

# Procedural Safeguards/Parent Rights Overview

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Procedural safeguards are administrative activities that participating agencies and other early intervention service providers perform. These activities assure that parents/guardians of children receiving early intervention services are fully informed about service actions being proposed, refused, or carried out in relation to the needs of their child.

Procedural safeguards also guarantee to families that:

- Participating agencies and other early intervention service providers will ensure confidentiality.
- Provide access to records.
- Ensure timely provision of services.
- Provide parents with opportunities to formally resolve concerns.

Procedural safeguards help to protect the rights of the child and family who are receiving services. Federal and state mandates require the Idaho Infant Toddler Program to comply with the procedural safeguards.

## Procedural Safeguard/Parents Rights Terms and Definitions

Terms related to the Procedural Safeguard/Parents Rights are defined in the following paragraphs:

**Early Intervention Records** – All records regarding a child that are required to be collected, maintained, or used under IDEA, Part C and its implementing regulations.

**Destruction of Records** – The physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable.

**Disclosure** – To permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

**Mediation** – A method whereby parents and service providers have an opportunity to discuss their disagreements (e.g., individual child complaints) in a non-adversarial, informal manner. It is a voluntary process that is conducted by a qualified impartial mediator and must be freely agreed to by both parties. Any party may request mediation, although parents/providers are not required to use it.

**Native Language** – When used with respect to an individual who is limited English proficient or LEP (as that term is defined in section 602(18) of the Act means:

- The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child.
- For evaluations and assessments, the language normally used by the child, if determined developmentally appropriate by qualified personnel conducting the evaluation or assessment.

When used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication.)

**Parent** – Means a biological or adoptive parent, a foster parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with Federal regulations. The term does not include the state if the child is a ward of the State. (Authority: 20 U.S.C. 1477).

The term parent has been defined to include persons acting in the place of a parent, such as a grandparent, stepparent or other relative with whom a child lives, as well as persons who are legally responsible for the child's welfare.

**Parent Consent** – Written approval (parent/guardian's signature) made by parent/guardian who has been fully informed of all the information relevant to the activity for which Consent is sought, in the parent's native language or mode of communication. The parent/guardian understands Consent is voluntary and may be revoked (if consent is revoked, the revocation is not retroactive) at any time and that they may refuse consent for some activities without jeopardizing other activities.

**Participating Agency** – Any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements of IDEA, Part C and its implementing regulations with respect to a particular child. A participating agency includes the Infant Toddler Program, service providers, and any individual entity that provides 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 State Medicaid) or other private entities that act solely as funding sources for Part C services.

**Personally Identifiable Information** – Information including the name of the child, the child's parent(s) or other family member, the address of the child, a personal identifier, such as the child's or parents' social security numbers, or a list of personal characteristics or other information (ex: child's date of birth, place of birth, etc.) that would make it possible to identify the child with reasonable certainty.

**Prior Written Notice** – This notice informs parents/guardians of actions being considered or rejected for their child a reasonable time before an action is carried out, and to assist them in their decision making role about services for their child and their family.

The notice must include the action proposed or refused, the reasons for the action, and all procedural safeguards that are required under the Idaho Infant Toddler Program including a description of mediation, how to file a state complaint and due process complaint, and any timelines under these procedures.

Reasonable time is defined as an appropriate amount of time so that families have an opportunity to consider a proposed action for their child and be involved in an informed decision making process.

**Surrogate Parent** – A person assigned to represent the child whenever the parents are not known or cannot be found, or the child is a ward of the State.

The following lists each component of the Procedural Safeguards/Parent Rights:

- Prior Written Notice
- Parent Consent
- Records
  - Confidentiality
  - Consent Prior to Disclosure
- Dispute Resolution Procedures
  - Mediation
  - Impartial Due Process Hearings
- Administrative Complaints
- Surrogate Parents