



Parents'
RIGHTS:

An
EARLY
START
GUIDE
for
FAMILIES

Revised 2010



Publishing Information

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Ordering Information

For additional copies, contact Early Start Resources at 800.869.4337.

For information about California Early Start contact DDS at 800.515.BABY, visit our website at www.dds.ca.gov/earlystart, or e-mail earlystart@dds.ca.gov.

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.

* See page 3 for definition of parent as used in this booklet.

Statute and regulation citations are provided in the margins of this booklet to enable the reader to refer to the specific language found in law. The federal statute governing Early Start is Part C of the Individuals with Disabilities Education Act (IDEA), Title 20, United States Code, Section 1431 et seq.

Federal regulations are found in Title 34, Code of Federal Regulations (CFR), Part 303.

The state law governing Early Start is the California Early Intervention Services Act, Government Code (GC), Section 95000 et seq. State regulations are found in Title 17, California Code of Regulations (CCR), Section 52000 through Section 52175.

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

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 persons involved in your child's services.

As a parent, you have the right to*

- CFR 303.402
CCR 52164
CCR 52168 ◆ 1. access records, including the right to have you or your authorized representative examine and obtain copies of records relating to your child;
 - CCR 52164 ◆ 2. request that any regional center or LEA amend or remove information relating to your child from the records;
 - CCR 52168 ◆ 3. receive, within five days of your request, copies of records relating to your child and/or explanations that you request;
 - CFR 303.401
CFR 303.460
CCR 52160
CCR 52162
CCR 52165
CCR 52169 ◆ 4. request a meeting with the director of the regional center or the superintendent of the LEA about information contained in the record; and
 - CFR 303.401
CFR 303.460
CCR 52160
CCR 52162
CCR 52165
CCR 52169 ◆ 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.
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- CFR 303.19
CCR 52000(b)(36) ◆ *** 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.

Evaluation & Assessment

CFR 303.322
CFR 303.406
CCR 52082

The determination of eligibility for Early Start in California includes a timely, comprehensive, multi-disciplinary 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 by a regional center or LEA under Title 17, Section 52175. Procedural safeguards ensure that families are provided their rights under the law.

CFR 303.403
GC 95020(c)
CCR 52160
CCR 52161

As a parent, you have the right to

CFR 303.401
CFR 303.404
CCR 52040(d)

1. be fully informed of your rights under Early Start;
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 303.405
CCR 52162

3. understand and provide voluntary written permission or refusal before the initial evaluation and assessments are administered;

CFR 303.404
Note 2
CCR 52172(b)

Consent for evaluation and assessment is required only at the time of initial evaluation and assessment to receive services. (If consent is refused, the regional center or LEA may take steps to obtain an initial evaluation without parental consent.)

CFR 303.322
GC 95020
CCR 52082
CCR 52084

4. participate in the initial evaluation and assessment process including eligibility determination;

CFR 303.321
CFR 303.322
CCR 52086

5. receive a completed initial evaluation and assessment within 45 days after the referral of your child to a regional center or an LEA;

GC 95020(b)

6. participate in a meeting to share the results of evaluations and assessments; and

CFR 303.343
GC 95014(a)
GC 95020(b)
CCR 52082(a)
CCR 52104

7. participate in all decisions regarding eligibility and services.

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

- CFR 303.323
CCR 52084 ◆ 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 52082 ◆ 2. Evaluation and assessment procedures and materials are selected and administered so as not to be racially or culturally discriminatory.
- CFR 303.322
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
CCR 52084 ◆ 4. Evaluations and assessments are conducted by qualified personnel.
- CFR 303.322
CCR 52082 ◆ 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
CCR 52084
CCR 52102 ◆ 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.*
- CCR 52082(i)
CCR 52084(e) ◆ 7. Evaluations and assessments shall be conducted in natural environments whenever possible.
- CFR 303.322
CCR 52082 ◆ 8. Pertinent records relating to your child's health status and medical history are reviewed.
- CFR 303.323
CCR 52082 ◆ 9. No single procedure is used as the sole criterion for determining your child's eligibility for early intervention services.
- CFR 303.322
CCR 52084
CCR 52106 ◆ 10. Interviews to identify family resources, priorities, and concerns regarding the development of your child and your family's needs are voluntary.
- ◆
◆

Individualized Family Service Plan

CFR 303.340
CFR 303.342
GC 95020(b)
CCR 52100
CCR 52102

◆ 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 303.342
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.

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

- ◆ CFR 303.343
CCR 52104 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 303.402
CCR 52102 4. have a copy of the complete IFSP;
- ◆ CFR 303.342
CFR 303.403
CCR 52102 5. have the contents of the IFSP fully explained in the language of your
choice;
- ◆ CFR 303.342
CFR 303.404
CFR 303.405
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 303.12
CFR 303.344
CCR 52106 7. have services provided in the natural environment or an explanation of
why that is not possible;
- ◆ CFR 303.460
CCR 52112
CCR 52169 8. exchange information about your child among other agencies;
- ◆ CFR 303.403
CCR 52161 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.

◆ *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.*

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Mediation Conferences, Due Process

CFR 303.422
CCR 52173
CCR 52174

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.

As a parent, you have the right to

- CFR 303.419
CFR 303.420
CCR 52172
- CFR 303.510
CCR 52170
- CFR 303.511
CCR 52170
- CCR 52171(e)
- CCR 52170(b)
1. request 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);
 2. be informed of your right to file a complaint or a request for mediation and/or due process;
 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;
 4. request a mediation conference immediately prior to a complaint or due process hearing request or any time during the complaint/due process hearing processes to resolve a dispute related to any matter concerning a federal or state statute governing early intervention services under Early Start including eligibility and services; and
 5. file a complaint if a due process decision fails to be implemented.

Mediation Conference

CFR 303.419
CCR 52173

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

Hearings, and State Complaints

CFR 303.419
CCR 52173

◆ *As a parent, you have the right to*

CCR 52173

◆ 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;

CCR 52173

◆ 2. request a due process hearing or file a state complaint if the disagreement is not resolved;

CFR 303.419
CCR 52173

◆ 3. refuse to participate in mediation;

CFR 303.419
CCR 52173(c)

◆ 4. have an impartial person facilitate the mediation conference;

CFR 303.419
CCR 52173

◆ 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(b)
CCR 52173(j)

◆ 6. have all personally identifiable information maintained in a confidential manner; and

CFR 303.419
CCR 52173(i)

◆ 7. receive a written document outlining the agreements reached as a result of the mediation conference.

◆ Requests for mediation are filed with the:

CCR 52173

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

Due Process Hearings

CFR 303.420
CCR 52172

◆ 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.

CCR 52172(a)

◆ Circumstances leading to a due process hearing may be disagreements related to a proposal or refusal for identification, evaluation, assessment, placement, or services.

Mediation Conferences, Due Process

CCR 52172(g) ◆ 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.

Requests for a due process hearing are filed at the following address:★

CCR 52172 ◆ Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833
(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, and the Department of Developmental Services (DDS) website: www.dds.ca.gov/Forms/pdf/DS1802.pdf*

CCR 52172(e) ◆ 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 303.421(a)
CCR 52172

◆ As a parent, you have the right to:

1. have the due process hearing conducted by an impartial person, not employed by an agency serving your child, who is knowledgeable in the laws

Hearings, and State Complaints

- ♦ relating to early intervention and the service needs of infants, toddlers, and families;
- ♦
- ♦
- ♦ **2.** require that the proceeding is carried out at a time and in a location that is reasonably convenient for you;
- ♦
- ♦ **3.** have all personally identifiable information maintained in a confidential manner;
- ♦
- ♦
- ♦ **4.** bring a civil action against the other party following completion of the proceeding if you disagree with the results;
- ♦
- ♦
- ♦ **5.** receive services identified on the IFSP that are not in dispute; and
- ♦
- ♦ **6.** have mediation discussions kept confidential and not used as evidence in any subsequent due process or civil proceedings.

♦ During a due process hearing, you also have the right to:

- ♦ **1.** be accompanied and advised by counsel and/or by individuals with special knowledge with respect to early intervention services for children under age three years;
- ♦
- ♦ **2.** present evidence, confront, cross-examine, and compel the attendance of witnesses;
- ♦
- ♦ **3.** prohibit the introduction of any evidence at the proceeding that has not been disclosed to you at least five days before the proceeding begins;
- ♦
- ♦ **4.** obtain a written or electronic verbatim transcription of the proceeding; and
- ♦
- ♦ **5.** obtain written findings of facts and decisions within 30 days from the date the request is filed.

State Complaints

- ♦ Any individual or organization may file a signed, written complaint against
- ♦ DDS, the California Department of Education (CDE), or any regional center,
- ♦ LEA, or private service provider that receives Part C funds alleging violation
- ♦ of any state or federal early intervention statute or regulation. However, even
- ♦ though DDS is mandated to investigate any complaint it receives, state law

Mediation Conferences, Due Process

- ◆ 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 303.423
CCR 52170

- ◆ Information or assistance in filing complaints is available from your child's service coordinator, the regional center office, or the 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 303.425
CCR 52170(e)

- ◆ 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

- ◆ *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, and/or LEA;

CCR 52171(a)

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 52171(c)

3. submit additional information to DDS that may be helpful to the investigation;

CCR 52171(a)

4. receive a final written decision within 60 days of the date DDS receives the complaint;

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;

Hearings, and State Complaints

- CCR 52171 ♦ 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;
- CCR 52171 ♦ 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 52171(e) ♦ 8. have any complaint resolved that alleges the failure of a public agency or private service provider to implement a due process decision.

The complaint must

- CCR 52172(a) ♦ 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 52172(f) ♦ 2. provide the name, address, and phone number of the complainant;
- CCR 52172(f) ♦ 3. contain a statement of facts upon which the violation is based;
- CCR 52172(f) ♦ 4. include the name of the party against whom the complaint is being filed;
- CCR 52172(c) ♦ 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 52172(c) ♦ 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 52172(f) ♦ 7. the complaint may also include, if applicable, a description of the voluntary steps taken at the local level to resolve the complaint; and
- CCR 52172 ♦ 8. be withdrawn if the complainant elects to participate in mediation within the 60-day complaint investigation.



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/earlystart

