



Who Can Sign Documents? Identification of a Primary Decision Maker

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General Guidance

- A. When the child lives with a biological parent
- B. When children are in foster care
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General Guidance for Identification of the primary decision maker

It is the responsibility of the Early Intervention Program to identify the child's parent within the early intervention system. This "parent" will make early intervention service decisions for the child, including deciding whether to participate in Infant-Toddler Services, consenting to screening (if conducted), evaluation, assessment, the provision of services, and consenting to share early intervention records.

The 45-day timeline from referral to Initial IFSP (34 CFR 303.310) is a protection for all children in order that they receive their early intervention services in a timely manner. Therefore, the FSC must quickly identify the person who can sign the early intervention paperwork.

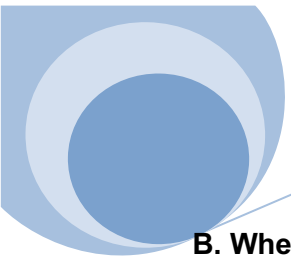
IDEA Part C Definition of a Parent 34 CFR 303.27

Parent means:

- 1) A biological or adoptive parent of a child;
- 2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- 3) A guardian generally authorized to act as the child's parent, or authorized to make early intervention, educational, health or developmental decisions for the child (but not the State if the child is a ward of the State);
- 4) 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 (but not the State if the child is a ward of the State); or
- 5) A surrogate parent who has been appropriately appointed. (See surrogate parent section of the Infant-Toddler Services manual)

A. When the child lives with a biological parent:

For most children in our system, the child's biological parent(s) with whom the child resides, will be identified as the early intervention parent. Only one parent signature is required to proceed with any step of the early intervention process or service delivery.



B. When a child is in foster care:

In Kansas, the Department of Children and Families (DCF), as a *Primary Referral Source*, must refer a child suspected of having a developmental delay as soon as possible, but in no case more than 7 days, after the child has been identified. (34 CFR 303.303 (a)(2)(i)).

Referrals of children in foster care often come from the foster parents with whom the child resides. Anyone can make a referral to Part C and the program must respond to all referrals. If a child is referred by both DCF and the foster parent, the date of first referral is the referral date for that child. If a child is referred by the foster parent, the FSC should ask for the child's DCF caseworker's contact information.

The post-referral, 45-day timeline applies to all children referred to Part C, including children in foster care. Regulations allow the extension of the timeline for *Exceptional Family Circumstances* when the child or parent is unavailable or the parent has not provided consent. Because a state's coordinated system of child find includes the agency who administers foster care, states are expected to have policies and procedures in place to ensure children in foster care receive their services in a timely manner. Delays caused by agency processes are a systems issue, not an Exceptional Family Circumstance.

Note: *If the child is in Foster Care, parental consent is not required to share relevant information with DCF staff or foster care agency staff, pursuant to the Uninterrupted Scholars Act (20 U.S.C. Part 1232g) as amended January 2, 2013.*

Obtain the judicial order:

Following the referral of a child in foster care, it is the responsibility of the Family Service Coordinator (FSC) to contact the DCF Specialist or contracting agency to learn the details regarding the parent's whereabouts, the placement of the child, Orders of the Court, etc. This contact should be the first step when working with a child who is a ward of the State.

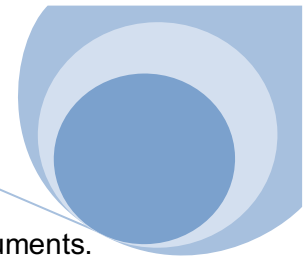
The FSC must follow the court order as to whom may act as a "parent" to make educational decisions about education for the child.

As noted above in the definition of a parent, a child's social worker or other state DCF employee or contractor cannot sign Infant Toddler Services forms to consent for screening, evaluation, assessment, or service delivery.

Determine who will make educational decisions for the child:

The FSC should ask the following questions of both the DCF Specialist and the foster-family before or at the first in-person visit with the child.

- Does the biological parent retain the right to make educational decisions for the child?
- Does the caregiver have any contact with the biological parent? If yes, what does this look like?
- Will it be possible for the parent join the conversation about early intervention services for their child? What would that look like?
- Would the parent prefer that the foster-family make educational decisions for the child? If yes, obtain written, signed permission from the parent, that the foster parent can make decisions.
 - In this event, ask the biological parent if and how they wish to be involved in the process.



Programs must make reasonable efforts to obtain biological parent's signatures on documents. If biological parent's signatures seem imminent, the FSC should proceed with the biological family for signature to consent to screen or evaluate their child. If the parent continues to be responsive but the timeline gets delayed, the *Exceptional Family Circumstances* reason for delay would be appropriate. As long as the family is communicating with the DCF Specialist or FSC and coordinating with them to respond to early intervention process requests, working with the biological family is required.

If reasonable efforts to obtain a biological parent's signature are not possible (parent's whereabouts are unknown) or if the parent is not responsive to attempts to involve them in the early intervention process, the foster-family may act as a parent and sign consent forms for screening, evaluation, provision of services and consenting to share records.

Engage in a simultaneous process:

Each situation will be unique. As a general guideline, if a biological family signature cannot be obtained within a brief timeframe (5 days) begin paperwork with the foster-family while simultaneously continuing to facilitate the biological parent's involvement.

Unless biological parents do not have the legal right to make educational decisions for the child, the FSC must continue to document attempts to involve them in the early intervention process. Many families will be working towards reunification with their child, and their involvement may change over time.

If the foster parent has been designated as the parent for a child and IFSP planning and implementation has occurred, a biological parent who disagrees with those decisions and who does not intend to act as a parent for the child, has the right to file a grievance with KDHE ITS. Service delivery to the child continues during the grievance process.

- In this event, if the biological parent disagrees with those decisions, does intend to act as a parent for the child, and does retain the legal right to make decisions for the child, the FSC will transition the decision-making and signature responsibilities to the biological parent, including ending all services if the parent wishes.

If duplicate documents have been provided to both the parent and the foster-parent for signature, and both are provided back to the program, the date that is the earliest date is entered into the database. Edits to the database may require assistance from the KDHE ITS Data Manager.

C. When children are living with extended family or friends:

Federal regulations allow an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives to act as a parent and sign early intervention documents. The process the FSC must follow in this situation is similar to the process for children involved in foster care.

Are there any documents giving the extended family member or friend the authority to make educational decisions for the child? The FSC must follow the documentation as to whom may act as a "parent" to make educational decisions about education for the child.



If there are no documents, the following questions should be explored:

- Where does the child live (sleep at night) and who is taking care of them?
- Does the caregiver have any contact with the biological parent? If yes, what does this look like?
- Will it be possible for the parent join the conversation about early intervention services for their child? What would that look like?
- Would the parent prefer that the extended family member or friend make educational decisions for the child? If yes, obtain written, signed permission from the parent, that the extended family member or friend can make decisions.
 - In this event, ask the biological parent if and how they wish to be involved in the process.

If the parent is available to make decisions and has the legal right to do so, the FSC must work with the biological parent to sign documents.

If the biological parent provides written permission for the extended family member or friend to sign documents, the FSC may proceed with that individual.

If reasonable efforts to obtain a biological parent's signature are not possible (parent's whereabouts are unknown) or if the parent is not responsive to attempts to involve them in the early intervention process, the extended family member or friend may act as a parent and sign consent forms for screening, evaluation, provision of services and consenting to share records.

Each situation will be unique. As a general guideline, if a biological family signature cannot be obtained within a brief timeframe (5 days) begin paperwork with the extended family member or friend while simultaneously continuing to facilitate the biological parent's involvement.

If the extended family member or friend has been designated as the parent for a child and IFSP planning and implementation has occurred, a biological parent who disagrees with those decisions and who does not intend to act as a parent for the child, has the right to file a grievance with KDHE ITS. Service delivery to the child continues during the grievance process.

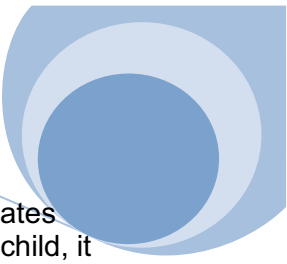
- In this event, if the biological parent disagrees with those decisions, does intend to act as a parent for the child, and does retain the legal right to make decisions for the child, the FSC will transition the decision-making and signature responsibilities to the biological parent, including ending all services if the parent wishes.

If duplicate documents have been provided to both the parent and the extended family member or friend for signature, and both are provided back to the program, the date that is the earliest date is entered into the database. Edits to the database may require assistance from the KDHE ITS Data Manager.

D. When a child's parents are separated or divorced:

When parents are separated or divorced, the Family Service Coordinator works with the family and gathers documentation as needed to determine which parent has the right to make educational decisions for the child.

- If one parent has sole custody of the child, that parent is identified as the early intervention parent.

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- If custody is shared, unless a court order/custody arrangement specifically designates one of the parents as the parent with rights to make educational decisions for the child, it is assumed that parents equally share that right.

When parents share custody, and are in agreement with early intervention services for their child, either parent can sign documents.

When parents share custody and one parent wishes to proceed with; and the other parent declines early intervention services, the Service Coordinator is required to obtain consent from only one parent. Upon consent from one parent, the Service Coordinator proceeds with the action for which consent was obtained. The Service Coordinator also provides the parent who disagrees with the action a copy of the consent, and a copy of the Parent's Rights and grievance procedures. The Service Coordinator follows this same process when one parent revokes consent for early intervention services and the other parent disagrees.

If one parent insists there is not joint custody and refuses to give the Family Service Coordinator contact information for the other parent, the Family Service Coordinator continues to interact with the known parent. If the other (unknown) parent contacts the Family Service Coordinator at a later time, the guidance above regarding divorced or separated parents will be followed to determine communication and activities with that parent.

If the parents are separated or divorced, and both are joint legal custodians, both parents receive copies of documents such as an evaluation report or IFSP. Both are not required to sign the IFSP but if both wish to sign, the IFSP is effective as of the date of the first parent's signature.

In instances of non-custodial parents, the family service coordinator assumes the non-custodial parent has the right to access the child's early intervention record unless legal documentation indicates differently.