



## EARLY INTERVENTION CHILD AND PARENT RIGHTS

Federal law creates specific rights for eligible children and responsibilities of parents to protect those rights. The following is an explanation of those rights and the procedural safeguards available to ensure that early intervention providers and parents understand their rights under the law. If you would like further explanation of any of these rights, you may contact your service coordinator, \_\_\_\_\_ at \_\_\_\_\_ or the Alabama Department of Rehabilitation Services, Division of Early Intervention, P.O. Box 4280, Montgomery, Alabama 36103-4280, [Street Address: 602 South Lawrence Street, Montgomery, Alabama 36104], Telephone Number: (334) 293-7500.

**CONFIDENTIALITY OF INFORMATION:** **1)** Right to restrict access to the child's records by withholding consent to disclose records for purposes unrelated to the provision of early intervention services; **2)** Right to request destruction of personally identifiable information with the exception of a permanent record of a child's name, date of birth, parent contact information, names of service coordinators and early intervention providers, and exit data; **3)** Right to be told to whom information has been disclosed.

**CONSENT:** **1)** Right to give consent before your child is screened to determine whether he/she is suspected of having a disability, before evaluation and assessment of a child, before initiating the provision of early intervention services, before your public benefits or insurance or private insurance are used, and before disclosure of personally identifiable information. Consent must be in writing; **2)** If consent is not given, the early intervention provider shall make reasonable efforts to ensure that the parent is fully aware of the nature of the evaluation and assessment or the services that would be available and understands that the child will be unable to receive the evaluation and assessment or services unless consent is given; **3)** The parent understands that the granting of consent is voluntary and may be revoked at any time; **4)** The parent may determine whether they, their child, or other family members will accept or decline any early intervention service in accordance with State law, and may decline such a service after first accepting it, without jeopardizing other early intervention services.

**EVALUATION AND ASSESSMENT:** **1)** Right to an evaluation and assessment of the child as provided by this program; **2)** Right to have the evaluation and initial assessment of the child completed within 45 days after receipt of a complete and timely referral. If exceptional circumstances occur which prevent the completion of the evaluation and assessment within 45 days, the early intervention provider will document the exceptional circumstances that occurred on behalf of the family.

**INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP):** **1)** Right to attend the meeting to develop an initial individualized family service plan and the meetings to evaluate current individualized family service plans; **2)** Right to have other family members present if feasible; **3)** Right to have an advocate or person outside of the family present; **4)** Right at the initial and annual IFSP meeting to have the service coordinator, person or persons directly involved in conducting the evaluations and assessments, and as appropriate, persons who will be providing services to the child or family shall be present; **5)** The right, if the individuals who conducted the evaluation and assessment are unable to be present, to involve their participation through a telephone conference call, having a knowledgeable authorized representative attend the meeting, or making pertinent records available at the meeting; **6)** Right to have an initial individualized family service plan meeting conducted within 45 days of a timely and complete referral; **7)** The right to a review of the individualized family service plan for a child and the child's family to be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review; **8)** The right to a meeting conducted on at least an annual basis to evaluate the individualized family service plan for a child and the child's family, and, as appropriate, to revise its provisions; **9)** The right to have an individualized family service plan meeting conducted in a setting and at a time that is convenient to the family, in the native language of the family or other mode of communication used by the family, unless it is clearly infeasible to do so. The right of the family and other participants to receive written notice of the meeting arrangements early enough to ensure them an opportunity to attend; **10)** The right of an eligible child to receive early intervention services before completion of the evaluation and assessment, if parental consent is obtained, an interim individualized family service plan is developed, and the early intervention services have been determined to be needed immediately by the child and the child's family.

**INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)-TRANSITION:** **1)** Right to discuss transition planning with the service coordinator at 27 months or at the initial IFSP if child is determined eligible after 27 months of age; **2)** Right to participate in the development of a written plan which reflects family preferences for transition; **3)** Right to be informed about community placement options at age three, about the transition process and to be given the opportunity to opt-out of sending notification to their Local Education Agency.

**RECORDS:** **1)** Right to inspect and review any records relating to evaluations and assessments, eligibility determinations, development and implementation of individualized family service plan, individual complaints dealing with the child, and any other area under the Individuals with Disabilities Education Act, involving records about the child and the child's family, which are collected, maintained, or used by the early intervention provider, for the provision of early intervention services. The early intervention provider shall comply with a request to inspect and review without unnecessary delay and before any meeting regarding an individualized family service plan or hearing but in no case more than 10 days after the request has been made; **2)** Right to request that the early intervention provider provide copies of those records containing the information if failure to provide those copies would effectively prevent the parent



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from exercising the right to inspect and review the records; **3)** Right to have a representative of the parent review and inspect the records; **4)** Right to inspect and review records relating to the child unless the early intervention provider has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce; **5)** Right to inspect and review only the information relating to the child or to be informed of that specific information when records contain information on more than one child; **6)** Right of an early intervention provider to charge a fee for copies of records which are made for parents if the fee does not effectively prevent the parents from exercising their right to inspect and review those records; the early intervention provider may not charge a fee to search and retrieve information and must provide a copy of each evaluation, assessment of the child, family assessment, and Individualized Family Service Plan at no cost as soon as possible after each Individualized Family Service Plan meeting; **7)** Right to be provided upon request a list of the types and locations of records being collected, maintained, or used by the early intervention provider for the provision of early intervention services. **8)** Right to ask for an explanation of any item in the records; **9)** Right to ask for an amendment of any record if it is found to be inaccurate, misleading or violates the privacy or other rights of the child and the right to have a response to such request provided by the early intervention provider within a reasonable period of time; **10)** Right to a hearing if the early intervention provider refuses to make the requested amendment; **11)** Right to have the information amended and be informed in writing of this amendment, if, as a result of the hearing, the early intervention provider decides that the information is inaccurate, misleading, or violates the privacy or other rights of the child; **12)** Right to place in the records a statement commenting on the information or setting forth any reasons for disagreeing with the decisions of the early intervention provider, if the early intervention provider, as a result of a hearing, decides not to amend the child's records; **13)** Right to have an explanation placed in the records of the child maintained by the early intervention provider as a part of the records of the child, as long as the record or contested portion is maintained by the early intervention provider; and if the records of the child or the contested portion is disclosed by the early intervention provider to any party, the explanation must also be disclosed; **14)** Right to release records to early intervention providers as needed for the evaluation and assessment and/or provision of early intervention services. Consent to release records shall allow an early intervention provider to exchange records without further notification or consent; **15)** Right to receive an initial copy of all Early Intervention records maintained by the State lead agency.

**NOTICE:** **1)** Right to written notice a reasonable time before the early intervention provider proposes or refuses to initiate or change the identification, evaluation, or placement of the child or the provision of appropriate early intervention services to the child and the child's family; **2)** Right to have that notice in the native language of the parents at a level understandable to the general public, unless clearly not feasible; **3)** If the native language or other mode of communication of the parent is not written language, the early intervention provider shall take steps to ensure that the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication, the parent understands the notice, and written evidence of compliance with these requirements exists; **4)** If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent; **5)** Right to have the notice describe the proposed action, explain why it is proposed, and all procedural safeguards that are available under the Individuals with Disabilities Education Act.

**SURROGATE PARENT(S):** **1)** The lead agency shall ensure that the rights of children eligible under the Individuals with Disabilities Education Act are protected when no parent can be identified, when any early intervention provider, after reasonable efforts, cannot discover the whereabouts of a parent, or when the child is a ward of the state; **2)** The duty of the lead agency or other early intervention provider includes the assignment of an individual to act as a surrogate for the parent. This must include a method for determining whether a child needs a surrogate parent, and assigning a surrogate parent to the child; **3)** The lead agency or other early intervention provider shall ensure that a person selected as a surrogate has no interest that conflicts with the interest of the child he or she represents and has knowledge and skills that ensure adequate representation of the child; **4)** A person assigned as a surrogate parent may not be an employee of any State Agency or any early intervention provider involved in the provision of early intervention or other services to the child or family member of the child. A person who otherwise qualifies to be a surrogate is not an employee solely because he or she is paid by an early intervention provider to serve as a surrogate parent; **5)** A surrogate parent may represent a child in all matters related to the evaluation and assessment of the child, development and implementation of the child's individualized family service plans, including annual evaluations and periodic reviews, the ongoing provision of early intervention services to the child, and any other rights established under the Individuals with Disabilities Education Act.

**MEDIATION/DUE PROCESS/RESOLUTION MEETING:** **1)** Right to request an impartial hearing to question an early intervention provider's identification, evaluation, or placement of the child or to question the early intervention provider's provision of appropriate early intervention services to the child and the child's family; including imposition of any fee; **2)** Right of any party to request mediation as an option to resolve a complaint. Mediation may not be used to delay or deny the right to an impartial hearing; **3)** Right to a resolution meeting held within fifteen (15) calendar days of a request for an impartial hearing that must be concluded within a resolution period that cannot exceed thirty (30) calendar days from the request; **4)** Right to be told of any free or low-cost legal and other relevant services in the area if the parent requests the information or the parent initiates a hearing; **5)** Right to have the hearing conducted by a person not employed by ADRS or an early intervention provider involved in the provision of early intervention services or care of the child or otherwise having a personal or professional interest that would conflict with his or her objectivity; **6)** Right to be advised and accompanied at the hearing by counsel and to be accompanied by individuals with special knowledge



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or training with respect to early intervention services for children; **7)** Right to have the hearing open to the public; **8)** Right to present evidence and confront, cross-examine and compel the attendance of witnesses; **9)** Right of any party to prohibit the introduction of any evidence at the hearing that has not been disclosed at least five (5) business days before the hearing; **10)** Right to have a written or electronic transcription of the hearing; **11)** Right to obtain written findings of fact and written decision within forty-five (45) calendar days after the lead agency receives a complete complaint from the parent and a resolution period ends; **12)** Right of any party to request an extension of time beyond the time frame set in number 10; **13)** Right to file a civil action in accordance with time limits required by federal regulations; **14)** Right of the child, during the pendency of any proceeding involving a complaint, unless the early intervention provider and parents otherwise agree, to continue to receive the appropriate early intervention services currently being provided; **15)** Right, if the complaint involves an application for initial services, with the consent of the parents, to have the child receive those services that are not in dispute.

**COMPLAINT(S):** **1)** Right to file a signed written complaint with the State lead agency alleging a violation of the Individuals With Disabilities Education Act that occurred not more than one year prior to the date the complaint is received by the State lead agency. The complaining party must forward a copy of the complaint to the early intervention provider serving the child; **2)** Right to have the complaint investigated, to present additional information, to engage in mediation if desired, and to receive a written decision determining whether or not the Individuals With Disabilities Education Act has been violated. Such written decision shall address each allegation of the complaint, contain findings of fact and conclusions, and state the reasons for the State lead agency's final decision. Such written decision shall be issued within 60 days of receipt of the complaint by the State lead agency unless exceptional circumstances exist or the parties agree to extend the time to engage in mediation.

**DESTRUCTION OF RECORDS:** The State lead agency and early intervention providers will maintain records containing personal identifiable information on your child and family in accordance with policies and state laws. Generally, the State lead agency and early intervention providers will retain such records for a minimum period of 5 years from the end of the fiscal year in which your child's case was closed and then such records will be destroyed with the exception of a permanent record of a child's name, date of birth, parent contact information, names of service coordinators and early intervention providers, and exit data.

**SYSTEM OF PAYMENT NOTICE:** Your consent must be obtained before the State lead agency or early intervention provider discloses, for billing purposes, your child's personally identifiable information to the State public agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid).

Early Intervention may not require you or your child to sign up for or enroll in public benefits or insurance programs as a condition of receiving EI services and must obtain your consent prior to using the public benefits or insurance of you or your child if you or your child are not already enrolled in such a program;

Early Intervention must obtain your consent to use you or your child's public benefits or insurance to pay for EI services if that use would—

- (A) Decrease available lifetime coverage or any other insured benefit for you or your child under that program;
- (B) Result in you paying for services that would otherwise be covered by the public benefits or insurance program;
- (C) Result in any increase in premiums or discontinuation of public benefits or insurance for you or your child; or
- (D) Risk loss of eligibility for you or your child for home and community-based waivers based on aggregate health-related expenditures.

If you do not provide consent, the State must still make available those EI services on the IFSP to which you have provided consent. You have the right to withdraw your consent to disclosure of personally identifiable information to the State public agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time.