

Early Intervention Parental Rights

As parents of a child being considered for/or receiving early intervention services, you have certain rights. These rights are safeguarded by state and federal law, and we want to make sure you fully understand them. The rights to which you are entitled are listed below in abbreviated form. If you would like a further explanation of any of these rights, you may contact either your local team or state administrative office at 1-800-649-2642.

Confidentiality

Personally identifiable information concerning your child and family is confidential. Except as provided below, all disclosures of personally identifiable information, including disclosures among agencies and providers, may be made only with your informed consent. An agency/service provider may disclose confidential information without prior parental consent, to its employees who have a legitimate need for access to the information. Public agencies and service providers may not release information from the records pertaining to services without parental consent unless authorized to do so under 34 CFR 99.31 of the Family Educational Rights and Privacy Act (FERPA). You may choose to sign a release allowing service providers to disclose personally identifiable information to others for legitimate purposes. The release lists the specific agencies and providers and the individuals (by name or position) to whom information may be given and specifies the type of information that might be given to each. You may limit the information provided under the release, and agencies, providers and persons with whom information may be shared. You may revoke a release at any time.

Your Child's Records

You have the right to inspect and review any of your child's records or to have a representative do so at any time. Your request must be granted without unreasonable delay (within no more than 45 days after your request), before any meeting or hearing regarding evaluation and assessment, eligibility determination, development and implementation of the IFSP, individual complaints dealing with your child, and any other area under this program involving records of your child.

This right of inspection and review includes the right to:

- Have copies of records, (a participating agency may charge a fee for copies of records if the fee does not prevent you from exercising your rights to inspect and review those records. A fee may not be charged to search for or retrieve information.) be informed of all types and locations of records being collected, maintained, or used by any participating agency.
- A response from an agency to your reasonable request for an explanation or amendment of an item in the record.
- Ask for an amendment of any record on the ground that it is inaccurate, misleading, or violates privacy rights.
- Have the agency decide whether to amend the information in accordance with your request within a reasonable period of time.

- Be informed if the participating agency refuses to amend the information.
- A hearing, if the agency refuses to make the requested amendment.
- Have the information amended, and the agency inform you of the amendment if, as a result of a hearing, it is decided that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of your child; place a statement in the records commenting on the reasons for disagreeing with the agency's record.
- Have your explanations maintained by the agency in your child's records for as long as the record or contested portion of the record is maintained.
- Have your statement disclosed, if the record of your child, or the contested portion, is disclosed by the agency.
- Review only information relating to your child if any record includes information about more than one child.
- Be informed that records containing personally identifiable information about your child are no longer needed to provide early intervention services and may be destroyed.

An agency may presume that both parents have authority to inspect and review records relating to your child unless the agency has been advised that you do not have the authority under applicable State law governing guardianship, separation, or divorce.

Each participating agency must keep a record of individuals obtaining access to records (except access by parents and authorized employees of the participating agency). The record of access includes the name of the person, date access was given, and the purpose for which the person was authorized to review the records.

Evaluation and Assessment Procedures

Evaluation means the procedures used by appropriate qualified personnel to determine your child's initial and continuing eligibility for early intervention services. Assessment means the ongoing procedures used by appropriate qualified personnel through the period of your child's eligibility to identify your child's unique strengths and needs, the services appropriate to meet these needs, the resources, priorities, and concerns of your family and the services necessary to assist your family in meeting the developmental needs of your child.

You have the right to obtain information and choose evaluation options that meet your needs and to have the evaluation and assessment of your child:

- Be conducted by personnel trained to utilize appropriate methods and procedures,
- Be based on informed clinical opinion, including a review of pertinent records related to your child's health and medical history as well as an evaluation and assessment of your child's level of functioning in each of the following developmental areas: cognitive, physical (including vision and hearing), communication, social or emotional, and adaptive,
- Include the services or other strategies necessary to meet your child's needs.

Assessments will:

- Be family-directed and designed to determine the resources, priorities, and concerns of your family related to enhancing your child's development,
- Be voluntary,
- Be based on information shared by your family through a personal interview or checklist completed by you, and
- Incorporate your family's description of your resources, priorities or concerns related to enhancing your child's development.

One Plan or the Individualized Family Service Plan

A One Plan (sometimes known as the Individualized Family Service Plan (IFSP)) is a process in which you and your family and other members of your team identify the strengths and needs of your child and family, and develop a written plan for early intervention services or other services you identify as needed.

The plan is based on evaluations and assessment described above and includes information about:

- Your child's present level of development
- Your family's resources, priorities, and concerns related to enhancing your child's development
- Desired outcomes
- Strategies for meeting desired outcomes, including the early intervention services that will be provided
- Criteria, and timelines for achieving desired outcomes
- Other services your child or family needs which may not be required under this program
- Frequency and duration of services and the projected dates for when services will begin
- The home or community environment which is most natural or normal for your child or family's routine in which early intervention services will be provided, or a justification as to why early intervention services cannot be effectively achieved in a natural environment
- A plan for transition when your child approaches the age of three
- The name of the service coordinator or agency contact person.

An interim plan may be developed if you and the team determine that early intervention services are needed immediately by your child. These services can begin before the completion of the evaluation and assessment if your consent is given for these services and an interim One Plan is developed. The interim One Plan will include the name of the service coordinator who will be responsible for the implementation of the interim One Plan and coordination with other agencies and persons, and the early intervention services which are determined to be needed immediately for your child.

One Plan Meetings

You have the right to:

- Participate in the meeting to develop your child's One Plan and have the meeting at a time and place that is convenient for you.
- Have notice early enough about the meeting to allow you to attend the meeting.
- Have an interpreter at the meeting if your native language or other mode of communication is not spoken English.
- Have those involved in the evaluation and assessment or service provision participate by other means if they are not able to attend the meeting.
- Inspect and review your child's records before the meeting
- Bring other family members, friends, or advocates to the meeting
- Have the IFSP fully explained to you and give informed written consent prior to the provision of early intervention services for your child. You may also revoke this consent at any time.

Timelines

Completing and Updating the One Plan

If your child is being evaluated for the first time, the evaluation must be completed within 45 days of the referral, and if your child is determined to be eligible for early intervention services, the initial One Plan meeting must also be held within that 45-day period. If, due to extraordinary circumstances, it is not possible to complete the evaluation and hold the initial One Plan meeting within 45 days, you and your service coordinator will develop timelines and strategies to complete the evaluation and hold the initial One Plan meeting. An interim One Plan will be developed if needed. Periodic reviews of the One Plan are required every six-(6) months, or more frequently if needed, or when you request a review. An annual IFSP meeting is also required.

Starting Services

Your plan will include details about when services should start, how long they'll last, and how often your family will receive them to help you to support your child in reaching the desired outcomes you identified with your child's team. Your EI providers should start delivering services within 30 days of the date you sign your consent on the One Plan. If you, with your child's team, decide that you would like a service to start more than 30 days after you sign your consent on the One Plan, this will be written on your child's One Plan and those services will begin as you have planned.

Transitioning to Special Education

Children can receive early intervention services up to their third birthday—after that, the local school system may provide services if they determine your child is eligible to receive special education services through an Individualized Education Plan. With your written consent, if your child is receiving early intervention services between 180 and 90 days before their third birthday, your child's service coordinator, you and your child's team, will develop a plan and, if appropriate, schedule a meeting with your local school to support your child's successful transition from early intervention services.

Between 180 and 90 days of your child's third birthday, if your child is still receiving early intervention services, your child's early intervention service coordinator and team is required to review the most recent evaluation(s) and ongoing assessments of your child's developmental functioning. If your child demonstrates at least a 25% delay in at least one area of development, your early intervention service coordinator is required to provide the only following information about you and your child to your local school or supervisory union special education program: your child's name, date of birth, your name and your contact information. State rules require this as a way to inform schools of children who may be potentially eligible for special education services through Part B of IDEA. Your written consent is not required for this notification, but it will be your decision whether you want your child to receive special education services through the school if the school determines them eligible.

Payment for Services

Early intervention services are at no cost to you or your family. By federal law, all resources for payment are explored prior to the use of early intervention funds as payor of last resort. Families may give permission for services to be billed to their private insurance, however, they may also decline to do so if billing the insurance carrier would result in any of the following: 1) a decrease in available life-time cap or any other benefit under the policy, 2) an increase in premiums or discontinuance of the policy, or 3) out-of pocket expenses such as the payment of a deductible amount incurred in the filing of a claim or a co-payment. If a family gives permission for private insurance to be billed, payor of last resort funds may be used for payment or reimbursement of a deductible or co-payment. Services may also be funded through Medicaid for families with children enrolled in Medicaid. Other services may be funded through participating agencies. The Early Childhood Integrated Services will provide payment for early intervention services approved through the IFSP when there is no other payment source available.

Notice

You have the right to:

- Be notified before a public agency or service provider proposes or refuses to initiate or change, the identification, evaluation, or placement of your child, or the provision of appropriate early intervention services for your child or your family.
- Have that notice in writing in your native language, or other principal mode of communication, at a level understandable to the general public. If your native language or other mode of communication is not a written language, the agency shall take steps to insure that the notice is translated orally or by other means to you in your native language or other mode of communication. There shall be written evidence of the steps that the public agency or service provider took to help you understand your rights.
- Have notice which describes the proposed or refused action with an explanation why the action is proposed or refused.
- Have notice which describes the options which were considered with an explanation why those other options were rejected.
- Have a description of any other factors relevant to the proposal or refusal.

- Have a description of each evaluation procedure, test, record or report used as a basis for any proposed or refused action.
- Receive notice of your right to file an administrative complaint, to request mediation, or request a due process hearing.

Options If You Have Concerns

As parents of children who are being considered for, or who are receiving early intervention services, you have many rights. And for each of these rights, there are certain responsibilities, both for you as parents and for the public agencies and service providers involved. The partnership between families and providers is a crucial component in the provision of early intervention services for your child and family. It is important that you, as parents, have information from service providers and agencies about services available to you, so that you can decide what services will meet your priorities. Together, you and other members of your team can develop a plan for early intervention services. It is very important that there is ongoing communication between you and other members of the team to make sure that services are flexible and continue to meet the needs of your child and family.

A service coordinator is available to assist you in gaining access to early intervention services and other services/supports in the IFSP, and to assist in coordinating these services. If you see that changes are needed in your child's services or you are unhappy with the services your child is receiving, it is important that you tell your service coordinator or the agencies providing the service.

If working directly with your service coordinator or the agency involved does not resolve the issue, you may wish to attend a meeting of the Regional Advisory Team. The team is made up of parents, service providers, and others in your region who are interested in coordinating early childhood services. The team will try to work with you to see that issues and concerns are resolved. You may also wish to contact some of the resources listed at the beginning of this document to obtain help and talk freely and openly about your concerns. You also have more formal rights, as outlined below. These include the right to request mediation, file an administrative complaint, and/or request a due process hearing. Forms are available to assist you in filing a request for administrative complaint investigation, and/or due process hearing.

Mediation

You have the right to request mediation when you have a disagreement with an agency or service provider regarding your child's eligibility for early intervention services, programming, placement or payment for any of these services. Mediators are impartial persons trained in effective mediation techniques.

To request mediation, contact the Family, Infant and Toddler Program, P.O. Box 70. Burlington, VT 05402 or call 1-800-660-4427.

You have the right to:

- Get a list of qualified mediators.
- Get free mediation services from a state appointed mediator, if the other party or parties agree to enter into mediation.
- Use mediation either as the sole form of dispute resolution or as a preliminary, separate procedure to a due process hearing or administrative complaint investigation.
- Have mediation meetings to discuss issues and concerns held in a timely manner at a time and in a place convenient for both parties.
- Bring a representative, advocate, and/or lawyer with you to assist you in the mediation.
- Know that discussions which occur during the mediation process are confidential and cannot be used as evidence in any subsequent due process hearings or civil proceedings.
- End the mediation at any time.
- Have the agreement reached put in writing.

Administrative Complaint

You also have the right to request that the co-lead agencies investigate what you believe to be violations of your or your child's rights in early intervention. This may be done by filing an administrative complaint with the Children's Integrated Services, Child Development Division, 280 State Drive, Waterbury, VT 05671-1040. It's best to provide a written statement regarding the facts upon which the complaint is based, but if this is not possible due to special circumstances, your complaint may be documented through other means of communication. A form is available to assist you in providing the information and may be requested from the host agency in your region, or by calling the state Children's Integrated Services Office at 1-800-649-2642.

Under most circumstances, the request for an administrative complaint investigation must occur within one year of the alleged violation. A request for an administrative complaint investigation may occur not more than 3 years from the alleged violation, if the alleged violation is continuing or if compensatory services are being sought. Generally, you will not need an attorney.

The Vermont Agency of Education and the Agency of Human Services have 60 days from the date of receiving the complaint to investigate the concerns and provide you with a written decision including the findings of fact and conclusions, and reasons for the final decision.

If a written complaint is received that is also the subject of a due process hearing, or contains multiple issues, of which one or more is part of the due process hearing, any part of the complaint that is being addressed by the due process hearing will be set aside until the conclusion of the hearing. Any issue in the complaint that is not a part of the due process hearing will be investigated through the administrative complaint process within the 60-day time frame. If an issue in the administrative complaint is one that has been previously decided in a due process hearing involving the same parties, the hearing decision is binding. An administrative complaint can be filed alleging that an agency has failed to follow through on a due process decision.

Due Process Hearing

To challenge a public agency or service provider's identification, evaluation, or placement of your child or to question the provision or refusal to provide early intervention services or payment for such services, you have the right to request an impartial due process hearing by writing to the Children's Integrated Services, Child Development Division, 280 State Drive, Waterbury, VT 05671-1040. A form is available to assist you in providing the information. You may request the form from the local CIS agency in your region, or by calling the state Children's Integrated Services Office at 1-800-649-2642.

Upon initiating a due process hearing, you have the right to:

- Be told of any free or low-cost legal and other relevant services available, (e.g., expert on disabling conditions that may be a witness at the hearing).
- Have the hearing conducted by a person not employed by any of the agencies involved in the provision of early intervention services for your child or otherwise having personal or professional interest in the hearing, (hearing officers are not employees of the Vermont Department of Education or Agency of Human Services solely because they are paid by either Department to serve in that capacity).
- Be provided with a list of those persons who serve as hearing officers, including a statement as to the qualifications of each hearing officer
- Have your child present.
- Have the hearing open to the public and at a reasonably convenient time and place.

Both parties involved in the due process hearing may:

- Be advised and accompanied at the hearing by legal counsel and by individuals with special knowledge or training with respect to the provision of early intervention services.
- Present evidence and confront, cross-examine and compel the attendance of witnesses.
- Prohibit the introduction of any evidence (including any evaluations) at the hearing that has not been disclosed at least five days before the hearing.
- Request from the hearing officer a specific extension of time.
- Have made available to them an electronic or written verbatim record of the hearing with the understanding that you shall not be charged for the record.
- Have the written findings of fact and a written decision within 45 days after the Family, Infant and Toddler Project received the initial request for the hearing.

Copies of due process hearing decisions are sent to the Vermont Interagency Coordinating Council and are available to the public upon request. All personally identifiable information is removed from copies of the decisions in keeping with the confidentiality requirements of federal law. To obtain a copy of a due process decision, please contact the Vermont Agency of Education, Legal Division, 219 North Main Street, Suite 402, Barre, VT 05641 .

The decision made in a due process hearing is final, unless a party to the hearing appeals the decision. You have the right to appeal the hearing decision by filing a civil action in a federal district or a state court of jurisdiction. Although the limits for actions filed in federal court are determined by the federal courts, these courts generally adopt the statute of limitations for the cause of action under state law, pursuant to State law, 16 VSA Section 2957. Vermont's statute limits the time in which you can appeal to 90 days after you receive a due process hearing decision.

Educational Surrogate Parents

If you, as the natural parent, are not available to act on your child's behalf or if your child is a ward of the State, an educational surrogate parent must be appointed by the Commissioner of Education to act in your place in all matters related to your child's early intervention services. An educational surrogate parent will have no interests or employment relationships that conflict with the interests of the child she or he represents and has knowledge and skills that ensure adequate representation of the child. An educational surrogate parent will not be employed by any agency involved in providing early intervention services or other services to your child or your family. An educational surrogate parent will represent your child in all matters related to evaluation and assessment, eligibility determination, development and implementation of the IFSP, including annual and periodic reviews, the ongoing provision of early intervention services, and any other rights established under this program.

To get help with these procedures, you may also contact:

Disability Law Project Office Locations:

P.O. Box 1367, Burlington, VT 05402, 1-800-889-2047 or (802)-863-2881 (Voice & TTY)

P.O. Box 606, Montpelier, VT 05601-0606, 1-800-789-4195 or (802) 223-6377 (Voice & TTY)

57 North Main Street, Rutland, VT 05701, 1-800-769-7459 or (802) 775-0021 (Voice & TTY)

56 Main Street, Suite 301, Springfield, VT 05156, 1-800-769-9164 or (802) 885-5181 (Voice & TTY)

1111 Main Street, St. Johnsbury, VT 05819, 1-800-769-6728 or (802) 748-8721 (Voice & TTY)

Vermont Family Network

600 Blair Park Road, Suite 240, Williston, VT 05495

(802) 876-5315

Vermont Agency of Education

Family and Educational Support Team

219 North Main Street, Suite 402, Barre, VT 05641

(802) 828-5114 (Voice) • (802) 828-2755 (Voice/TTY)

Children's Integrated Services

Child Development Division

280 State Drive, Waterbury, VT 05671-1040

1-800-649-2642