



## **POLICIES AND PROCEDURES NEW JERSEY EARLY INTERVENTION SYSTEM**

No: <b>NJEIS-22</b>	Subject: <b>Determination of Parent under Part C</b>
Effective Date: <b>June 1, 2016</b>	Responsible Party: <b>Part C Coordinator</b>

### **I. Purpose**

To ensure that a child referred to or receiving services under the New Jersey Early Intervention System (NJEIS) has the appropriate person(s) representing them as their “parent” in accordance with the definition of “parent” under the Individuals with Disabilities Education Act (IDEA).

### **II. Policy**

A. Parent is defined as:

1. A biological or adoptive parent of a child;
2. A foster/resource parent, pursuant to the definition of a “resource parent,” as defined at N.J.S.A. 30:4C-26.4;
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; or
5. A surrogate parent who has been appointed in accordance with NJEIS-021.

B. The System Point of Entry (SPOE) Service Coordinator (SC) is responsible for determining who can serve as the parent under IDEA in accordance with this policy and procedure.

C. Except as provided in D below, the biological or adoptive parent, when attempting to act as the parent under NJEIS and when more than one party is qualified under A above to act as a parent, must be presumed to be the parent for purposes of NJEIS unless the biological or adoptive parent does not have legal authority to make educational or early intervention services decisions for the child.

D. If a judicial decree or order identifies a specific person or persons under A (1-4) above to act as the “parent” of a child or to make educational or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the “parent” for purposes of Part C of the Act, except that if an EIS provider or a public agency (e.g. Division for Child Protection

and Permanency-DCP&P) provides any services to a child or any family member of that child, that EIS provider or public agency may not act as the parent for that child.

- E. Unless NJEIS has been provided documentation that a parent does not have the authority under applicable New Jersey laws governing such matters as custody, foster/resource care, guardianship, separation, and divorce, the person identified as “biological/adoptive parent” during the referral process is assumed to have all the parental rights included in IDEA.
- F. Under IDEA, only one parent is required for purposes of meeting procedural safeguards requirements.
- G. Parental rights established by NJEIS under IDEA apply to both parents, unless a court order or State law specifies otherwise.
- H. Unless informed otherwise, and provided documentation, NJEIS considers the parent identified during the referral/intake process the primary contact who will receive NJEIS communication and be responsible to receive and participate in all procedural safeguards related to the child’s participation in NJEIS.
- I. Telephone, text or email communication with an individual identifying themselves as the parent of a child participating in NJEIS is only permitted if required procedures are followed to ensure the identity of the individual.

### **III. Procedures**

#### **A. Child Is Living with Biological/Adoptive Parent(s)**

1. Once a referral is received, the regional SPOE SCU contacts the parent to discuss whether the parent wants to proceed with the referral including consent to conduct a developmental evaluation/assessment to determine their child’s eligibility for NJEIS.
  - a. If the parent agrees to proceed, the SPOE SCU completes the referral form with the parent.
  - b. If the parent declines to proceed, the referral is closed.
2. The completion of the form includes documenting the parent who is to be identified as the primary contact including their contact information and their relationship to the child. This is the person who will receive all communication related to the child’s participation in NJEIS and the person who the system will contact to exercise the rights and responsibilities of the “parent” as identified under NJEIS.
3. After documenting the primary contact on the referral form, the SPOE SCU asks the parent if they want to identify the child’s other parent as an alternate contact. If the parent agrees, the parent’s name, contact information and relationship to the child is recorded on the form. If the parent declines to provide information about another parent, the applicable box is checked by the SPOE SCU.
4. The SPOE SCU asks for and records any other family contact information the parent provides.
5. In situations in which there are two parents with parental rights under IDEA, practitioners from NJEIS only require one parent for communication and for purposes of meeting procedural safeguards requirements.
6. In situations in which a person, who is not the primary contact, contacts NJEIS and identifies themselves as a child’s parent, NJEIS must:

- a. Verify the identity of the person through procedures included below; and
  - b. Ensure that the person is identified in the child's record on the electronic database as the parent who is the alternate contact for the child.
7. If the person is not listed in the child's early intervention record, the primary contact is asked to clarify the relationship of the individual to the child and confirm that the person retains their parental rights. If yes, the person is added to the child's record including the CMO electronic database as an alternate contact.
  8. A parent listed as an alternate contact in the child's record has all the parental rights included under IDEA.
  9. In situations related to separation, custody and divorce, NJEIS follows decisions made under court order in relationship to which person or persons may serve as the parent for Part C.
  10. In instances in which both parents have decision-making rights under IDEA and disagreements arise, NJEIS requests the parent(s) to address the issue through the court.

**B. Child is Living with Person Acting in Place of Parent**

1. Once a referral is received and the child is not living with a biological, adopted or foster/resource parent, the regional SPOE SCU contacts the person with whom the child lives (daily care and responsibility for the child) to discuss the referral and complete the referral form as appropriate. If the person with whom the child lives:
  - a. Declines to proceed, the referral is closed.
  - b. Agrees to proceed with the referral, this individual meets the definition of parent under IDEA for purpose of NJEIS until such time that the biological or adoptive parent decides to exercise their parental rights under IDEA.
2. At any time, a biological or adoptive parent, who retains his or her rights may exercise those rights and be presumed to be the parent for the purpose of NJEIS.

**C. Child is Living with a Foster/Resource Parent**

1. The SPOE SCU records available information from the referral source on the NJEIS referral form and determines if the biological/adoptive parent's rights have been terminated, restricted or retained.
  - a. If the referral source is from a DCP&P caseworker:
    - (i) Confirm the status of parental rights of the biological/adoptive parent(s).
    - (ii) If the biological/adoptive parent(s) retains parental rights, the SPOE SC obtains contact information on a biological/adoptive parent and proceeds with contacting a biological/adoptive parent.
  - b. If the referral source is a Resource Parent, the SPOE SC:
    - (i) Completes the referral form to the extent feasible;
    - (ii) Informs the DCP&P Resource Parent that NJEIS must confirm the status of parental rights for the biological/adoptive parent;
    - (iii) Informs the resource parent that no additional information can be shared with them by NJEIS including the status of the referral unless the resource parent is determined to be the parent in accordance with IDEA;

- (iv) Informs the Resource Parent that they will hear back from either the DCP&P caseworker for the child or the SPOE SC; and
  - (v) Contacts DCP&P to determine who is the parent for the purpose of receiving services through NJEIS and discuss next steps.
- c. If the referral source is other than the DCP&P or resource parent, the SPOE SC:
- (i) Completes the referral form to the extent feasible;
  - (ii) Informs the referral source that NJEIS must confirm with DCP&P the status of parental rights for the biological/adoptive parent before moving forward with the referral; and
  - (iii) Informs the referral source that no additional information can be shared with the referral source without parent consent including the status of the referral.
2. If the DCP&P caseworker does not provide the requested information to move forward with the referral on either the status of parental rights or contact information for a biological parent that has retained parental rights within five (5) business days, the request should be elevated to supervisory staff at DCP&P.
- a. If the SPOE SCU is unable to connect with supervisory staff, the request should be elevated to the Educational Liaison at DCP&P.
  - b. If the SPOE SCU is unable to obtain the requested information to move forward after multiple attempts, the SPOE SC provides the DCP&P caseworker with written notification that the referral will be closed by a specified date and copies the NJEIS Procedural Safeguards Office (PSO).
  - c. The PSO will attempt to work with DCF to resolve the issue. If there is no resolution by the specified date, the SPOE SCU closes the referral. The SPOE SCU must provide written notice to the PSO if there is resolution before the referral is closed.
3. If there is written confirmation provided by DCP&P that the biological parent's rights have been terminated, the foster/resource parent can serve as the parent under IDEA and has all the rights and responsibilities of a parent under IDEA.
4. If the biological or adoptive parent rights have not been terminated, and contact information is available about the whereabouts of the child's biological/adoptive parent(s), the SPOE SC:
- a. Contacts a biological/adoptive parent to discuss if the parent wants to proceed with the referral including consent to conduct a developmental evaluation/assessment to determine their child's eligibility for NJEIS.
    - (i) If the parent agrees to proceed, the SPOE SCU completes the referral form with the parent.
    - (ii) If the parent declines to proceed, the referral is closed and the DCP&P caseworker notified.
    - (iii) If the parent is unsure whether they want to or can consent to a developmental evaluation/assessment, the SPOE SC refers the biological or adoptive parent back to the DCP&P caseworker and notifies the caseworker of the discussion with the biological or adoptive parent. The SPOE SC must continue to follow-up until a biological or adoptive parent makes a decision on next steps.
  - b. After multiple documented unsuccessful attempts to contact the biological/adoptive parent(s), the SPOE SC:

- (i) Contacts the DCP&P to verify the contact information, obtain updated contact information for the parent; or obtain contact information for another parent, if applicable.
  - (ii) If an address or email is available for a biological or adoptive parent, sends a letter copying the DCP&P caseworker that provides notice of the referral being closed on a specified date unless the parent contacts the SPOE SCU.
  - (iii) If attempts to contact a parent whose whereabouts are known are exhausted and documented, closes the referral.
5. If the biological or adoptive parent rights have not been terminated, and the DCP&P caseworker provides written verification that the whereabouts of the child's biological/adoptive parent(s) are not known, the Resource Parent can serve as the parent under IDEA.

**D. When Parental Status Changes for a Child Currently Receiving Early Intervention Services**

1. If a child, already receiving services under NJEIS, is moved into foster/resource care or their parent's status with regard to parental rights under IDEA changes, the SCU is responsible for determining who can serve as the parent under IDEA in accordance with this policy and procedure.

**E. Communication with Parent Through Phone, Email and Text**

1. When NJEIS receives a communication via phone, email or text from a person identifying themselves as a child's parent, verification of the person's identity is required prior to discussing the child. This process must include the person's accurate response to several questions about the child including but not limited to:
  - a. Child's full name;
  - b. Child's birth date;
  - c. Child's address;
  - d. Other parent's name.

**Related Policies and Procedures**

NJEIS-21 Appointment of Surrogate Parent

Minimum Required Fields to enter a referral into the NJEIS Database are the first name, last name and referral source.