

Early Steps Summary of Family Rights

The partnership between families and Early Steps is a key component of the Early Steps system. Ongoing communication between you and Early Steps is important so your concerns and priorities are addressed. If you have concerns about Early Steps, you should discuss them with your service coordinator and Individualized Family Support Plan (IFSP) team. Your IFSP team needs and wants to hear any and all issues you might have. You are also entitled to procedural safeguards and rights in Early Steps, which for the purpose of this summary, is Part C of the Individuals with Disabilities Education Act and its regulations. Your rights are summarized in this document. For more detailed information on the policies and rights you have in Early Steps, you may visit for http://www.cms-kids/home/resources/es_policy/es_policy.html or call (800) 654-4440.

This summary includes information about:

- *RECORDS/ CONFIDENTIALITY AND RELEASE OF INFORMATION*
- *PRIOR WRITTEN NOTICE and NATIVE LANGUAGE*
- *PARENTAL CONSENT*
- *SURROGATE PARENTS*
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- *COMPLAINT PROCEDURES*
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RECORDS

You, and a representative, have the right to review information in your Early Steps record relating to evaluations/assessments, screenings, eligibility determinations, development and implementation of the Individualized Family Support Plan (IFSP), provision of early intervention services, individual complaints dealing with your child, and any other records involving your child and family, unless you do not have the authority to do so. You have the right to review this information before any Individualized Family Support Plan (IFSP) meeting or due process hearing, and it will be provided not more than 10 days after you make the request. If the Early Steps record includes information on more than one child, you may only review the information related to your child or will be informed of that specific information. Early Steps may charge a fee for copies of the record, but only if this does not prevent you from inspecting and reviewing the record. This does not include a copy of each evaluation, assessment, assessment, and IFSP, as those are provided as soon as possible after each IFP meeting and at no cost. Early Steps may not charge a fee to search for or collect information. Early Steps will respond to reasonable requests for explanations and interpretations of your child's record. You may request that Early Steps provide copies of the record if failure to provide copies would prevent you from exercising your right to inspect and review the record.

Early Steps keeps a record of people who request or receive access to records they collect, maintain, or use, except access by you and authorized representatives of Early Steps. The record they keep includes the name, date, and reason why the party was authorized to use the record. Early Steps will keep this information with your records as long as they maintain it. Early Steps will make sure you receive a list, upon request, of the types of Early Steps records kept on your child, where they are kept, and how you can gain access to them.

If you feel that any statement in the record is wrong or misleading, or violates the privacy or other rights of your child, you may submit a written request for Early Steps or the service provider to change it. Early Steps or the service provider will either change the statement(s) in a reasonable period of time or formally refuse to do so. If Early Steps or the service provider refuses to do so, you will be informed in writing of that refusal, be provided information about your right to dispute the decision to refuse to change the record, and informed of your right to a due process hearing. Early Steps will provide an opportunity for a due process hearing, upon request, if you challenge information in the record to ensure that it is not inaccurate, misleading, or violates your child's privacy or rights. The protections of the Family Educational Rights and Privacy Act (FERPA) regarding the confidentiality of personally identifiable information apply to you, including the procedures under FERPA to conduct a hearing to challenge information in your child's record. If a due process hearing occurs and it is determined that information in the record is inaccurate, misleading, or violates your child's privacy or rights, the records will be changed accordingly and you will be notified in writing. If a due process hearing occurs and it is determined that the information in the record is not inaccurate, not misleading, or does not violate your child's privacy or rights, you will be informed of your right to place a statement in the record commenting on the information or reasons for disagreeing with the decision. This information will be maintained in the Early Steps record. If your Early Steps record or the section that is disagreed upon is disclosed to any party, the statement you provided must also be provided to the party.

Early Steps will ensure the confidentiality of personally identifiable information, data and records collected, used or maintained, including your right to prior written notice and written parental consent to the exchange of personally identifiable information among agencies. Early Steps will keep a record of anyone who requests or receives your Early Steps record. Personally identifiable information includes your child's name, your name or other family members, address, social security number or other personal identifiers, and other information that might make it possible to identify your child. Early Steps keeps this information on referred children and those who receive or have received services. This includes information related to screening, evaluation and assessment, eligibility, the Individualized Family Support Plan (IFSP), and services. Early Steps will also gather information from individuals or agencies that have information about your child and those providing services to your child. This information will be used to determine eligibility and make decisions about services for your child. Early Steps is responsible for protecting your personally identifiable information and is trained on these responsibilities. Your personally identifiable information will be protected to ensure the confidentiality of your information when it is

collected, stored, disclosed, used, and destroyed. Early Steps will inform you when they no longer need your personally identifiable information in order to provide services to your child. This information must be destroyed at your request however; a permanent record of your child's name and date of birth, parent contact information, name(s) of service coordinators and providers, and exit data (year and age upon exit, and any programs entered into upon) may be kept without time limitation. Once your child and family no longer receive services, Early Steps will maintain your child's Early Steps record for a minimum of six years from the date your child was closed from Early Steps. You may review the names and positions of anyone who may have access to your personally identifiable information.

PRIOR WRITTEN NOTICE and NATIVE LANGUAGE

You must be given prior written notice in a reasonable time before Early Steps or a service provider proposes to initiate or change, 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 and family. The notice will help you be more prepared and will state information including:

- the action that is being proposed or refused;
- the reasons for taking the action;
- all procedural safeguards that are available under Early Steps; and
- the Early Steps complaint procedures and timelines.

Early Steps wants you to understand so that you can be an informed team member and decision maker. The prior written notices, evaluations/assessments, and IFSPs must be written in understandable language and provided in your native language, unless it is clearly not feasible to do so. Native language means the language or mode of communication you use. If your native language or other mode of communication is not a written language, Early Steps will 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, and there is written evidence that these requirements have been met. If you are deaf, blind, or have no written language, the way in which you communicate will be used by Early Steps.

PARENTAL CONSENT

Early Steps needs your permission to take actions that affect your child. You will be asked to give your consent in writing before Early Steps conducts a screening, evaluation/assessment, private insurance is used, personally identifiable information is disclosed, or before early intervention services are provided. Consent means that you are fully informed, in your native language or other mode of communication, of all information related to the activity that Early Steps is requesting your consent, that you understand and agree in writing to the carrying out of the activity in which your consent is being requested, and the consent describes the activity and lists the records (if any) that will be released and to whom, and that you understand that giving your consent is voluntary and can be taken away at any time. If you do not give consent, for the evaluation and assessment or services, Early Steps will make reasonable efforts to ensure that you are fully aware of the nature of the evaluation/assessment or the services that would be available and that you understand that your child will not be able to receive the evaluation and assessment or services unless consent is given. You may take away consent for your child at any time however you cannot take away consent for an action that has already occurred. You have the right to determine whether you will accept or decline any Early Steps service and may decline a service after first accepting it, without it affecting other services.

Early Steps must provide written notice and obtain consent from you in order to obtain, release or exchange personally identifiable information concerning your child and family except in certain circumstances. This also includes the verbal sharing of personally identifiable information. If you do not give Early Steps consent to release your personally identifiable information, your information will not be released.

Early Steps cannot use due process hearing procedures to challenge a parent's refusal to provide consent.

SURROGATE PARENTS

Early Steps will ensure the rights of eligible children are protected if no parent can be identified, the parent(s) whereabouts cannot be discovered after reasonable efforts, or your child is a ward of the state. This is done by assigning a surrogate parent. If a surrogate parent is assigned, they may represent your child during the evaluation and assessment, development and implementation of the Individualized Family Support Plan (IFSP), ongoing service delivery for your child, and other rights in Early Steps. Early Steps has procedures in place to determine whether a child needs a surrogate parent, and the assignment and selection of a surrogate parent. All the rights in this document apply to surrogate parents. If a child is a ward of the state, a surrogate parent may be appointed by the judge overseeing the infant or toddler's case provided that the surrogate parent meets federal and state requirements.

MEDIATION

Mediation is an informal option to resolve disputes regarding any matter concerning your involvement with Early Steps. Mediation is voluntary on the part of all parties who must sign the request form. In mediation, an impartial trained mediator, who is qualified and knowledgeable in laws and regulations related to Early Steps, helps the parties reach a mutually satisfactory agreement. Mediation is free to you and does not interfere with your right to a due process hearing or any other rights in Early Steps. Mediation discussions are confidential and will not be used in a subsequent due process hearing or civil proceeding. Mediation will be scheduled in a timely manner, within 21 calendar days of the receipt of a request signed by both parties, and will be held in a location that is convenient to all parties. Any agreements reached in Mediation will be put in writing and signed by all parties.

COMPLAINT PROCEDURES

You have the right to file a complaint alleging that Early Steps, or a service provider, has violated a requirement of Early Steps. Complaints must be written and signed and include the following information:

- a statement that Early Steps or a service provider has violated your rights;
- the facts on which the complaint is based;
- your signature and contact information;
- the name and address of the residence of your child;
- the name of the provider serving your child;
- a description of the nature of the problem of the child, including facts relating to the problem;
- a proposed resolution of the problem to the extent known and available to you at the time the complaint is filed; and
- an allegation of a violation that occurred within one year prior to the date the complaint is received.

Complaints must be mailed to the Florida Department of Health, Children's Medical Services, Early Steps State Office at:

IDEA, Part C Coordinator
Department of Health
Children's Medical Services
Early Steps State Office
4052 Bald Cypress Way, BIN# A06
Tallahassee, FL 32399-1707

Once a complaint is received, the Early Steps State Office will conduct an independent investigation of the complaint. You will have the opportunity to submit additional information, either orally or in writing, about your allegations. The Early Steps State Office will review all relevant information and make an independent determination as to whether a violation of your rights has occurred. A written decision will be issued (within 60 days of the receipt of the complaint, unless exceptional circumstances exist) that includes the findings of fact, conclusions, and the reasons for the final decision. The written decision can include technical assistance activities, negotiations, and corrective actions to achieve compliance, if a violation is found. If the investigation finds a failure to provide appropriate services, the Early Steps State Office will address how to correct the issue, as appropriate, including awarding monetary reimbursement or other corrective actions to meet the needs of your child and family, and appropriate future services for all infants and toddlers with disabilities, and their families.

Mediation will be offered when a complaint is received. If a written complaint is received that is also the subject of a due process hearing, Early Steps will set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved within the complaint timelines. If an issue is raised in a complaint that has been previously decided in a due process hearing involving the same parties, Early Steps will inform you that the hearing decision is binding.

A complaint alleging failure to implement a due process hearing decision must be resolved by the Early Steps State Office.

DUE PROCESS HEARING

You have the right to file a due process hearing request when there is a disagreement regarding the proposal to initiate or change, or refusal to initiate or change the identification, evaluation, or placement of your child, the provision of appropriate early intervention services to your child or family, or to challenge information in the Early Steps record to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.

A due process hearing request must be filed with the Florida Department of Health, Children's Medical Services, Early Steps State Office at:

IDEA, Part C Coordinator
Florida Department of Health
Children's Medical Services
Early Steps State Office
4052 Bald Cypress Way, BIN # A06
Tallahassee, FL 32399-1707

The party submitting a due process hearing request, or their attorney, must ensure the other party receives a copy of the hearing request, which must remain confidential. A due process hearing request must include the following:

- name of your child;
- the address of the residence of your child;
- the name of the early intervention provider serving your child;
- a description of the nature of the problem of your child relating to the proposed or refused initiation or change, including facts relating to the problem;
- a proposed resolution of the problem to the extent known and available to you at the time; and
- an allegation that the action forming the basis for the due process complaint occurred within 2 years of the date you Early Steps or the provider knew (or should have known) about the alleged action.

Within 10 days of a due process hearing request, you will receive a written response from the other party addressing each issue you raised in your due process hearing request. If you have not received prior written notice regarding the issues addressed in your due process hearing request, then the response will also include the following:

- an explanation of why Early Steps proposed or refused to take the action raised in the due process hearing request;
- a description of other options that the IFSP team considered and the reasons why those options were rejected;
- a description of each evaluation procedure, assessment, record, or report used as the basis for the proposed or refused action; and
- a description of the other factors relevant to the proposed or refused action.

The hearing officer will determine the sufficiency of a due process hearing request. Either party may challenge the sufficiency of the due process hearing request by filing a written claim with the hearing officer within 15 days of the hearing request. Within 5 days of receipt of the challenge, the hearing officer will issue a ruling on the sufficiency of the due process hearing request.

Mediation will be offered when a due process hearing request is received and you will be notified of free or low cost legal and other relevant advocacy services that are available. The Early Steps State Office will conduct a resolution meeting within 15 days of the receipt of a due process hearing request with the parent(s) and the relevant IFSP team members, as agreed by both parties. The purpose of the resolution meeting is to allow the Early Steps State Office the opportunity to resolve the issues in the due process hearing request. The Early Steps State Office may not bring an attorney unless you bring an attorney. If you file a due process hearing request and do not participate in the resolution meeting after reasonable efforts by the Early Steps State Office, your due process hearing request may be dismissed. If the Early Steps State Office does not hold or participate in a resolution meeting within 15 days of receipt of the hearing request, you may request the hearing officer to initiate the 45 day due process timeline. The 45 day due process hearing timeline begins after:

- both parties agree in writing to waive the resolution meeting or seek mediation;
- after the resolution meeting or mediation starts but before the end of the 30 day period and the parties agree in writing that no agreement is possible; or
- both parties agree in writing to continue the resolution or meditation process at the end of the 30 day period but later withdraws.

If a resolution to the dispute is reached at the resolution meeting, a legally binding agreement is written that is signed by both parties and enforceable in federal or state court. Either party may void the agreement within 3 business days of execution. The Early Steps State Office may use methods to seek enforcement of a written agreement resulting from a mediation or resolution meeting as long as those mechanisms are not mandatory and does not delay or deny the parents right to seek enforcement of the written agreement in a federal or state court.

A party may amend a due process hearing request if either the other party consents in writing to the amendment and is given the opportunity to resolve the issues in the due process hearing request through a resolution meeting or the hearing officer grants permission not later than five days before the due process hearing is scheduled. If a party files an amended due process hearing request, the 30 day timeline for the resolution meeting begins again with the filing of the amended due process hearing request.

A due process hearing is conducted by an impartial person who is not an employee of Early Steps, or any other entity involved in the services or care for your child, though Early Steps pays for their services. They do not have a personal or professional interest that would conflict with their ability to be objective and implement the process. The hearing officer will have knowledge about Early Steps, including Part C of the Individuals with Disabilities Education Act, applicable federal and state regulations, and legal interpretations by federal and state courts. The officer will listen to relevant viewpoints about the issue, examine all information related to the issues, seek to reach a timely resolution regarding the issue, and make decisions based on substantive grounds. It will be at a time and place that is convenient to you and

you will be notified of the date, time, and place of the hearing in a reasonable time in advance. A hearing will be held and a written decision mailed within 45 days of the request of a hearing. The written decision will be based on the evidence and will include a summary of the evidence and the reasons for the decision.

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

- be accompanied and advised by counsel and by individuals with special knowledge or training on Early Steps at your own expense;
- present evidence and confront, cross examine, and require attendance of witnesses;
- not allow evidence that has not been disclosed to you at least five days before the hearing;
- receive a written or electronic (based on your preference) word for word copy of the hearing at no cost;
- receive a written or electronic (based on your preference) findings and decisions from the hearing at no cost; and
- request the hearing be open to the public (it will be closed unless the parties request it be open).

Parties involved in the due process hearing must disclose all evaluations and recommendations at least 5 business days before the proceeding. The hearing officer may bar any party that fails to comply without the consent of the other party. The party requesting a due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint unless the other party agrees.

In matters alleging a procedural violation, a hearing officer may find that your child was not appropriately identified, evaluated, placed, or provided early intervention services only if it:

- Impeded your child's right to identification, evaluation, and placement or provision of early intervention services for your child and family;
- Significantly impeded the your opportunity to participate in the decision-making process regarding identification, evaluation, placement or provision of early intervention services for your child and family; or
- Caused a deprivation of developmental benefit.

Unless you and Early Steps agree, Early Steps will continue to provide the early intervention services to which you have provided consent or if applying for initial services, will provide the early intervention services not in dispute as authorized on your Individualized Family Support Plan (IFSP). A decision made in a due process hearing is final, except that either party may file a civil action. This must be done in state or federal court within 90 days of the due process decision. In a civil action, the court will receive the records of the due process hearing, hear additional evidence at the request of a party, and grant the relief the court determines to be appropriate, based on the preponderance of the evidence.

Parents also have rights, procedures, and remedies available under the Constitution, Americans With Disabilities Act, title V of the Rehabilitation Act, and other federal laws protecting the rights of children with disabilities.