

Parents' Rights: An Early Start Guide for Families

Confidentiality & Access to Records

Early Start records are an important source of information about your child. The information you provide to the regional center or local education agency (LEA) about your child and your family is confidential. Such information will only be shared with authorized persons involved in your child's services.

As a parent, * you have the right to

1. access records, including the right to have you or your representative examine and obtain copies of records relating to your child; You may request that any regional center or LEA amend or remove information relating to your child from the records. [CFR 303.402, CCR 52164, CCR 52168]

2. receive, within five days of your request, copies of records relating to your child and/or explanations that you request; [CCR 52164]
3. request a meeting with the director of the regional center or the superintendent of the LEA about information contained in the record; and [CCR 52168]
4. have personally identifiable information about your child maintained in a confidential manner and have its sources, access, uses, and policies for location, storage, disclosure, retention, and destruction explained to you per the Family Education Rights and Privacy Act. [CFR 303.401, CFR 303.460, CCR 52160, CCR 52162, CCR 52165, CCR 52169]

* Refer to CCR 52000(b)(36) for definition of parent.

Evaluation & Assessment

The determination of eligibility for Early Start in California includes a timely, comprehensive, multidisciplinary evaluation and assessment of every child under age three years who is suspected to be in need of early intervention services. If no parent or guardian 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 families are provided their rights under the law. [CFR 303.322, CFR 303.406, CCR 52082]

As a parent, you have the right to

1. be fully informed of your rights under Early Start; [CFR 303.403, GC 95020(c), CCR 52160, CCR 52161]
2. refer your child for evaluation and assessment, provide information throughout the process, make decisions, and give informed consent for your child's early intervention services; [CFR 303.401, CFR 303.404, CCR 52040(d)]
3. understand and provide voluntary written permission or refusal before the initial evaluation and assessments are administered; [CFR 303.405, CCR 52162]
4. participate in the initial evaluation and assessment process including eligibility determination; [CFR 303.322, GC 95020, CCR 52082, CCR 52084]
5. receive a completed initial evaluation and assessment within 45 days after the referral of your child to a regional center or an LEA; [CFR 303.321, CFR 303.322, CCR 52086]
6. participate in a meeting to share the results of evaluations and assessments; and [GC 95020(b)]
7. participate in all decisions regarding eligibility and services. [CFR 303.343, GC 95014(a), GC 95020(b), CCR 52082(a), CCR 52104]

The Individuals with Disabilities Education Act (IDEA) requires the following:

1. Evaluation and assessment materials are administered in the language of the parents' choice or other mode of communication, unless it is clearly not feasible to do so. [CFR 303.323, CCR 52084]
2. Evaluation and assessment procedures and materials are selected and administered so as not to be racially or culturally discriminatory. [CFR 303.323, CCR 52082]
3. Evaluation and assessment materials are appropriate to assess the specific areas of developmental need and are used for the specific purposes for which they were designed. [CFR 303.322, CCR 52082]
4. Evaluations and assessments are conducted by qualified personnel. [CFR 303.322, CCR 52082, CCR 52084]
5. Evaluations and assessments administered to children with known vision, hearing, orthopedic, or communication impairments are selected to accurately reflect the child's developmental level. [CFR 303.322, CCR 52082]
6. Evaluations and assessments are administered in the five developmental areas, which include physical development (motor abilities, vision, hearing, and health status); communication development; cognitive development; adaptive development; and social or emotional development. Assessments and evaluations are ongoing while your child is in Early Start. [CFR 303.322, CCR 52082, CCR 52084, CCR 52102]
7. Evaluations and assessments shall be conducted in natural environments whenever possible. [CCR 52082(i), CCR 52084(e)]
8. Pertinent records relating to your child's health status and medical history are reviewed. [CFR 303.322, CCR 52082]
9. No single procedure is used as the sole criterion for determining your child's eligibility for early intervention services. [CFR 303.323, CCR 52082]
10. Interviews to identify family resources, priorities, and concerns regarding the development of your child and your family's needs are voluntary. [CFR 303.322, CCR 52084, CCR 52106]

Individualized Family Service Plan

An individualized family service plan (IFSP) is a written plan for providing early intervention services to an eligible child and the child's family. For an infant or toddler who has been evaluated for the first time, a meeting must take place within 45 days of the referral to the regional center or LEA to share the results of the evaluation, to determine eligibility, and, for children who are eligible, to develop the initial IFSP. Evaluation results and determination of eligibility may be shared with families prior to the first IFSP meeting. [CFR 303.340, CFR 303.342, GC 95020(b), CCR 52100, CCR 52102]

A periodic review of your child's IFSP must take place at least every six months. A review may occur more frequently if there are any changes to the IFSP or if you request a periodic review with the regional center or LEA. The IFSP must also be reviewed annually to evaluate how your child is doing and to make any needed changes to the IFSP. [CFR 303.342, CCR 52102]

During the development and implementation of an IFSP, you have the right as the parent to

1. attend the IFSP meetings and participate in developing the IFSP; [CFR 303.343, CCR 52104]
2. invite other family members to attend IFSP meetings; [CFR 303.343, CCR 52104]
3. invite an advocate or persons other than family members to attend and participate in the IFSP meetings; [CFR 303.343, CCR 52104]
4. have a copy of the complete IFSP; [CFR 303.402, CCR 52102]
5. have the contents of the IFSP fully explained in the language of your choice; [CFR 303.342, CFR 303.403, CCR 52102]

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 accepting or receiving a service; [CFR 303.342, CFR 303.404, CFR 303.405, CCR 52102]
7. have services provided in the natural environment or an explanation of why that is not possible; [CFR 303.12, CFR 303.344, CCR 52106]
8. exchange information about your child among other agencies; [CFR 303.460, CCR 52112, CCR 52169]
9. be notified in writing before any agency or service provider proposes or refuses to initiate or change your child's identification, evaluation, assessment, placement, or the provision of appropriate early intervention services to your child or your family. [CFR 303.403, CCR 52161]

The notice must contain:

- the action that is proposed or refused,
- reasons for the action, and
- all available procedural safeguards.

The notice must be presented in the language of your choice, unless it is clearly not feasible to do so, and may be translated so that you understand its contents.

[CFR 303.400 to 303.460, CCR 52161]

Mediation Conferences, Due Process Hearings, and State Complaints

In Early Start, parents have rights and protections to assure that early intervention services are provided to their children in a manner appropriate to their needs, in consideration of family concerns, and in compliance with applicable federal and State statutes and regulations. The following procedures are only for children under the age of three years. [CFR 303.422, CCR 52170, CCR 52172, CCR 52173, CCR 52174]

As a parent, you have the right to

1. request a mediation conference and/or a due process hearing any time a regional center or LEA proposes or refuses to initiate or change the identification, evaluation, assessment, placement, and/or provision of appropriate early intervention service(s); [CFR 303.419, CFR 303.420, CCR 52172]
2. be informed of your right to file a complaint or a request for mediation or due process; [CFR 303.510, CCR 52170]
3. file a complaint if you believe there has been a violation of any federal or state statute or regulation governing early intervention services under Early Start including eligibility and services; and [CFR 303.511, CCR 52170]
4. request a mediation conference immediately prior to a complaint or due process hearing request, or at any time during the complaint/due process hearing processes to resolve a dispute related to any matter concerning federal or state statute or regulation governing early intervention services under Early Start [CCR 52170(b)]; and
5. file a complaint if a due process decision fails to be implemented. [CCR 52170(b)]

MEDIATION CONFERENCES

Mediation is a flexible, non-binding, confidential process in which a neutral mediator facilitates settlement negotiations between you and another party. Voluntary impartial mediation conferences are a more informal way to resolve disagreements with early intervention service agencies or to address alleged violations of any state and federal statutes or regulations. Mediation is voluntary [CFR 303.419, CCR 52173].

As a parent you have the right to

1. file a request for mediation as the initial option for resolving a dispute or any time during the due process hearing or complaint process. [CFR 303.419, CCR 52173];
2. request a due process hearing or file a state complaint if the disagreement is not resolved [CCR 52173];
3. refuse to participate in mediation [CFR 303.419, CCR 52173];
4. have an impartial person facilitate the mediation conference [CFR 303.419, CCR 52173(c)];
5. require that the mediation conference is carried out at a time and in a location that is reasonably convenient for you [CFR 303.419, CCR 52173];
6. have all personally identifiable information maintained in a confidential manner [CFR 303.419(b), CCR 52173(g)]; and
7. receive a written document outlining the agreements reached as a result of the mediation conference [CFR 303.419, CCR 52173(i)].

Requests for mediation are filed with the:

Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 2000, Sacramento, CA 95833
(916) 263-0654 Fax: (916) 376-6318
[CCR 52173]

DUE PROCESS HEARINGS

All parents are encouraged to resolve differences at the lowest administrative level possible. When differences between you and a regional center or LEA cannot be resolved, due process hearings are available. You, as a parent, are encouraged to seek assistance from your child's service coordinator, the regional center, or the Special Education Local Plan Area (SELPA) office. [CFR 303.420, CCR 52172]

Circumstances leading to a due process hearing may be disagreements related to a proposal or refusal for identification, evaluation, assessment, placement, or services. [CCR 52172(a)]

Your child will continue to receive the early intervention services identified on the IFSP that he/she is currently receiving unless you and the regional center or LEA otherwise agree to a change. If your disagreement involves a new service that has not started, your child will receive all services identified on the IFSP that are not in dispute. This does not include your regional center providing early intervention services after your child has reached 36 months of age, as federal law and regulations do not allow states to pay for early intervention services under any circumstances once your child transitions from Early Start. The program or programs your child enrolls in subsequent to transition from Early Start is responsible for providing you and your child services for which he or she is eligible to receive. [CCR 52172(g)]

Requests for a due process hearing are filed with the Office of Administrative Hearings at the following address:* [CFR 303.420, CCR 52172]

Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 2000, Sacramento, CA 95833
(916) 263-0654 Fax: (916) 376-6318
[CCR 52172]

*The due process hearing request form may be obtained from your service coordinator, the regional center, the LEA, and DDS website: www.dds.ca.gov/Forms/pdf/DS1802.pdf

The due process hearing must be completed within 30 days of receipt of the request by the Office of Administrative Hearings. The timely issuance of the written decision may not be delayed by any concurrent voluntary local efforts to resolve the matter. The decision will be final unless appealed. [CFR 303.425, CCR 52172(e)]

STATE COMPLAINTS

Any individual or organization may file a signed, written complaint against the Department of Developmental Services (DDS), the California Department of Education (CDE), or any regional center, LEA, or private service provider that receives Part C funds alleging violations of State or federal early intervention statute or regulation. The complaint process can also address remedies for denial of eligibility or appropriate services. However, even though DDS is mandated to investigate any complaint it receives, state law does not allow disclosure of the Early Start recipient's personally identifiable information without written parental consent, other than authorized employees specified by the regional center or LEA [CFR 303.510, CCR 52170(a)].

Information or assistance in filing complaints is available from your child's service coordinator, the regional center office, or the special education local plan area (SELPA). DDS and CDE are available for consultation regarding the filing of a complaint. Additional assistance is available from advocacy organizations such as the State Council on Developmental Disabilities or Disabilities Rights California. As efforts to resolve the matter at the local level are undertaken, a complaint may be filed concurrently with a request for a mediation conference or due process hearing. [CFR 303.423, CCR 52170]

Complaints are filed directly with the

Department of Developmental Services
Office of Human Rights and Advocacy Services
Attention: Early Start Complaint Unit
1600 9th Street, Room 240, MS 2-15
Sacramento, CA 95814
(916) 654-1888 Fax (916) 651-8210
[CCR 52170(e)]

Any individual or organization who files a complaint has the right to [CCR 52170]

1. receive assistance in filing the complaint from the service coordinator, regional center, or LEA; [CCR 52170]
2. not be compelled to use any other procedures under the Education Code or the Lanterman Developmental Disabilities Services Act to resolve the complaint; [GC 95007, CCR 52170]
3. submit additional information to DDS that may be helpful to the investigation; [CCR 52170]
4. receive a final written decision within 60 days of the date DDS receives the complaint; [CCR 52170]
5. receive appropriate remedies that may include monetary reimbursement or other corrective action, and assurance that services will be provided appropriately in the future if the decision of DDS includes remedies for denial of appropriate services; [CCR 52170]
6. have any issue in a complaint that is not part of a due process hearing be resolved by DDS within 60 days of the receipt of the complaint; [CFR 303.512(c), CCR 52171(c)]
7. be notified by DDS that the hearing decision is binding if an issue is being raised in a complaint that had previously been decided in a due process hearing involving the same parties; and [CCR 52170]
8. have any complaint resolved that alleges the failure of a public agency or private service provider to implement a due process decision. [CCR 52170]

The complaint must

1. be in writing and contain a signed statement alleging that DDS, CDE, the regional center, LEA, or other service provider involved with Early Start has violated a federal or State law or regulation; [CCR 52170(a)]
2. provide the name, address, and phone number of the complainant; [CCR 52170(f)]
3. contain a statement of facts upon which the violation is based; [CCR 52170(f)]
4. include the name of the party responsible against whom the complaint is being filed; [CCR 52170(f)]
5. have occurred not more than one year before the date the complaint is received by DDS unless a longer period is reasonable because the alleged violation continues for the child or other children; or [CCR 52170(e)]
6. have occurred not more than three years before the date on which the complaint is received by DDS if the complainant is requesting reimbursement or corrective action as remediation of the complaint [CCR 52170(c)]; and
7. the complaint may also include, if applicable, a description of the voluntary steps taken at the local level to resolve the complaint. [CCR 52170]
8. be withdrawn if the complainant elects to participate in mediation within the 60-day complaint investigation.