early intervention

supporting families and child development

Rhode Island Early Intervention Procedural Safeguards & Funding

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Rhode Island Early Intervention Procedural Safeguards

Procedural Safeguards Notice (34 CFR 303. 421)

The Individuals with Disabilities Act (IDEA) Part C is a federal law which regulates Early Intervention for eligible infants and toddlers with disabilities and their families. The Individuals with Disabilities Act Part C emphasizes family involvement in the Early Intervention process, and consistently values parents as important members of the team supporting their own children's development. This legislation encourages parents to know and use their rights and requires the Rhode Island Early Intervention system to provide you with this notice of the procedural safeguards listed below. These safeguards guarantee that:

- You get the information you need so you can be an informed member of the IFSP team;
- Your privacy is protected;
- You are asked permission before actions take place that affect your child;
- You have access to your child's records;
- You are given opportunities to formally resolve concerns when informal ways do not work.

Your service coordinator will explain these safeguards to ensure that you understand them.

Prior written notice (§.421)

The Early Intervention program must give you advanced written notice before your child's eligibility evaluation. You also must have advanced written notice before meetings occur in which decisions for your child and family such as starting, stopping, changing or refusing services will be made. You must receive notice in a reasonable amount of time so that you can plan to participate. The notice assures that you are made aware before decisions are made or carried out.

Use of parent's native language or preferred mode of communication (§.25 and .421)

It is your right to thoroughly understand all activities and written records about your child. If you prefer another language or way of communicating we will get an interpreter, whenever possible. Your Early Intervention program wants you to be an informed team member and decision-maker.

Parent consent (§.7)

Your Early Intervention program needs your permission to take any actions that affect your child. You will be asked to give your consent in writing before we conduct an evaluation or provide services. The Early Intervention program needs to explain what happens if you give your consent, as well as if you do not give your consent. Parents have the right to withdraw their consent at any time.

Confidentiality (§.401-.417)

Your Early Intervention program must maintain electronic and written records on all children referred to EI. The information maintained includes child and family demographics (e.g. name, address, family contact information, date of birth etc.), evaluation and assessment results, eligibility determination, IFSP information, and any other relevant records.

The Early Intervention program values the information you and other health care providers have learned about your child. We will ask your child's other providers for this information, but we need your written permission to do so. Sometimes this information can be helpful to determine eligibility or to help us understand your child's health issues.

Just as your Early Intervention program needs your permission to get your child's records from other providers, the records developed by Early Intervention will not be shared without your permission with anyone outside the Early Intervention program. Your information is kept private with some exceptions allowed by state or federal law. These exceptions include releasing limited information to:

- Your local school district and the Department of Education if your child could be eligible for special education services at age three. Basic information including your name, child's name, date of birth, address and contact information is released for planning purposes. You can choose not to have this information sent by opting out of the notification process. With your written permission, Early Intervention may share additional information including your child's evaluation/assessment information or Individualized Family Support Plan (IFSP).
- The staff from Executive Office of Health and Human Services (EOHHS) or the United States Department of Education who monitor and fund Early Intervention.
- Other RI Early Intervention providers in order to coordinate services or in the event of transferring from one program to another.
- Appropriate persons, to protect the health or safety of a child such as the Department of Health in the case of a public health emergency or The Department of Children Youth and Families to investigate a report of suspected child abuse or neglect.

- Accrediting organizations to carry out their accrediting functions.
- To comply with a judicial order or lawfully issued subpoena.

Your Early Intervention program must also give you a list of who has access to your files and where files are kept upon request.

Your records are kept for 10 years after your family has left the program. You may request that the record be destroyed when it is no longer needed.

The Executive Office of Health and Human Services (EOHHS) is required to maintain information about children who are enrolled in Early Intervention. The information is used to monitor Early Intervention programs, arrange for payment to programs and prepare state and federal reports. As required by law, EOHHS must have your written permission to release information.

Access to records (§.405)

The Early Intervention record is your family's record. You can see anything in the Early Intervention program's records about your child and family. Your EI provider must respond to your request to review your child's records with 10 days of your request and before any meeting regarding an IFSP or any hearing. Parents may have one free copy of their record. If you do not understand the way records are written, the information in the child's record will be explained to you.

If there is information in the record that you believe is wrong, misleading or violates your child or family's privacy you can ask to have it corrected or removed. The program must respond to your request within a reasonable time. If the program does not agree with you they must notify you in writing and explain your right to ask for a hearing. If you ask for a hearing, a hearing officer will make a written decision within 30 calendar days of receiving your Request for a Due Process Hearing (see Due Process Procedures). If the hearing officer agrees that the information is wrong, misleading or violates your child or family's privacy the program will correct the information. If the hearing officer does not agree with you, you may include a statement about the information in the record.

Parent consent and ability to decline services (§.420)

With the other members of your child's Early Intervention team, you will consider which services can best help you accomplish the outcomes that you want for your child and family. You will be asked to give your consent for those services decided on by the team. You do not have to agree to all services recommended. You can say no to some services and still get other services.

If you disagree or have a complaint...

Sometimes parents and Early Intervention staff disagree. If this happens there are ways to resolve your concern. The most simple is to discuss your concern with your service coordinator. This is often the quickest way to resolve a problem. If you are unable to resolve your concern, you can talk to a supervisor or the director of your Early Intervention program. If this is not successful you can call the Executive Office of Health and Human Services (EOHHS) at 401 462-0318. EOHHS is the state agency responsible for administering the Rhode Island Early Intervention system and staff may be able to assist you by answering questions, offering information and directly interacting with you and your Early Intervention program.

If these informal avenues are not successful or if you choose, there are three formal ways to resolve a disagreement. You can file a written complaint; request a due process hearing or participate in mediation.

Written Complaint (§.434)

A written complaint may be filed by a parent, organization, or any person if they believe an Early Intervention provider has not followed Part C regulations of the Individuals with Disabilities Education Act. You must complete the *Rhode Island Early Intervention Written Complaint* form and send it to EOHHS, Early Intervention Part C Coordinator, 74 West Road, Cranston, RI 02920 or fax it to 462-2939. This form is available in the Rhode Island Early Intervention Procedural Safeguards and Funding booklet, or on line at: http://www.eohhs.ri.gov/ProvidersPartners/ProviderManualsGuidelines/MedicaidProviderManual/EarlyInterventionProviders/EarlyInterventionProgram.aspx

Your service coordinator can also provide you with the form and assist you in completing it.

You must send a copy of your complaint to the EI provider at the same time the complaint is filed with EOHHS. EOHHS staff will contact you and your provider and offer mediation (see below) as a way to resolve your complaint. If you both do not agree to mediation as a way to resolve your complaint, your complaint will be investigated and you will be asked for any additional information you have. You will receive a written report within 60 days that includes the facts and conclusions, the reason for the decision, and corrective actions that will be taken if required. If your complaint was about matters related to evaluation, eligibility, or the type or amount of services offered and you do not agree with the decision, you may request a due process hearing.

Mediation (§.431)

If informal ways of sharing your concerns with your team and the Early Intervention program don't work, you may file a written complaint or request a due process hearing. Mediation will be offered as a voluntary first step for either of these. A trained, impartial mediator will work to help you and the Early Intervention program to resolve the problem.

If an agreement is not reached, you can go ahead with either the written complaint process or a due process hearing to resolve your complaint. Mediation will not slow down the process unless you agree. Mediation is provided at no cost to you. The meeting is carried out at a time and place that is convenient for you and other parties involved.

Due process hearing procedures (§.435-.438)

A due process hearing is a formal procedure to address a written complaint. Your complaint must be about matters related to your child's evaluation, eligibility, IFSP, the type or amount of services offered or something in the child's record that you believe is inaccurate, misleading or violates the privacy or other rights of your child or family.

The complaint must be about an incident that occurred not more than one year before the date of the complaint. Mediation will be offered as a voluntary first step.

The hearing will ensure a knowledgeable and impartial person from outside the program hears your complaint and decides how to best resolve it. The hearing officer will make a decision based on testimony of witnesses and evidence. Parents can be accompanied by an attorney, advocate or anyone else at the hearing. Some families may qualify for free legal help by calling Rhode Island Legal Services at (401) 274-2652 (outside the Providence calling area call toll free at 1-800-662-5034). Parents have the right to present evidence, confront, cross examine, and compel the attendance of witnesses. Families may not allow evidence at the hearing that has not been presented to them at least 5 days before the hearing. Families have the right to receive a written or electronic transcript of the hearing at no cost. The hearing officer will send a written decision no later than 30 calendar days from when EOHHS receives the *Request for a Due Process Hearing* unless an extension has been given. If you do not agree with the decision of the hearing officer you may appeal the decision in state or federal court.

You must complete a *Request for a Due Process Hearing* and send it to EOHHS, Early Intervention Part C Coordinator, 74 West Road, Cranston, RI 02920 or fax it to 462-2939. This form is available in the Rhode Island Early Intervention Procedural Safeguards and Funding booklet, or on line at:
http://www.eohhs.ri.gov/ProvidersPartners/ProviderManualsGuidelines/MedicaidProviderManual/EarlyInterventionProviders/EarlyInterventionProgram.aspx

Your service coordinator can also provide you with the form and help you complete it if you would like.

A copy of your request for a due process hearing must be sent to the Early Intervention provider serving the child at the same time the request is filed with EOHHS. All services that have been agreed to on the IFSP will be provided during the hearing process.

Surrogate Parents (§.422)

A surrogate parent is someone who has been appointed to act in the role as parent when a child does not live with a parent, adoptive parent, foster parent, guardian, an individual authorized to act as the child's parent, or an individual who is legally responsible for the child's welfare. If you are a surrogate parent you are able to represent the child in all matters related to Early Intervention and have all the same rights as parents.

If you have questions about any of these rights, please talk to your service coordinator or speak with the state's Early Intervention Part C Coordinator at (401) 462-0318.

Procedural Safeguards adapted from Understanding Procedural Safeguards Updated 2012 from Hurth & Goff (2002) Assuring the Family's Role on the Early Intervention Team, NECTAS

Funding Information for Families

System of Payments Notice (34 CFR 303.520)

In Rhode Island, Early Intervention services are provided at no cost to families. The Rhode Island Early Intervention system relies on three major funding sources: private insurance, Medicaid, and state funds. One or more of these will be used to pay for your child's services. By accessing different types of funding sources, Rhode Island is able to provide Early Intervention at no cost to families.

The Rhode Island Early Intervention program is required by Part C of the Individuals with Disabilities Education Act (IDEA) to inform parents of the following no-cost protections regarding payment for EI services:

- Early Intervention services are provided at no cost to the family. The Rhode Island Early Intervention system does not charge parents any fees, copayments or deductibles. The only cost to families is the cost of their insurance premiums.
- If in error your insurance company charges you a fee, copayment, or deductible please notify your Early Intervention provider who will correct this mistake. You also have the right to file a written complaint or request a due process hearing to contest any fee, copayment or deductible that has been charged to you.

If you have a private health insurance plan...

- You must provide written consent to the EI provider before your child's personally identifiable information (name, date of birth, policy number, address and other information necessary to process insurance claims) can be submitted to a health insurance carrier for billing purposes. Parents have the right to withdraw their consent at any time without losing the EI services their child is receiving.

If you have a public health insurance plan...

(Rhode Island Medicaid/Medical Assistance, SSI, RIte Care (Unitedhealthcare, Neighborhood Health Plan of Rhode Island), RIte Share)

- You are not required to enroll in a public insurance or benefits program in order for your child to receive Early Intervention.

- Rhode Island Medicaid and Rhode Island Early Intervention are programs within the same state agency, the Executive Office of Health and Human Services (EOHHS). As a condition of enrollment in Medicaid you have already provided your consent to share information to programs within EOHHS. This consent provides the necessary authorization to release personally identifiable information required for billing purposes, so no additional consent is required from you.

- If you have both public insurance and private insurance, state Medicaid regulations require the use of private insurance as the primary insurance.

If you do not have health insurance...

- Inform your service coordinator if you do not have health insurance. Your Early Intervention services can be covered by using federal or state funds. If you would like information about obtaining insurance please ask your service coordinator.

Questions? *Please talk to your service coordinator…*

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Rhode Island Early Intervention Complaint Form

What to do
If you believe that federal regulations of Part C of the Individuals with Disabilities Act or state regulations about Early Intervention have not been followed by an Early Intervention provider you may file a complaint with the Executive Office of Health and Human Services (EOHHS). **1.**Fill out the form below and mail or fax to: EOHHS Early Intervention Part C Coordinator 74 West Road Cranston, RI 02920 FAX (401) 462-2939 **2.** Send a copy of this completed form to the Early Intervention Provider

Tell us who the complaint is about	
Early Intervention Provider Name	
Child's Name	Date of Birth

Tell us who you are	
Parent/Guardian Name	**Person filing the complaint** (if different than Parent/Guardian)
Address:	Address:
City, State, & Zip	City, State, & Zip
Phone: Home/Cell	Phone: Home/Cell
Work	Work
Email	Relationship to Child:
What days, times and ways are best to reach you:	

The Early Intervention provider listed above has not followed state and federal regulations of Part C of the IDEA in the following area(s):
____Evaluation ____Eligibility ____IFSP ____Location of Services____ Confidentiality/Access to records

____Other (Explain)_____

Tell us about the problem Use additional pages if needed. Be specific about the regulation from Part C of IDEA or the state regulation for Early Intervention that you believe is not being followed. Tell us how you think the problem can be solved.

Signature of person filing complaint	Date

Rhode Island Early Intervention
Due Process Hearing Request Form

What to do
You may file a Due Process Hearing Request with the Executive Office of Health and Human Services (EOHHS) if you believe that your Early Intervention provider has not followed federal regulations of Part C of the Individuals with Disabilities Act or state Early Intervention regulations regarding: • your child's evaluation, eligibility, or the type or amount of services offered • your child's record contains something that you believe is inaccurate, misleading or violates the privacy or other rights of your child or family **1.** Fill out the form below and mail or fax to: EOHHS Early Intervention Part C Coordinator 74 West Road Cranston, RI 02920 FAX (401)462-2939 **2.** Send a copy of this completed form to the Early Intervention provider

Tell us who the complaint is about	
Early Intervention Provider Name	
Child's Name	Date of Birth

Tell us who you are	
Parent/Guardian Name	**Person filing the complaint** (if different than Parent/Guardian)
Address:	Address:
City, State, & Zip	City, State, & Zip
Phone: Home/Cell	Phone: Home/Cell
Work	Work
Email	Relationship to Child:
What days, times and ways are best to reach you:	

The Early Intervention provider listed above has violated state and federal regulations of Part C of the IDEA in the following area(s):
____Evaluation ____Eligibility ____IFSP ____Location of Services____ Confidentiality/Access to records ____
Other (Explain)_____

Tell us about the problem Use additional pages if needed. Be specific about the regulation from Part C of IDEA that you believe is not being followed. Tell us how you think the problem can be solved.	
Signature of person filing Complaint	Date

Rhode Island Executive Office of Health and Human Services

www.eohhs.ri.gov

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