

PARENTS' RIGHTS AND RESPONSIBILITIES IN THE EARLY START PROGRAM UNDER IDEA

EVALUATION AND ASSESSMENT

Developing an individualized family service plan (IFSP) includes the performance of a timely, comprehensive, multidisciplinary evaluation and assessment of every child under age 3 who is suspected to be in need of early intervention services. If no parent is available or the child is a ward of the court, a knowledgeable surrogate parent who has no conflicting interest will be appointed. Procedural safeguards ensure that you and your child are provided your rights under the law.

As a parent, guardian, or surrogate parent you have the right to:

1. Refer your child for evaluation and assessment, provide information throughout the process and make decisions and give informed consent for your child's early intervention services.
2. Understand and provide voluntary written permission or refusal, before the initial evaluation and assessments are administered. Consent is not a condition for benefit except initially. If consent is refused, the local education agency (LEA) may pursue due process.
3. Participate in the initial evaluation and assessment process.
4. Be fully informed of the results of evaluations and assessments.
5. A completed evaluation/assessment and an IFSP meeting within 45 days after the referral of your child to a Regional Center or an LEA to determine eligibility and develop the IFSP.
6. Access to records, by you or a representative, including the right to examine and obtain copies of records relating to your child and the right to request an amendment or omission of records of any participating agency relating to your child, or to request a hearing.
7. Have an advocate assist you in dealings with the early intervention system, including regional centers and education agencies.
8. Have personally identifiable information for your child maintained in a confidential manner and have its sources, access, uses and policies for location, storage, disclosure, retention and destruction under the Family Education Rights and Privacy Act explained to you.
9. Request a mediation conference and/or a due process hearing to challenge the findings of any evaluation, assessment, placement, and/or service.
10. Information about where an independent educational evaluation at public expense may be available.
11. An independent evaluation at public expense if determined appropriate by a hearing officer or requested by a hearing officer and meeting public agency criteria.

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) REQUIRES THAT:

1. Evaluation and assessment materials are administered in

the native language of a child's parent/family or other mode of communication, unless it is clearly not feasible to do so.

2. Evaluation and assessment procedures and materials are selected and administered so as not to be discriminatory by race, sex, culture, or disabling condition.
3. Evaluation and assessment materials are appropriate for the specific purposes for which they are being used.
4. Evaluations and assessments are conducted by qualified personnel.
5. Evaluations or assessments administered to children with known vision, hearing, orthopedic or communication impairments are selected to accurately reflect the child's developmental level.
6. Evaluation and assessment materials are designed to assess the specific areas of developmental needs and are not designed to provide solely intelligence quotient measurement.
7. Assessments and evaluations are administered in the five developmental areas, including physical development (vision, hearing and health status), communication development, cognitive development, adaptive development and social or emotional development and are ongoing while the child is in the Early Start Program.
8. Pertinent records relating to the child's current health status and medical history are reviewed and school records /explanations that you request will be made available to you within 5 days of your request.
9. No single procedure is used as the sole criterion for determining a child's eligibility for early intervention services.
10. Voluntary permission is provided for an interview to identify family resources, priorities, and concerns regarding the development of your child and your family's needs.

INDIVIDUALIZED FAMILY SERVICE PLAN (IESP)

A meeting to determine eligibility and develop your child's IFSP must take place within 45 days of the referral to the LEA or Regional Center. As the parent, you have rights in developing and implementing the IFSP to:

1. Attend the meeting and participate in determining eligibility and developing the IFSP.
2. Request the attendance of other family members.
3. Request the attendance and participation of an advocate or persons outside the family at the IFSP meeting.
4. Have a copy of the complete IFSP.
5. Have the contents of the IFSP fully explained in your native language.
6. Give consent to services listed on the IFSP. If you do not give consent to a service, it will not be provided. You may withdraw consent after initially receiving a service.
7. Have services provided in the natural environment or an explanation why that is not possible.
8. Be notified in writing, in your native language unless it is clearly not feasible to do so, before any agency or service provider proposes or refuses to initiate or change the identification, evaluation, assessment, or placement of your child, or the provision of appropriate early intervention services to your child or your family. The notice may be translated so that you understand its contents.

The notice must contain:

The action that is proposed or refused;
Reasons for the action;
Procedural safeguards available under 34 CFR 303.400 through 303.460

9. Consent to the transmission of information about your child to another agency including the local education agency during transition to services under Special Education within a school district.

ADMINISTRATIVE PROCEEDINGS

Under the Individuals with Disabilities Education Act (IDEA), parents have rights and protections to assure that early intervention services are provided to their children in a timely manner appropriate to their needs, and to the concerns of the family. Parents have a right to an impartial state level, administrative hearing before a person knowledgeable in the laws relating to early intervention and the needs for services for infants, toddlers and families.

COMPLAINTS: As a parent, you may file a signed, written complaint alleging violations of state or federal early intervention laws or their regulations. Assistance in filing complaints is available from your child's service coordinator and/or the SELPA or Regional Center office.

Complaints are filed directly with the Department of Developmental Services, Attention: Office of Human Rights, Early Start Complaint Unit, 1600 9th Street Room 240, MS-2-15, Sacramento, CA 95814, (916) 654-3452, FAX: (916) 651-8210. Complaints will be resolved within 60 days. You have the right to submit additional information, to receive a written decision and to request a review of the findings of the U.S Secretary of Education at the Office of Special Education Programs (OSEP).

Any organization or individual may file a complaint and has the right to:

1. Provide a written and signed statement alleging that a Regional Center, LEA, other service provider or agency involved with Early Start has violated a federal or state law or regulation.
1. Not be compelled to use any other procedures under the Education Code or Lanterman Act to resolve the complaint.
2. Be informed of their right to file a complaint.
4. Receive the assistance of the service coordinator in filing the complaint.
5. Provide: the name, address and phone number of the complainant; a statement that a party has violated a federal or state law or regulation; a statement of facts on which the violation is based; the name of the party responsible and the steps taken at the local level to resolve the complaint.

DUE PROCESS: All parents are encouraged to resolve differences at the lowest administrative level possible. In all cases in which differences cannot be resolved, impartial mediation and due process hearings are available. You, as a parent, are encouraged to seek assistance from your child's service coordinator and/or the SELPA or Regional Center office. Circumstances leading to a mediation or due process hearing may be disagreements related to a proposal or refusal for identification, evaluation, assessment, placement, or services. These procedures may be used to resolve differences between you and an agency or Regional Center. The child will continue to receive appropriate early intervention services unless the parties agree otherwise.

Requests for due process are filed with the Office of Administrative Hearings, Attention: Early Intervention Section, 560 J Street, Suite 300, Sacramento, CA 95814, (916) 445-4926, FAX: (916) 323-6439. The impartial due

process hearing with a person not employed by an agency serving the child, including voluntary mediation efforts, will be completed within 30 days from the receipt of the request and will be a final decision unless appealed.

As a parent, you have the right to:

1. Be accompanied and advised by counsel and by individuals with special training with respect to early Intervention services for children under age three.
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses.
3. Prohibit the introduction of any evidence at the proceeding that has not been disclosed to you at least five days before the proceeding begins.
4. Obtain a written or electronic verbatim transcription of the proceeding.
5. Obtain written findings of fact and decisions within 30 days from the date the complaint is filed.
6. Have all personally identifiable information maintained in a confidential manner.
7. Require that the proceeding is carried out at a time and in a location which is reasonably convenient for you.
8. Bring civil action upon the other party following completion of the proceeding.
9. Receive services identified on the IFSP that are not in dispute.
10. Present evidence from an independent evaluation obtained at private expense.