Who Can Sign Documents?

KDHE Spring Combo

March 8, 2018

Barbara Kramer

The following document was originally a PowerPoint presentation. It has been converted to a Word format for accessibility. Slide titles are in blue and numbers have been added where appropriate to indicate separate slides. Slide notes that were not originally a part of the presented slides themselves have been added to this document.

# Background

* Identify the “parent” in the early intervention system
* 45-day timeline

General Background information:

* It is the responsibility of the Early Intervention Program to identify the child’s parent within the early intervention system.
* Will make early intervention service decisions for the child
* Deciding to participate in Infant-Toddler Services, consenting to screening (if conducted) evaluation, assessment, provision of services.
* 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

* A biological or adoptive parent of a child;
* 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;
* 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);
* 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
* A surrogate parent who has been appropriately appointed. (See surrogate parent section of the Infant-Toddler Services manual)

According to the federal regulations, these are the people who can sign as a “parent” in the EI system.

# 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.

# When a child is in foster care 1

* DCF or foster-parent can make referral
* Date of first referral to a Part C program is the referral date for the child
* 45-day timeline (referral date to IFSP date) applies to children in foster-care
	+ *Exceptional Family Circumstances*
	+ *System Reasons*

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.

# When a child is in foster care 2

* Obtain the judicial order
* Determine who will act as the child’s “parent”
	+ *As specified in the court order*
	+ *Following the part c definition*
	+ *Not the DCF or contracted social worker*

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.

Next, the FSC will determine who can act as the child’s “parent” in the EI system.

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.

# When a child is in foster care 3

* 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, document this decision.

Questions the FSC should ask of the social worker and the foster-family:

* 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, document this decision.
* In this event, ask the biological parent if and how they wish to be involved in the process.

# When a child is in foster care 4

* Make reasonable efforts to work with the biological parents.
	+ *If parents are responsive but timeline gets delayed- family circumstances*
* If reasonable efforts are not possible (parents whereabouts are unknown) or if parent is unresponsive to attempts to involve them
	+ *Foster parents may sign documents as the child’s early intervention parent.*

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.

# When a child is in foster care 5

* Engage in a simultaneous process
	+ *Seek biologic parent signature- if not obtainable within a reasonable time (5 days) begin working with the foster family, continue efforts with bio-family as well.*
	+ *Continue to try to involve the biological family as they are willing and legally able to do so.*

If duplicate documents get completed, the one dated the earliest is the date entered into the database. Actions may begin as soon as the first signature is obtained.

# When a child is in foster care 6

* 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.

Conversely, if you began working with a foster-parent and the biological parent is interested and responsive to attempts to be included to the extent possible, and the parent retains the legal right to make educational decision, the biological parent does retain decision making.

* They can end services
* Have services transition to them over time as they become re-integrated as a family,
* Leave the foster-parent in charge of day-to-day decisions but share or receive copies of paperwork, IFSP, transition process documents.

# When children are living with extended family or friends: (not foster care)

* 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 FSC must follow any documents (court orders, power of attorney) giving the extended family member or friend the authority to make educational decisions for the child.

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.

# When children are living with extended family or friends 2

If there are no documents, explore:

* *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 to 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, document the decision.*

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 to 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, document the decision.
	+ In this event, ask the biological parent if and how they wish to be involved in the process.

# When children are living with extended family or friends 3

* If biological parent is available, FSC works with them to sign documents
* If biological parent provides written, signed permission for the friend or family member to sign documents, FSC may proceed with that individual
* If reasonable efforts to obtain biological parent’s signature are not possible (parent’s whereabouts are unknown) or parent is unresponsive to attempts to involve them, FSC may proceed with extended family member or friend.

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.

# When children are living with extended family or friends 4

* If a biological family signature cannot be obtained quickly, begin paperwork with the extended family member or friend while simultaneously facilitating the biological parent’s involvement.
* If the extended family member or friend was designated as the parent, and IFSP planning and implementation has occurred, a biological parent who disagrees 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.
* If duplicate documents have been obtained, the date that is the earliest date is entered into the database.

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.

Conversely, if the parent comes back into the picture and has the legal right and intention to act as the parent, we should transition consents over to the parents. They do have the right to stop services for the child if they retain educational decision making.

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.

# When a child’s parents are separated or divorced

* When parents are separated or divorced, the FSC 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.*
	+ *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 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.
* 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 a child’s parents are separated or divorced 2

* 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 FSC
	+ *Obtains consent from the parent who wishes to proceed and proceeds with the activities for which consent was given*
	+ *Provides the parent who disagrees a copy of the consent signed by the other parent and a copy of the Parent’s Rights and grievance procedures.*

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.

# When a child’s parents are separated or divorced 3

* If one parent insists there is not joint custody and refuses to give the FSC contact information for the other parent,
	+ *FSC continues to interact with the known parent.*
	+ *If the other (unknown) parent contacts the FSC at a later time, follow same guidance as above; provide family rights and grievance procedures as needed.*

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.

# When a child’s parents are separated or divorced 4

* If the parents are joint legal custodians, both parents receive copies of documents. 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 FSC assumes the non-custodial parent has the right to access the child’s early intervention record unless legal documentation indicates differently.

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.

# A word about the 45-day timeline late reasons

* Exceptional Family Circumstances
* System Reasons

# 45 day timeline - Exceptional Family Circumstances

* Family Circumstance- Family did not respond to programs attempts to contact within the 45-day timeline.
* Family Circumstance- Family delayed due to child’s illness or hospitalization.
* Family Circumstance- Family requested a delay/reschedule for any reason.
* Family Circumstances-Weather delay

# 45 day timeline - System Reasons

* Part C Error- Unable to coordinate with an interpreter
* Part C Error- Delayed signatures due to system errors
* Part C Error- Staff cancels/reschedules meeting for personal/team reasons
* Part C Error- Other system-based reasons

Questions ?