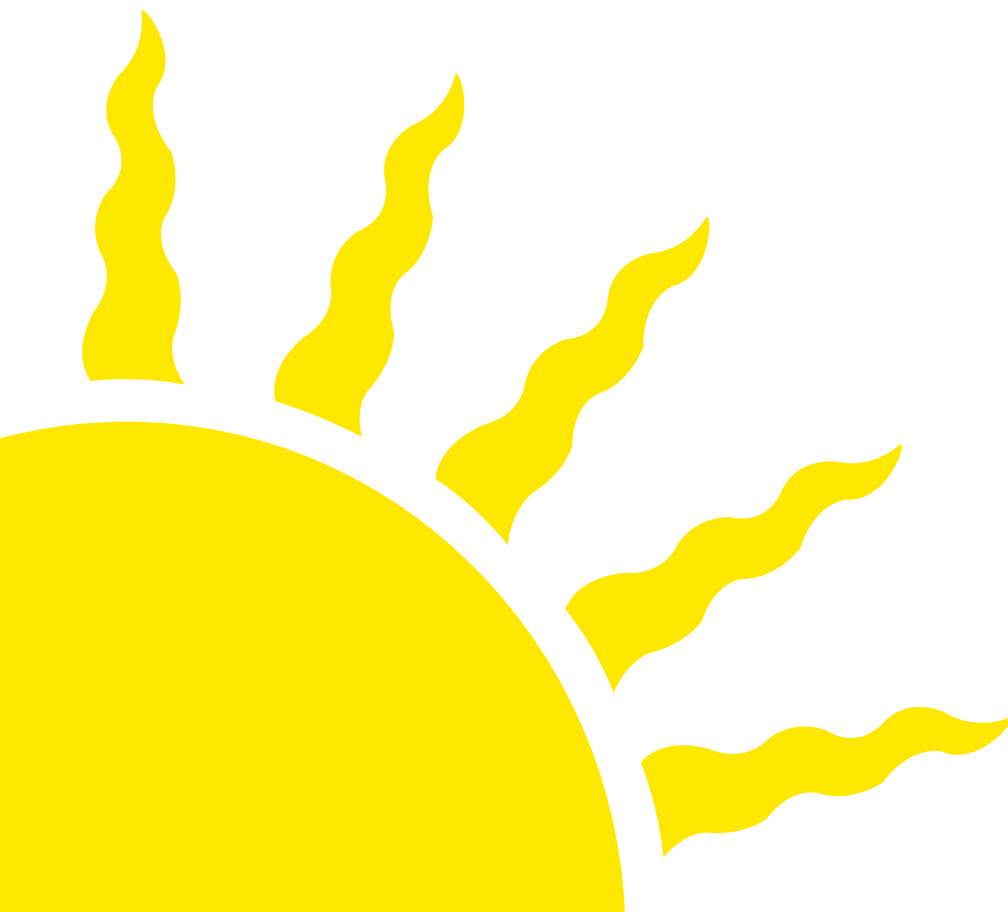


Parents' Rights:

An
Early
Start
Guide
for
Families

Revised 2023





PUBLISHING INFORMATION

Parents' Rights: An Early Start Guide for Families was developed under the leadership of the Department of Developmental Services (DDS) in collaboration with the California Department of Education. It was produced through a contract with WestEd.

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Ordering Information

For additional copies, visit the Early Start Neighborhood at earlystartneighborhood.org.

For information about California Early Start contact DDS at 800-515-BABY (800-515-2229), visit our website at www.dds.ca.gov/services/early-start, or e-mail earlystart@dds.ca.gov.

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Citations to statutes and regulations are provided throughout this document:

- CFR indicates Code of Federal Regulations.
- GC indicates Government Code for the state law governing Early Start.
- CCR indicates California Code of Regulations.

If you have questions concerning your rights as a parent under Early Start, please contact your regional center or local education agency (LEA).

INTRODUCTION

Early Start is a statewide system of early intervention services for infants and toddlers, from birth to 36 months of age, with disabilities and their families. Services are provided in a family-centered, multidisciplinary, interagency, and community-based system. California's Early Start system is governed by federal and state statutes and regulations. Parents have rights and access to procedural safeguards to assure that early intervention services are provided in a manner appropriate to their child's needs and to the concerns of the family. This booklet is intended for parents and other interested persons and provides information on parents' rights under Early Start.

In Early Start, parent means:

- A. A natural or adoptive parent of a child;
- B. A guardian;
- C. A person acting in place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare);
- D. A surrogate parent who has been assigned in accordance with CFR 303.406 and CCR 52175; or
- E. A foster parent, when:
 - 1. The foster parent has no interest that would conflict with the interests of the child,
 - 2. The natural parents' authority to make the decisions required of parents has been limited or relinquished under State law, and
 - 3. The foster parent is willing to make the decisions required of parents.

INFORMED CONSENT

As the parent or guardian of a child eligible for Early Start in California, your consent is required before your child receives an evaluation, assessment, or any other early intervention service, and before the regional center or LEA shares information about you or your child to anyone who is not already authorized to receive this information. Your consent is voluntary and may be revoked at any time. [CFR 303.7, CFR 303.420]

As a parent, you have the right to

1. Be fully informed of all information relevant to the activity, for which your consent is sought, in your preferred language. [CFR 303.7]
2. Provide written consent before personally identifiable information about you or your child is disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information. [CFR 303.414, CCR 52162(b)]
3. Provide written consent before evaluations and assessments of your child are conducted. [CFR 303.420(a), CCR 52162(a)]
4. Provide written consent before early intervention services are provided to your child. [CFR 303.420(a), CCR 52162(a)]
5. Provide consent before your family's public benefits or public insurance are used to pay for early intervention services if that use would decrease your benefits, require that you pay for services, increase your premiums, or discontinue your benefits or eligibility for home and community-based waivers. [CCR 52162(d)]

6. Revoke your consent at any time. [CFR 303.7(c)]

- If you do not consent to evaluations, assessments, or other services, the regional center or LEA shall make reasonable efforts to ensure that you:
 - Are fully aware of the nature of the evaluation and assessment of your child and/or other service(s) that would be available; and
 - Understand that your child will not be able to receive the evaluation and assessment or other service(s) unless written consent is given. [CFR 303.420(b), CCR 52162(c)]
- If you revoke your consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked). [CFR 303.7(c)]

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 LEA about your child and your family is confidential. Such information will only be shared with authorized personnel involved in your child's services.

As a parent, you have the right to

1. Receive notice about Part C confidentiality requirements when your child is referred to Early Start. [CFR 303.404]
2. Access records, including the right to have you or your representative examine and obtain copies of records relating to your child; you may also request that any regional center or LEA amend or remove information relating to your child from the records. [CFR 303.405, CCR 52164, CCR 52168]
3. Receive, within five working days of your request, copies of records relating to your child and/or explanations that you request. [CCR 52164(b)]
4. Request a meeting with the director of the regional center or the superintendent of the LEA about information contained in the record if your request for amending or removing information is denied. [CCR 52168(c)]
5. 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 303.29, CFR 303.420, CCR 52160(a), CCR 52162, CCR 52165, CCR 52169]

EVALUATION & ASSESSMENT

The determination of eligibility for Early Start in California includes a timely, comprehensive, multidisciplinary evaluation and assessment of every child under the age of 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 303.321, CFR 303.422, CCR 52082]

As a parent, you have the right to

1. Be fully informed of your rights under Early Start. [CFR 303.421, GC 95020(c), 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 303.7, CFR 303.420, CCR 52040(d), CCR 52082(b), CCR 52084]
3. Understand and provide voluntary written permission or refusal before any evaluation and assessments are administered. [CFR 303.420, CCR 52162]
4. Participate in the initial and ongoing evaluation and assessment process including eligibility determination. [CFR 303.321, 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 303.310, CCR 52086(a)]
6. Participate in a meeting to share the results of evaluations and assessments. [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) and Title 17 of the California Code of Regulations require the following:

1. Evaluation and assessment of a child are conducted in the language of the child unless it is clearly not feasible to do so. [CFR 303.321]
2. Evaluation and assessment procedures and materials are selected and administered so as not to be racially or culturally discriminatory. [CFR 303.321, CCR 52082(g)]

3. Assessments of family resources, priorities, and concerns are conducted in the language of the family's choice or other mode of communication unless it is clearly not feasible to do so. [CCR 52084(d)(4)]
4. 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. [CCR 52082]
5. Evaluations and assessments are conducted by qualified personnel. [CFR 303.321, CCR 52082, CCR 52084]
6. Evaluations and assessments administered to children with known vision, hearing, orthopedic, or communication impairments are selected to accurately reflect the child's developmental level. [CCR 52082]
7. Evaluations and assessments are administered in all of these areas: cognitive development physical and motor development (e.g., motor abilities, vision, hearing, and health status); receptive communication development; expressive communication development; adaptive development; and social or emotional development. Assessments and evaluations are ongoing while your child is in Early Start. [GC 95014, CCR 52082, CCR 52084]
8. Evaluations and assessments shall be conducted in natural environments whenever possible. [CCR 52082(i), CCR 52084(e)]
9. Pertinent records relating to your child's health status and medical history are reviewed. [CFR 303.321, CCR 52082]
10. Your child's records may be used to establish eligibility for early intervention services without conducting an evaluation. [CFR 303.321]
11. Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of your child. This informed clinical opinion may be used as an independent basis to establish your child's eligibility. [CFR 303.321]
12. No single procedure is used as the sole criterion for determining your child's eligibility for early intervention services. [CFR 303.321, CCR 52082]
13. Interviews to identify family resources, priorities, and concerns regarding the development of your child and your family's needs are voluntary. [CFR 303.321, 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 303.20, CFR 303.342, GC 95020(b), CCR 52100, CCR 52102]

A periodic review of your child's IFSP must take place at least every three 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, GC 95018]

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

1. Have the IFSP meeting in a setting and time convenient for you and conducted in your native language. [CFR 303.342, CCR 52102]
2. Receive written notice prior to the IFSP meeting. [CFR 303.342, CCR 52102]
3. Attend the IFSP meetings and participate in developing the IFSP. [CFR 303.343, CCR 52104]
4. Invite other family members to attend IFSP meetings. [CFR 303.343, CCR 52104]
5. Invite an advocate or persons other than family members to attend and participate in the IFSP meetings. [CFR 303.343, CCR 52104]
6. Have a copy of the complete IFSP at no cost to you. [C CFR 303.409, CCR 52102]
7. Have the contents of the IFSP fully explained in the language of your choice. [CFR 303.342, CFR 303.404, CCR 52102]

8. 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 without jeopardizing other services. [CFR 303.342, CFR 303.420, CCR 52102]
9. Have services provided in the natural environment or an explanation of why that is not possible. [CFR 303.13, CFR 303.344, CCR 52106]
10. Exchange information about your child among other agencies. [CFR 303.401, CCR 52112, CCR 52169]
11. Be notified in writing before any agency or service provider proposes or refuses to initiate or change your child's identification, evaluation, placement, or the provision of appropriate early intervention services to your child or your family. [CFR 303.421, 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 written in understandable language and presented in the language of your choice or other mode of communication, unless it is clearly not feasible to do so, and may be translated so that you understand its contents. [CFR 303.401 to 303.421, 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 303.436, 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, or provision of appropriate early intervention service(s). [CFR 303.430, CFR 303.431, CCR 52172]
2. Be informed of your right to file a complaint or a request for mediation or due process. [CFR 303.432, 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. [CFR 303.434, 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. [CFR 303.431, CCR 52173]
5. File a complaint if a due process decision fails to be implemented. [CFR 303.433(c)(3), 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 303.431, 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 at any time during the due process hearing or complaint process. [CFR 303.431, CCR 52173]
2. Refuse to participate in mediation. [CFR 303.431, CCR 52173]
3. Have a qualified and impartial person facilitate the mediation conference. [CFR 303.431, CCR 52173(c)]
4. Require that the mediation conference is carried out at a time and in a location that is reasonably convenient for you. [CFR 303.431 CCR 52173]
5. Have a representative accompany you. [CCR 52173(h)]
6. Have mediation discussions kept confidential and not used as evidence in any subsequent due process or civil proceedings. [CCR 52173(j)]
7. Receive a written document outlining the agreements reached as a result of the mediation conference. [CFR 303.431, CCR 52173(i)]

Requests for mediation are filed with the:

Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833-4231
(916) 263-0654 Fax: (916) 376-6318

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 303.430, CCR 52172]

Circumstances leading to a due process hearing may be disagreements related to a proposal or refusal to initiate or change the identification, evaluation, assessment, placement, or services for your child and/or family. [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 they are eligible to receive. [CCR 52172(g)]

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

Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833-4231

(916) 263-0654 Fax: (916) 376-6318

* *The due process hearing request form may be obtained from your service coordinator, the regional center, the LEA, or the DDS website: www.dds.ca.gov/general/appeals-complaints-comments/early-start-mediation-conference-requests*

The written request for a due process hearing must be filed within two years of the date you knew or should have known about the alleged action that forms the basis for the request. [CFR 303.400(a)(2)]

The due process hearing must be completed within 30 calendar 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. [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 to authorized employees specified by the regional center or LEA [CFR 303.432, CCR 52169, 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. [CFR 303.437, CCR 52170]

Complaints are filed directly with the

Department of Developmental Services
Attention: Appeals, Complaints & Projects Section
1215 O Street, MS 8-20
Sacramento, CA 95814

(916) 651-6309 Fax (916) 654-3641

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. [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. [CCR 52170]
3. Submit additional information to DDS that may be helpful to the investigation. [CFR 303.433, CCR 52171(a)]
4. Receive a final written decision within 60 days of the date DDS receives the complaint. [CFR 303.433, CCR 52171(a)]

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 52171(a)]
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 303.433, 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. [CFR 303.433, CCR 52171(d)]
8. Have any complaint resolved that alleges the failure of a public agency or private service provider to implement a due process decision. [CFR 303.433, CCR 52171(e)]

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. [CFR 303.434, CCR 52172(a)]
2. Provide the name, address, and phone number of the complainant. [CCR 52170(g)]
3. If alleging violations with respect to a specific child, include the name and address of the residence of the child, the name of the early intervention service provider serving the child, a description of the nature of the program of the child, and a proposed resolution of the problem to the extent known at the time the complaint is filed. [CFR 303.434]
4. Contain a statement of facts upon which the violation is based. [CCR 52170(g)]
5. Include the name of the party responsible against whom the complaint is being filed. [CCR 52170(g)]
6. Be forwarded to the public agency or early intervention service provider serving the child at the time the complaint is filed. [CFR 303.434]
7. The alleged violation must have occurred not more than one year before the date the complaint is received by DDS. [CFR 303.434, CCR 52170(c)]
8. Include, if applicable, a description of the voluntary steps taken at the local level to resolve the complaint. [CCR 52170(g)(5)]



California Early Start is an interagency system of coordinated early intervention services administered by the Department of Developmental Services in collaboration with the California Department of Education.

www.dds.ca.gov/services/early-start

