

# Cross-System Partnership for Children in Out-of-Home Care

## Early Support for Infants and Toddlers (ESIT) Practice Guide

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### Purpose

The purpose of this document is to guide Early Support for Infants and Toddlers (ESIT) providers in their work with infants and toddlers who reside with a parent receiving child welfare services or living in an out-of-home care setting.

### Definitions

The applicability of the definitions below is limited to this guidance document.

- **“Parent”** means a child’s or Indian child’s biological or adoptive parent or a legal guardian. See 25 U.S.C. § 1903(9), 20 U.S.C. § 1401(23)(A) and 34 CFR § 303.27 (a) (1).
- **“Caregiver”** means a person with whom a child is informally placed by the parent, without child welfare involvement.
- **“DCYF”** or **“department”** means the Washington State Department of Children, Youth, and Families (DCYF).
- **“Child welfare”** means a division within DCYF that coordinates, implements and makes social services available.
- **“Foster parent”** means a licensed individual who is not the parent or guardian of a child and regularly provides temporary physical care on a 24-hour basis for a child who is in the custody of the state or tribe, or in a DCYF authorized voluntary placement.
- **“Indian Child”** means any unmarried person who is under the age of 18 and is either (1) a member of an Indian tribe or (2) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. (See 25 U.S.C. § 1903(4))
- **“Kinship caregiver”** means, for purposes of a child who is not an Indian child, a caregiver who is “eighteen years of age or older to whom the child is related by blood, adoption, or marriage, including marriages that have been dissolved, and means: (a) Any person denoted by the prefix ‘grand’ or ‘great’; (b) sibling, whether full, half, or step; (c) uncle or aunt; (d) nephew or niece; or (e) first cousin.” RCW 74.13.031(19)(a); and RCW 74.13.600(1). For purposes of an Indian child, “kinship caregiver” means a caregiver who is defined as a relative of the child



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under the law or custom of the child's tribe. "If the child's tribe does not identify such individuals by law or custom, the term means an adult who is the Indian child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first or second cousin, or stepparent, even following termination of the marriage." RCW 74.13.031(19)(a); and RCW 13.38.040(8).

- **"Legal guardian"** means an adult person who (a) has been appointed as the guardian of a child in a legal proceeding; and (b) has the right to the custody of the child pursuant to such appointment. For ESIT purposes, a legal guardian has the same rights as a parent unless otherwise noted by the court.
- **"Social worker"** means a person who is a contractor or is employed by DCYF. "Social worker" also means a caseworker or Social Service Specialist who is an employee of a tribe.

## Engaging the Parent

It is vital that ESIT providers respect the ongoing and important role of parents when there is child welfare involvement, particularly when the child is living in out-of-home care. Most infants and toddlers who have been removed from their parents' care will ultimately return home. ESIT providers must make every effort to engage both the parent, or the foster parent/kinship caregiver, in meeting the developmental needs of the infant or toddler.

Whenever possible, parents should participate in the assessment and evaluation of their child as well as the development of the Individualized Family Service Plan (IFSP), including the writing of functional outcomes that reflect their participation. Ideally, providers will coordinate services with parents, foster parents and/or kinship caregivers to ensure continuity of supports and services. Parent engagement is crucial. When parents are involved in ESIT services from the beginning, they are more likely to remain engaged after reunification has occurred. When appropriate for all involved, providers may attempt to schedule joint visits with both the parent and the foster parent/kinship caregiver present.

## Working with Native American Families

The Indian Child Welfare Act (ICWA) passed in 1978 in response to a large number of Indian children who were removed from their homes by nontribal public and private agencies and were subsequently placed in non-Indian out-of-home care. See 25 U.S.C. § 1901. The purpose of ICWA is "...to protect the best interest of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children and placement of such children in homes which will reflect the unique values of Indian culture...." 25 U.S.C. § 1902.

With this purpose in mind, ESIT providers must be sensitive to, and understand, the following considerations when working with Indian children who are in out-of-home care:

- Indian children who are in out-of-home care may be the subject of a child welfare case in either state or tribal court.
- If a proper request to transfer jurisdiction to an Indian tribe is made by a parent, Indian custodian or the tribe in a child welfare court proceeding, the state court must normally transfer jurisdiction to the tribe if the case pertains to a child who is either a member of the tribe; or is eligible for membership in the tribe and is the biological child of a member of the tribe. 25 U.S.C. § 1903; 25 U.S.C. § 1911.
- The request for the tribe to assume jurisdiction and the granting of such request may occur at any time during the life of the case in state court.



- An Indian child who is the subject of a child welfare case in state court will likely have a tribal social worker who has been assigned by the tribe to the child's case.
- Despite the fact that jurisdiction has not been transferred from a state court child welfare proceeding to a tribal court, an Indian child may be receiving or be eligible to receive early intervention, child welfare or family support services through the child's tribe.

Each tribe is a sovereign nation that has its own laws, policies and procedures that are separate from state law, federal law or the laws of other tribes. With this in mind, there are differences between tribal and state court systems and social service programs. Working closely with the tribal social worker, and requesting guidance for how to work with the tribe, is the best approach to ensure Indian children receive the best possible services.

When a case is in tribal court, proceed as if you are working with a state child welfare social worker but instead, communicate with the tribal social worker. If the child welfare proceeding for an Indian child is in the state court system, coordinate services by obtaining contact information to talk with the child's tribe from the state social worker.

## Parental Rights

A child residing in out-of-home-care, or who lives with a parent receiving services with the child welfare system, may enter the ESIT program in a variety of ways. While reunification is the ultimate goal, a juvenile court judge may limit the rights of a parent to make educational, medical or other decisions for his or her child. In the most serious cases, a court order may permanently terminate parental rights. It is important for ESIT providers to contact the social worker whenever they receive a referral involving a child who is living in an out-of-home placement or involved with the child welfare system. The social worker will likely have important information such as legal documentation of the child's custody status, the parents' legal rights and whether there is a no-contact order in place.

The three scenarios listed below are examples of when a parent may engage in early intervention (EI) services, and when a parent's consent must be obtained before such services are provided.

**Scenario 1: Child living with a parent, with child welfare involvement:** A parent has the authority to consent to assessments and evaluations and participate in ESIT services, unless the parent's decision-making rights pertaining to his or her child have been limited by court order or by consent. The parent may not have the authority to decline ESIT services if a court order requires it.

**Scenario 2: Child in out-of-home care, with child welfare involvement:** Even if the child is in out-of-home care, every attempt should be made to engage parents in ESIT services. This is because, in most cases, the child will be returned to parental care. Although the parent's signature and consent is *sometimes* not required when the child is residing in out-of-home care, it is strongly encouraged that efforts be made to obtain both the parent's and foster parent/kinship caregiver's signed consent to participate in IFSP development and services. See the *Who's Signature is Required?* chart below for more information.

**Scenario 3: Child in out-of-home care, with no child welfare involvement:** A child may be in the care of a caregiver without child welfare involvement, and at the same time not have a parent who is available to participate in ESIT services. In this case, and depending on the circumstances, the caregiver may have the authority to consent to assessments, evaluations, and participation in ESIT services.



## Obtaining Signatures

If a child is in out-of-home care, with child welfare involvement, providers must contact the social worker to coordinate services and for additional guidance. The chart below provides general guidance regarding whose signature and approval authority is required for (1) releases of information; (2) consents to screening, evaluation, assessment, System of Payments and Fees (SOPAF) and the Individualized Family Service Plan (IFSP); and (3) declining services for the child.

Remember, each family has circumstances unique to them. Working with families involved with child welfare requires partnership and communication to ensure the IFSP team is aware of the level of decision making authority of parents and foster parents/kinship caregivers. Contact the ESIT state office if there are questions about the circumstances of a particular family.

Whose Signature is Required?			
	No Child Welfare Involvement	Child Welfare Involvement	
	Voluntary Out-of-Home Placement	Child Living with Parent	Involuntary Out-of-home Placement
Sign Releases of Information	<p><b>Parent:</b> Encouraged, not required</p> <p><b>Caregiver:</b> Required, caregivers can sign releases of information</p>	<p><b>Parent:</b> Required, parent signs releases of information</p> <p><b>Social Worker:</b> Not required</p>	<p><b>Parent:</b> Encouraged, not required</p> <p><b>Kinship Caregiver/Foster Parent:</b> Required, meets the definition of parent and can sign</p> <p><b>Social Worker:</b> Signature not typically required. If a release, signed by a caregiver, is not accepted by a third party the social worker may sign (e.g., medical records)</p>
Consent to Screenings, Evaluations & Assessments, SOPAF and Sign the IFSP	<p><b>Parent:</b> Encouraged, not required</p> <p><b>Caregiver:</b> Required</p>	<p><b>Parent:</b> Required, parent consents to services and signs all paperwork</p> <p><b>Social Worker:</b> Only a parent or kinship caregiver/foster parent can sign these consent forms</p>	<p><b>Parent:</b> Encouraged, not required</p> <p><b>Kinship Caregiver/Foster Parent:</b> Required, can consent for services and sign all paperwork</p> <p><b>Social Worker:</b> Only a parent, kinship caregiver/foster parent can sign these consent forms</p>



<p>Decline Services for the Child</p>	<p>The parent’s signature is not required when a caregiver, acting in the place of the parent, wants services. However, the parent can decline services for their child at any time. A caregiver can decline services but may not decline services for the parent.</p>	<p><b>Parent:</b> Required, however a court order may override this decision</p> <p><b>Social Worker:</b> Cannot decline services for the parent</p>	<p><b>Parent:</b> A parent may not decline services for their child.</p> <p><b>Kinship Caregiver/Foster Parent:</b> Required, however a court order may override this. Additionally, a kinship caregiver/foster parent may not decline services for the parent.</p> <p><b>Social Worker:</b> May decline services when they have no concerns and the parent and foster parent/ kinship caregiver do not wish to participate. However, they cannot override a court order.</p>
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## Frequently Asked Questions

### Should I work with the parent or the foster parent/kinship caregiver to coordinate and plan for services?

Providers should attempt to engage the parent to be a part of any evaluation or planning, as long as there is no court ordered restrictions. However, subject to the limitations discussed in the chart above, a caregiver or foster parent/kinship caregiver may make decisions and request evaluations even if parental rights have **not** been terminated. Services should not be delayed while attempting to engage the parent and may begin as soon as the appropriate signatures and authorizations have been obtained, consistent with the requirements discussed in the chart above. Depending on the circumstances, you may need to contact the social worker regarding safety before contacting the parent or foster parent/kinship caregiver.

### If a parent does not respond, how many engagement attempts should be made?

Providers should make at least three attempts to engage the parent(s), using more than one method of contact. Providers may attempt further contacts at reviews or as they become aware of changes in the parents’ availability, for example when released from treatment or incarceration, or when visitation has been reinstated.

### Can parents, foster parents and kinship caregivers make a referral to ESIT services, even when a Child Health and Education Tracking (CHET) screening or social worker do not signal the need for a referral?

Yes. A parent, foster parent or kinship caregiver can make a referral. Communicate with the social worker once the referral is received.

### What documentation must an ESIT provider obtain when a parent should not be involved in ESIT services?

ESIT providers should request from the social worker a copy of any court order that prohibits the parent from having contact or participating in ESIT services. If parental rights have been terminated or relinquished, the ESIT provider may request appropriate documentation from the social worker





**Can services happen during court ordered visitation between a parent and child?**

Yes, if the visitation order allows for ESIT services to take place during visitation and it is the only option for holding visits with the parent and child. Services should not be denied or limited for the parent simply because they can only occur during visitation. A justification will be necessary if the services are not provided in the child’s natural environment. Be aware this may be the only opportunity the parents and child have to spend time together. Talk with the parent and social worker about the decision to provide ESIT services during visitation time and determine whether there are any alternative options that would allow for providing services in the child’s natural environment. If services do occur during court ordered visits, ESIT service providers must never be responsible for supervising these visits.

**If both a parent and foster parent decline ESIT services, can a social worker override that decision?**

While the ESIT program is a voluntary program, a court order may require that a child receive ESIT services. If ordered, the parent, foster parent/kinship caregiver and social worker must all comply with the court’s directives. It is important for the ESIT provider to discuss with the social worker the reasons why the parent or foster parent/kinship caregiver wants to decline services.

**How should the parent, foster parent or kinship caregiver be engaged if they are not interested in services but a court order has made it a requirement?**

Work with the parent, foster parent or kinship caregiver to tailor services to match their priorities and concerns. Build rapport with the family and support them to identify how early intervention services can benefit them. Possible outcomes may include supporting the parent and child to make daily routines more manageable, or supporting the parent and child to address behavioral concerns.

**What legal documentation is needed to show foster parent or kinship caregiver status?**

Contact the child’s social worker and request legal documentation that describes the foster parents or kinship caregiver’s status.

**If there are two or more families engaged in services for one child (e.g., a parent and foster parent or kinship caregiver) and they live in different ESIT providers service areas, which agency should hold the IFSP?**

The agency serving the area where the child lives (school district of residence) should hold the IFSP. Collaboration between the two agencies is essential in figuring out how to best serve the whole family. There should only be one Family Resources Coordinator and there may need to be a contract in place to ensure both ESIT providers are funded. Both the parent and the foster parent or kinship caregiver need to be engaged if they want to participate in ESIT services.

**When the parent and foster parent/kinship caregiver are both involved in services, it will not always be logistically or clinically appropriate to have them at the same IFSP meeting. If we have two IFSP meetings how should it be documented on the IFSP?**

The parent should sign paperwork and attend IFSP meetings whenever possible. However, the official date of the IFSP meeting is when the caregiver, foster parent, or kinship caregiver signs the document.

**Should there be one IFSP for the parent and one for the caregiver?**

No, there should be one IFSP with child and family outcomes that apply to both settings.

**Should contact information for the parent, foster parent or kinship caregiver be redacted from the IFSP, reports and other paperwork?**

Discuss this issue with the social worker if the child and family are receiving child welfare services. Consider any confidentiality or safety concerns when sharing documents with parents or foster parent/kinship caregiver and outside providers. There may be a court order that specifies what information should or should not be shared.

**Can an ESIT provider's office space be used as a neutral location for attempting a joint session that includes the parent and the foster parent or kinship caregiver when there is not an appropriate natural environment?**

This may be appropriate for an initial attempt at a joint visit. However, a justification must be given for not providing services in a natural environment, including a plan for moving services back to the natural environment. Before attempting a joint session that involves the parent and foster parent or kinship caregiver, the provider must discuss whether the joint session would be safe, based on the social worker's knowledge of the situation and existing court orders that may prohibit such a meeting.

**Are child welfare office locations or visitation centers considered "natural environments"?**

No, child welfare offices do not meet the definition of natural environments (34 CFR §303.26).

**Can an ESIT provider act as a "supervisor" during visitation that requires supervision?**

No. ESIT providers must not be the "supervisor" during supervised visits. Work with the social worker to coordinate the time and place for visits when a supervisor is available.

**If a parent is incarcerated or living at a treatment facility, what should their engagement look like?**

ESIT providers may offer to support parent engagement through regular written or telephone updates. A parent may attend IFSP meetings via telephone or video calls. If appropriate, an ESIT provider may attend a parent/child visit at the facility.

**In cases where there are safety concerns for the ESIT provider, do services with the parent need to continue in a natural environment?**

Yes, safety concerns are not necessarily a justification for not providing services in the natural environment. If there are safety concerns that prevent IFSP services from occurring in the home, the visit should take place in a community setting. Talk with the social worker about safe location options, for example a local library or community park.

**If there are safety concerns and parental visits have been terminated, are ESIT providers still required to provide services to the parent?**

If there are safety concerns that have resulted in the termination of visits between the parent and child, providers should continue serving the child with the foster parent/kinship caregiver, but not with the parent.

**What if a parent cannot be located or identified and a judge has not designated a guardian for the child?**

In rare circumstances, when a parent cannot be identified or located, a surrogate parent must be identified by the ESIT provider within 30 days of determining the need. A surrogate parent cannot be an employee of the state or have a personal or professional conflict of interest. Additionally, the surrogate parent should have adequate knowledge and skills to represent the child. For purposes of IDEA Part C, the surrogate parent has the same rights as a parent.



## Resources and Citations

**Washington State ESIT Program:** <https://www.dcyf.wa.gov/services/child-dev-support-providers/esit>

DCYF is the state lead agency for Part C of the Federal Individuals with Disabilities Education Act (IDEA Part C). The ESIT program administered by DCYF is the state program responsible for implementing the IDEA Part C requirements and activities, and implementing the early intervention services interagency system.

**Washington Resources for Kinship Caregivers:** [www.dshs.wa.gov/kinshipcare/index.shtml](http://www.dshs.wa.gov/kinshipcare/index.shtml)

Services and supports for relatives and non-relatives who are raising a child who is not their own.

**DCYF Foster Parenting and Kinship Care:** <https://www.dcyf.wa.gov/services/foster-parenting>

Resources for caregivers such as how to become a foster parent or kinship caregiver and helpful forms for caregivers.

**DCYF Employee Directory:** <https://fortress.wa.gov/dshs/ca/employeedirectory>

Search for current DCYF employee contact information, for example the social worker for a child and family.

**Washington State Consent to Health Care for the Child in Your Care: A Kinship Caregiver's Guide:**

<https://www.dshs.wa.gov/altsa/home-and-community-services-kinship-care/kinship-care>

Resources for grandparents or other family members raising a relative's child. Includes the Kinship Caregivers Declaration of Responsibility for a Minor's Health Care brochure explaining the 2005 Washington State law regarding relative caregivers' rights and responsibilities.

**Child Welfare Information Gateway – Child Welfare and IDEA Part C:**

<https://www.childwelfare.gov/topics/preventing/prevention-programs/earlychildhood/childwelfare/>

Child Welfare Information Gateway promotes the safety, permanency and well-being of children, youth and families by connecting child welfare, adoption and related professionals as well as the public to information, resources and tools covering topics on child welfare, child abuse and neglect, out-of-home care, adoption and more.

**National Indian Child Welfare Association (NICWA):** <https://www.nicwa.org/>

NICWA supports tribes in building the capacity to prevent child abuse and neglect through positive systems changes at the state, federal and tribal levels.

**Individuals with Disabilities Act (IDEA), Part C Federal Regulations (34 CFR 303):**

<https://www.govinfo.gov/content/pkg/CFR-2018-title34-vol2/xml/CFR-2018-title34-vol2-part303.xml>

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