this consent gives permission for the child's information to go on the LEA report. Is there a timeframe in which this consent can/must be completed?

A: Yes, these requirements are addressed in rule 5123-10-02.

Q: Regarding the Referral Follow Up Form: if there was a referral from a doctor or WIC or JFS, and the family never follows through, are we still able to send that Referral Follow Up Form even though we never obtained consent from the family?

A: Yes. You would complete the top portion of EI-14 (the date, child's name, child's DOB, name of professional, agency name and professional/agency contact information) and check the box, "the parent did not consent to share information...."

Q: If a child is continuing services with a County Board beyond the 0-3 age range would consent be needed to pass the information collected during that time to the County agency staff that would be working on them for County Board eligibility, etc.?

A: Yes. If a child has been exited, and EI services have ended, consent would be required.

Q: Would a consent to share information be needed to share information with a home visitor working with the family as part of Help Me Grow Home Visiting?

A: Yes. Help Me Grow Home Visiting does not meet the definition of participating agency.

Q: Is it a conflict of interest for the service coordinator to be the interpreter for the family at assessments and IFSP meetings?

A: No. The EISC would not be acting as a formal interpreter, but as an individual who can communicate with the family in their native language.

(G) Access to early intervention records

Q: Do we need to provide the record location information to all parents, initially, or when they request files?

A: Per 5123-10-01(G)(1)(d), an early intervention service provider shall provide a parent, *upon request*, a list of the types and locations of early intervention records collected, maintained, or used by the early intervention service provider.

Q: Information on the fee that may be charged for finding records is confusing. Please clarify when a fee would be charged.

A: Per 5123-10-01(G)(1)(e), we *cannot* charge a fee to search for or retrieve information or records or for electronic or paper copies of the evaluation or assessment of the child, the family-directed assessment, and the IFSP.

We have the option to charge a fee for copies of records made for the parent if the fee does not effectively prevent the parent from exercising his or her right to inspect and review those records. It is up to the local agency to determine whether to charge a fee for these copies and to determine the amount of the fee.

(H) Amendments to early intervention records

Q: Please clarify what it means by " provider makes decision whether to amend."

A: This means that the provider will need to review the request and determine whether the record can be changed.

I) Dispute resolution

(J) Investigation of complaint

(K) Mediation

(L) Due process hearing procedures