

Westchester County Early Intervention Program Notice of Child and Family Rights

These are your family's rights, as defined by the federal law known as the Individuals with Disabilities Education Act (IDEA). Part C of IDEA provides for early intervention services for eligible infants and toddlers.

The Westchester County Early Intervention Program is designed to maximize family involvement and ensure parental consent in each step of the process from determination of eligibility through service delivery. Rights and procedural safeguards have been established to protect parents and children and to ensure that parents have a leadership role in services for their children. This notice informing parents of their rights and the procedural safeguards available to them is made available to them by their Early Intervention Official /Designee (EIOD) and is maintained in the child's record. Participation in the Early Intervention Program is voluntary for you and your family. Please refer to the New York State, "The Early Intervention Program, A Parent's Guide" which was given to you by your initial service coordinator for more information about your rights and entitlements. This guide can be accessed via computer at <http://www.health.ny.gov/publications/0532/>.

You have the following rights:

1. The right to a timely multidisciplinary evaluation and assessment and the development of an Individualized Family Service Plan (IFSP) within forty-five (45) calendar days from referral to the Early Intervention Program;
2. If eligible under the Early Intervention Program, the right to appropriate early intervention services for your child and family as addressed in an IFSP;
3. The right to evaluation, assessment, development of IFSP, service coordination, and procedural safeguards at no cost;
4. The right to refuse evaluations, assessments, and services;
5. The right to be invited to and participate in all IFSP meetings;
6. The right to receive written notice ten (10) working days before a change is proposed or refused in the identification, evaluation, or placement of your child, or in the provision of services to your child or family;
7. The right to receive services in your child's natural environment to the maximum extent appropriate;
8. The right to maintenance of the confidentiality of personally identifiable information;
9. The right to review and, if appropriate, correct early intervention records;
10. The right to timely resolution of complaints including the right to mediation and due process hearings;
11. The right to file a complaint of alleged FERPA violations to:
 - Family Compliance Office
 - U.S. Department of Health
 - 400 Maryland Avenue
 - Washington, D.C. 20202 -4605

Complaints to the Federal Compliance Office must be submitted no later than one year from the date the individual submitting the complaint first learned of the circumstances of the alleged violation. Complaints should contain specific allegations of fact giving reasonable cause to believe a violation had occurred, including relevant date; names and titles of those involved; a specific description of the record around which the alleged violation occurs; a description of any contact with any officials regarding the matter; and any additional evidence that would be helpful.

For further information and assistance related to early intervention record requirements contact:

New York State Department of Health
Early Intervention Program
Room 287 Corning Tower Building
Empire State Plaza, Albany, NY 12237-0618
(518) 473-7016

In addition to these general rights, you are entitled to be notified of specific procedural safeguards. These safeguards or rights include Parental Consent, Prior Notice, Examination of Records, Confidentiality of Information, Mediation, Administrative Due Process Hearings and the right to appoint a surrogate parent.

PARENTAL CONSENT

Consent means that:

- You have been fully informed of all information about the activity for which consent is sought, in your native language*, or mode of communication;
 - You understand and agree in writing to provision of the activity for which your consent is sought, and the consent describes the activity and lists the records (if any) that will be released and to whom;
 - You understand that granting consent is voluntary on your part and that you may cancel consent in writing at any time.
- * *Native Language, when used in reference to persons of limited English proficiency, means the language or mode of communication normally used by the parent of an eligible child.*

Your written consent is required:

- Before evaluation(s) and assessment(s) of your child are conducted;
 - Before early intervention services are provided; and before the exchange of any personally identifiable information*, except as required by law.
- * *Personally Identifiable Information includes: The name of your child or the name of other family members; The address of your child; A personal identifier, such as your child's or your own social security number; or a list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.*

If you do not give consent for any evaluation(s), assessment(s) or early intervention services, reasonable effort will be made to ensure that you:

- Are fully aware of the nature of the evaluation(s), assessment(s) or services that would be available;
- Understand that your child will not be able to receive the evaluation and assessment or services unless consent is given

As a parent of a child eligible for early intervention services, you may determine whether you will accept or refuse any early intervention service(s). You have the right to accept some evaluations and services while rejecting or stopping others. You may also refuse any service after first accepting it without jeopardizing other early intervention services.

PRIOR NOTICE

Written notice must be given to you ten working days before the Early Intervention Program, proposes or refuses to initiate or change the identification, evaluation, service setting, or the provision of early intervention services to your child and your family.

The notice must inform you about:

- The action that is being proposed or refused;
- The reasons for taking the action;
- All procedural safeguards that are available under the Early Intervention Program.

The notice must be:

- Written in language understandable to the general public and provided in your native language or the language normally used by you, unless it is clearly not feasible to do so.
- If your native language or other mode of communication is not a written language, the local lead agency shall take steps to ensure that:
 - The notice is translated orally or by other means to you in your native language or other mode of communication;
 - You understand the notice;
 - There is written evidence that the requirements of this section have been met.
 - If you are deaf, blind, or have no written language, the mode of communication must be that normally used by you (such as sign language, Braille, or oral communication).

EXAMINATION OF RECORDS

You must be given the opportunity to **inspect and review** records related to screening, evaluation, assessment, determination of eligibility, the development and implementation of IFSPs, individual complaints dealing with your child, and any other portion of the Early Intervention Program involving records about your child and your family.

If a parent would like to inspect and review their child's record or to obtain a copy of their child's record the parent should submit a written request to the Early Intervention Official (EIO). The request should include the date, the child's name, date of birth, name of person making the request and their relationship to the child. Written requests should be mailed to:

Marina Yoegel
Early Intervention Official
Westchester County Department of Health
145 Huguenot St. 7th Floor
New Rochelle, NY 10801

If a parent is unable to submit a written request, a verbal request may be made by calling the EIO at 914-813-5090.

Within 3 business days of receipt of the request the parent will be contacted to schedule the review at a time which is convenient for both Department of Health staff and the parent. Upon request, the record review may be arranged in conjunction with another meeting or discussion.

Record Review:

- Active records may be reviewed as soon as the Early Intervention Official Designee (EIOD) assigned to your child's case is available to be present at the record review.
- If the case file has been closed and archived, it will take at least 10 business days to retrieve the record.
- A picture ID must be shown at the time of the record review.
- During this review any person viewing the record will be asked to sign a "Record Access Form"
- The EIOD will remain with the person reviewing the record to ensure understanding of its contents.
- No material contained in the record may be removed or destroyed.

- To **amend** anything in the record a written request must be submitted.
- Once the record has been reviewed, it will be returned to the appropriate secured area.

Parents may also authorize, in writing a representative to inspect and review the records unless such access is prohibited under State or federal law. If any record contains information about more than one child, information about other children receiving services must be protected. Only information pertaining to the child/family that made the request for record access or disclosure will be released.

Request to Obtain a Copy

The parent will be contacted within three (3) business days of receipt of the request if any additional information is needed to process the request. WCDH will provide the copy of the requested record within 10 working days of the request (if the request is made as part of mediation or impartial hearing a copy will be provided within five (5) days). If a third party requests a copy of an Early Intervention record, the request must be accompanied by a notarized release form signed by the parent. WCDH will not charge parents for the first copy of the record but may charge 25 cents per page for additional copies unless the fee prevents the parent from inspecting and reviewing the record. No fees will be charged for records related to evaluations and assessments or for the search and retrieval of records. If a parent is unable to submit a written request, a verbal request will be accepted. A verbal request may be made by calling 914-813-5090.

Request an Amendment to the Early Intervention Record:

In accordance with NYS EI Regulations Section 69-4.17 (e); a parent has the right to present objections and request amendments to a record if a parent believes the information is inaccurate, misleading, or violates the privacy or other rights of the child. A parent may at any time present objections to the contents of the record to the EIO/D, evaluator, service provider or service coordinator, and request that amendments be made. A written or verbal request can be made directly to the child's service coordinator, evaluator, service provider or the EIO. Requests made to the EIO should be sent to:

Marina Yoegel
Early Intervention Official
Westchester County Department of Health
145 Huguenot St. 7th Floor
New Rochelle, NY 10801

The EI provider will respond to the parent objection and request for amendments of the record within ten (10) working days.

- If the EI provider concurs with the parent, the record must be amended as requested and the parent should be notified in writing of the decision. The EI provider is responsible to notify the service coordinator of the approved amendment, so that all EI records are amended accordingly.
- If the EI provider does not concur with the parent's request to amend the record, the EI provider shall inform the Early Intervention Official (EIO). The EIO will notify the parent in writing of the decision and inform the parent of the right to an administrative hearing. The hearing will be conducted in accordance with early intervention program regulations, 10 NYCRR Section 69-4.17(e)(4).

The hearing will be conducted by an individual assigned by the municipality who does not have a direct interest in the outcome of the hearing. If the hearing results in the determination that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, the Early Intervention Program will amend the information accordingly and will inform you in writing.

If the hearing results in the determination that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, you have the right to place a

statement in your child's early intervention records that comments on the information and sets forth any reasons for disagreeing with the hearing decision. Any explanation placed in the early intervention records of the child under this section must be maintained by the Early Intervention Program as part of the early intervention records of the child, as long as the early intervention record or contested portion (that part of the record with which you disagree) is maintained by such agency; and if the early intervention records of the child or the contested portion are disclosed by such agency to any party, the explanation must also be disclosed to that party. The hearing will be conducted according to the procedures under the Family Education Rights & Privacy Act (FERPA), which is found in statute at 20 U.S. C. §1232g, and in regulations at 34 CFR Part 99.

CONFIDENTIALITY OF INFORMATION

All information on your child and family is confidential. The Early Intervention Program must have your permission to request information from or share information with other agencies, service providers, or professionals.

The following safeguards are in place to ensure confidentiality of records:

- The early intervention program protects the confidentiality of personally identifiable information at collection, storage, disclosure, and at all stages;
- At least one official is responsible for ensuring the confidentiality of any personally identifiable information;
- All persons collecting or using personally identifiable information receive training or instruction regarding the policies and procedures as they apply to confidentially regulations;
- The Early Intervention Program maintains, for public inspection, a current listing of the names and positions of those employees within the agency who have access to personally identifiable information;
- The Early Intervention Program informs parents when personally identifiable information collected, maintained, or used under the Early Intervention Program is no longer needed to provide services to the child;
- The Early Intervention Program must destroy any personally identifiable information in the child's early intervention record at the request of the parents (Early Intervention records of the child's name, address, phone number, and dates of early intervention services must be maintained);
- The Early Intervention Program gives you the opportunity to inspect and review any of your child's early intervention records that are collected, maintained, or used by the Early Intervention Program;
- Individual early intervention records are maintained until a child reaches the age of 21. All billing/financial records will be retained for 6 years.

AVAILABILITY OF COMPLAINT PROCEDURES

All complaints of suspected violation of laws, rules and regulations relating to the Early Intervention Program must be submitted by a parent, representative of the parent or any other individual or entity in writing to the Department of Health for investigation and resolution. The alleged violation may not have occurred more than one year prior to the date that the complaint is receive by the Department of Health.

INDIVIDUAL CHILD COMPLAINTS

Individual child complaint resolution involves the formal resolution of concerns and disagreement between a parent and the Early Intervention Program through the use of mediation and/or an administrative due process hearing. If you disagree on any aspect of your child's identification, evaluation, or placement, or of the provision of appropriate early intervention services to your child and family, you have the right to a timely administrative resolution of your concerns through mediation or administrative due process. As a parent, you may initiate an individual child complaint by submitting a written request for mediation and/or an administrative due process hearing. If mediation is unsuccessful, the due process hearing must be

completed within thirty (30) days of your original written request for resolution. If an agreement is reached through mediation, the due process hearing is cancelled.

You may choose to use the mediation process, file a system complaint, and /or request an impartial hearing. You may choose to participate in one or more of these procedures, separately or at the same time, and in any order. The Early Intervention Official is available to provide support and assist you at any time.

Disputes with your child's services from the Early Intervention Program can be resolved by utilizing any or all of the dispute resolution procedures explained in, "**The Early Intervention Steps: A Parent's Guide to the Early Intervention Program**". This is part of your parent welcome packet. It explains the federal requirements of Part C of the Individuals with Disabilities Act (IDEA) and the New York State Early Intervention regulations found on the NYS Bureau of Early Intervention website at <https://regs.health.ny.gov/content/section-69-417-procedural-safeguards>.

In addition, your EIOD will make this document, the **Westchester County Early Intervention Program Notice of Child and Family Rights**, available to you at each IFSP and will ensure that it is maintained in your child's record.

The following page offers you the steps to follow for Mediation, Impartial Hearing and Systems Complaints.

**WESTCHESTER COUNTY - EARLY INTERVENTION PROGRAM
FAMILY RIGHTS HANDOUT
MEDIATION/IMPARTIAL HEARING/SYSTEM COMPLAINTS**

Dear Parent:

The following is the procedure for you to follow to request mediation, impartial hearing or to file a system complaint. The Procedure is detailed in the NYS “The Early Intervention Program, A Parent’s Guide” which was given to you at your initial home visit. The “Parent’s Guide” can be downloaded from the New York State Department of Health website <http://www.health.state.ny.us/publications/0532/rights1.htm>. The “Parent’s Guide” has sample letters for you to use.

Mediation

- The parent sends a letter to the Early Intervention Official requesting mediation.
- The parent and the Early Intervention Official must both agree on mediation.
- If there is agreement to go to mediation, the Early Intervention Official will advise the Community Dispute Resolution Center about the request.
- A mediator will be assigned.
- A mediation meeting will be scheduled within two weeks of the Early Intervention Official being contacted.
- The Early Intervention Official or designee and the parent must attend the mediation.
- The parent may bring an attorney and other persons they feel will present their case.
- The Early Intervention Official may also bring an attorney. Both parties must inform the other that an attorney will be present.
- Mediators are not experts in early intervention, but they are experts at mediation and understand the early intervention system.
- The mediation process must be completed within 30 days.
- Once mediation is finished, a written agreement is prepared. Any new services agreed to will be included in the IFSP.
- There is no cost to a family for mediation.
- If no agreement is reached the family may request an impartial hearing.

Impartial Hearing

- Impartial Hearing is another way for Early Intervention Officials and parents to settle disagreements about IFSP services or a disagreement about a child’s eligibility for services following an evaluation.
- Parents may request an impartial hearing even if they already have gone to mediation.
- A parent does not have to go to mediation before requesting an impartial hearing.
- Impartial Hearings are conducted by hearing officers who are administrative law judges assigned by the Department of Health.
- Early Intervention Officials and parents give testimony and may use witnesses to support their view.
- Parents may bring a friend, another parent, an advocate or an attorney.
- A decision must be reached within 30 days.
- A hearing officer’s decision is final, but either party is allowed to ask for a judicial review.
- The IFSP must be changed within 5 working days of the written or oral decision of the hearing officer.

System Complaints

- Parents have a right to file a systems complaint if they believe that the Early Intervention Official/Designee or service provider is not doing the job appropriately.
- To file a systems complaint, the parent must write to the New York State Department of Health.
- The Department of Health will contact the parent to inform how the complaint will be handled.
- The Department of Health must complete the investigation within 60 days.
- The parent will receive a written response within 70 days.
- The Department of Health is responsible for ensuring that all steps to correct the problem are taken.