

Talking Points

Updates to RI Policies and Procedures – Response to Referral

Confidentiality of Referral Information

FERPA and IDEA Part C confidentiality requirements prohibit the release of information without written consent from a parent/guardian. This directly impacts the release of information to a referral source regarding the status and/or outcome of a referral. See “FERPA/IDEA Regulations Which Apply to Communication with a Referral Source” on page 3 for the specific regulations that govern communication with referral sources.

Without written consent from the parent/guardian, no information pertaining to the status or outcome of a referral can be released to a referral source. The **only** instance in which an EI agency can contact a referral source without written parent/guardian consent is when the contact information provided for the family is invalid - specifically, when the phone number is disconnected or belongs to someone else, or when mail to the address provided is returned undeliverable. In these cases, it is permissible for an EI provider to communicate this status to the referral source for the purpose of requesting alternative contact information for the family. See “What Can I Share with the Referral Source?” on page 3 for additional examples of when information can/cannot be released to a referral source.

Information **can** be released when there is written parent/guardian consent. This consent can be obtained in two ways.

1. The referral source obtains written consent at time of referral, allowing Early Intervention to communicate referral results with the referral source, and sends a copy of this consent to EI with the referral. Please note: Written consent forms from other providers are compliant with FERPA and IDEA Part C confidentiality requirements when they:
 - Specify the information that can be disclosed (e.g. referral status, IFSP, etc.)
 - State the purpose of the disclosure (e.g. care coordination, client care)
 - Identify the agency disclosing the information and the agency receiving the information
 - Are signed by the parent/guardian
2. Early Intervention staff obtain written consent during their first visit, allowing them to communicate referral results with the referral source.

Provider Responsibilities – Redisclosure

When Early Intervention releases information to another entity, it is required by FERPA and IDEA Part C that the receiving entity be informed that any redisclosure of the information requires written parent/guardian consent.

Communication with Referral Sources

Two new letters have been created for Early Intervention providers to use when communicating with referral sources. These letters are designed to comply with FERPA and IDEA Part C confidentiality requirements while also communicating the limitations of disclosure without consent. The letters will generate automatically in Welligent and are included at the end of this document for reference (pp. 5-6).

Please note: if a CAPTA referral is received on a 175 form, providers should follow the process specified on that form.

1) Acknowledgment of Referral

The Acknowledgement of Referral letter is now available in Welligent and must be used by all providers, effective 6/17/2019. This letter serves to confirm that the referral has been received by the Early Intervention provider and explains that further contact about the referral cannot occur unless written consent is obtained.

- The Acknowledgement of Referral must be sent immediately once a referral is received.
- Written parental consent is not required to send the Acknowledgement of Referral letter.
- The Acknowledgement of Referral is only sent to the primary referral source. If a family self-referred, no Acknowledgement of Referral letter is necessary.

2) Response to Referral

The Response to Referral letter is now available in Welligent and must be used by all providers, effective 6/17/2019. This letter serves to communicate referral status/outcome to the referral source and explains that Early Intervention providers cannot disclose information about referral status when written consent has not been obtained.

- The Response to Referral letter should be sent within 45 days of the referral date for a completed referral.
- The kind of information that can be disclosed in the Response to Referral letter will depend upon whether written consent was obtained from the parent/caregiver – follow the steps in the letter and check off the appropriate box(es).
- The Response to Referral is only sent to the primary referral source. If a family self-referred, no Response to Referral letter is necessary.
- The use of any previous versions of Referral Response letter template should be discontinued immediately.

Response to Referral Letters & Engagement Challenges

If the contact information provided by the referral source is not valid (phone is disconnected, belongs to someone else, or mail is returned as undeliverable), the referral is considered incomplete. With an incomplete referral, the provider has no way to contact the family. With a referral where information other than contact information is missing (e.g. SSN, insurance number), the referral is still considered complete because valid contact information is provided.

- When the referral is incomplete, EI providers should contact the referral source to inform that the contact information is not valid and to request new contact information. The providers' attempts to obtain valid contact information for the family do not require written permission from the parent/caregiver. Response to Referral letters are not required for incomplete referrals.
- When a referral is complete, but the family has not responded to outreach, and no consent has been obtained, the ONLY item that can be checked off in the Response to Referral letter is "written consent has not been obtained."

RIDOH Referral Line

There are two kinds of referrals to Early Intervention from the RIDOH Referral Line.

1. Referrals from pediatricians. When an agency receives a referral from the RIDOH Referral line and the referral has originated from a pediatrician, **the referring pediatrician will be identified as the primary referral source**. The RIDOH Referral line will be identified in Welligent as a secondary referral source, however **only the primary referral source will receive the Acknowledgement of Referral and Response to Referral letters**.
2. Parent self-referrals. When an agency receives a referral from the RIDOH Referral Line and the referral has originated from the parent, **the parent will be identified as the primary referral source**. The RIDOH Referral line will be identified in Welligent as a secondary referral source. The Acknowledgement of Referral and Response to Referral letters are not required when the parent is the referral source.

FERPA/IDEA Regulations Which Apply to Communication with a Referral Source

34 CFR §303.401(a)	Each State must ensure that the parents of a child referred under this part are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with Federal and State laws.
34 CFR §303.401(c)(2)	...applies from the point in time when the child is referred for early intervention services...
34 CFR §303.414(a)(1)	...prior parental consent must be obtained before personally identifiable information is (1) Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under this part, subject to paragraph (b) of this section.
34 CFR §303.403(c)	Participating agency means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements in part C of the Act and the regulations in this part with respect to a particular child. A participating agency includes the lead agency and EIS 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 State Medicaid or CHIP program) or private entities (such as private insurance companies) that act solely as funding sources for part C services.
34 CFR §99.33 (a)(1)	(1) An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student.

What Can I Share with the Referral Source?

Referral Information	If the EI agency has...		
	no written consent	written consent from the referral source	obtained their own written consent
Acknowledgement of receiving referral	YES	YES	YES
Phone number is disconnected	YES	YES	YES
Mail came back undeliverable	YES	YES	YES
Family declined services before intake	NO	YES	n/a
Family declined services during or after intake	NO	YES	YES
No response after mailing outreach letter(s)	NO	YES	YES
No answer and no voicemail when calling	NO	YES	YES
No response after leaving phone message(s)	NO	YES	YES
Child received an evaluation	NO	YES	YES
Child is eligible, but family declined	NO	YES	YES
Child is eligible, IFSP will be developed	NO	YES	YES
Child is not eligible, resources were given	NO	YES	YES

Acknowledgement of Referral letter

ACKNOWLEDGEMENT OF REFERRAL

[Referral Source name]
[Referral Source address]
[Referral Source city, state zip]

RE: [Child's name] DOB: [Child's DOB]
DATE: [Acknowledgement date]

Dear [Referral Source name],

Thank you for your recent referral of [child's name] to our Early Intervention program. The referral was received on [Referral date] and the family will be contacted within 5 business days to share information about Early Intervention. If the family is interested, a visit will be scheduled to begin the eligibility determination process.

Under federal law, the Early Intervention record has been determined to be an education record, not a medical record, and must comply with FERPA (Family Education Rights and Privacy Act) and IDEA (Individuals with Disabilities Education Act) Part C confidentiality requirements. Therefore, care and coordination allowed for under HIPAA is not applicable for Early Intervention. Written consent from the parent/guardian consent is required to share ANY information regarding this referral. Information pertaining to the status and/or outcome of this referral can only be released to you if:

- a) you obtained parent/guardian written consent at the time of referral and provided a copy to us with the referral form, or
- b) we are successful in engaging the family and obtain the parent/guardian's written consent to communicate with you.

Please feel free to contact me at [Organization Phone Number] if you have questions or need additional information about RI's Early Intervention program. Thank you for the referral and your commitment to ensuring healthy development for infants and toddlers.

Sincerely,

[Referral taken by]

Response to Referral letter

RESPONSE TO REFERRAL

[Referral Source name]
[Referral Source address]
[Referral Source city, state zip]

RE: [Child's name] DOB: [Child's DOB]
DATE: [Response to Referral Date]

Dear [Referral Source name],
Thank you for referring [child's name] to our Early Intervention program on [referral date]. In accordance with FERPA¹ and IDEA² Part C confidentiality requirements, parent/guardian written consent must be obtained before sharing any information about this referral.

Status of parent/guardian consent is as follows:

- EI received a copy of the parent/guardian written consent from the referral source.
- EI directly obtained the parent/guardian written consent.
- Written consent has not been obtained - information about this referral cannot be disclosed. If you require further information about this referral, please obtain written consent from the parent/guardian.

----- INFORMATION BELOW THIS LINE CAN ONLY BE SHARED WITH WRITTEN PARENT/GUARDIAN CONSENT -----

- We have made several attempts to contact the family but have received no response. Please inform us if you have alternate contact information for this family.
- Family is not interested in Early Intervention.
- An evaluation was completed on _____. Based on evaluation, child is:
 - Not eligible for services. Resources were provided, and the family was encouraged to contact us if new concerns arise.
 - Eligible for services. Family is not interested in Early intervention. Resources were provided, and the family was encouraged to contact us if they change their mind.
 - Eligible for services. An Individualized Family Service Plan (IFSP) will be completed with the family.
- Family has been referred to the following service(s):
 - Cedar
 - Child Outreach
 - Early Head Start
 - First Connections
 - Parents as Teachers
 - RIPIN
 - Other:

Please feel free to contact me at [Organization phone number] if you have questions or need additional information about RI's Early Intervention program. Thank you for the referral and your commitment to ensuring healthy development for infants and toddlers.

Sincerely,

[Service Coordinator name]
Service Coordinator

THIS INFORMATION MAY NOT BE REDISCLOSED WITHOUT WRITTEN PARENT/GUARDIAN CONSENT

¹ Family Educational Rights and Privacy Act; ² Individuals with Disabilities Education Act