

Child and Family Rights in the Arizona Early Intervention Program (AzEIP)



Arizona Department of Economic Security / Arizona Early Intervention Program
3839 North 3rd Street, Suite 304
Phoenix, AZ85012
www.azdes.gov/azeip/
602-532-9960
(Phoenix metro area)
888-439-5609
(Outside area codes 602, 480, and 623)

Definitions

AzEIP Service Providing Agencies – The State agencies that provide service coordination and provide or facilitate access to early intervention services under the Individuals with Disabilities Education Act (IDEA) Part C. The AzEIP Service Providing Agencies are the Arizona Department of Economic Security and Arizona State Schools for the Deaf and the Blind (ASDB). The Arizona Department of Economic Security (DES) provides early intervention services through DES, Arizona Early Intervention Program (DES/AzEIP) and the DES, Division of Developmental Disabilities (DES/DDD).

Consent - means that (1) you have been fully informed in your native language (unless clearly not feasible to do so) or other mode of communication about the activity(ies) for which consent is sought, and; (2) you understand and agree in writing to the carrying out of the activity(ies) for which consent has been provided. The consent must describe the activity(ies) for which consent is sought. Your consent is voluntary and may be revoked in writing at any time. If you revoke consent, your revocation is effective on that day and does not apply to any actions that occurred before consent was revoked. 34 CFR §303.7

Early Intervention Programs - are the local office(s) of, or contractors with, an AzEIP Service Providing Agency. The Early Intervention Program provides service coordination in accordance with IDEA, Part C, and provides or facilitates access to other early intervention services. Early Intervention Programs include the employees, contractors, and other individuals associated with the Early Intervention Program who are involved with children and families, either directly or indirectly, referred to and/or enrolled in AzEIP.

Early Intervention Records – Means education records that are directly related to a child referred to AzEIP and/or enrolled in AzEIP. Early Intervention Records are maintained by AzEIP, an Early Intervention Program and/or their contractors for the purpose of providing early intervention services. Financial information is not included in the definition of “Educational Records.”

Early Intervention Services - Those services identified in IDEA, Part C, which assist families in providing learning opportunities that, facilitate their child’s successful engagement in relationships, activities, routines, and events of everyday life. Services are provided in the context of the family’s typical routines and activities so that information is meaningful and directly relevant to supporting the child to fully participate in his or her environment.

Family Educational Rights and Privacy Act (FERPA) – The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of early intervention records, including access and disclosure of personally identifiable information, and parents’ right to review, copy and/or request amendments of their child’s record.

Individualized Family Service Plan (IFSP) - a written plan developed by your family and the early intervention professionals involved with your family. The IFSP (a) is based on the evaluation and assessment, (b) includes parental consent, (c) is implemented as soon as possible once parental consent for early intervention services in the IFSP is obtained, and (d) is developed in accordance with IDEA, Part C, and its implementing regulations at 34 C.F.R. §§ 303.342, 303.343 and 303.345.

Individuals with Disabilities Education Act (IDEA) – Federal statute (Public Law 108-446) that governs states’ provision of early intervention and special education services to children with developmental delays or disabilities, ages birth through twenty-one. IDEA has four “parts.” Part C of IDEA defines early intervention services.

Native language - when used with respect to an individual who has limited English proficiency or LEP means:

- a. the language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in (b) below;
- b. for evaluations and assessments, the language normally used by the child, if determined developmentally appropriate by qualified personnel conducting the evaluation or assessment.

Native language when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, Braille, or oral communication).

Parent is defined as:

- a. a biological or adoptive parent of a child;
- b. a foster parent;
- c. guardian generally authorized to act as the child's parent, or authorized to make early intervention, educational, health, or developmental decisions for the child (but not the State if the child is a ward of the State);
- d. a person acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or a person who is legally responsible for the child's welfare; or
- e. a surrogate parent who has been appropriately appointed.

Personally Identifiable Information - information includes but is not limited to:

- a. the name of the child, the child's parent or other family member;
- b. the address of the child or family;
- c. a personal identifier, such as the child's or parent's social security number; and/or
- d. a list of personal characteristics or other information, which would make it possible to identify the child with reasonable certainty.

Service/Support Coordinator - a person who works with your family to help coordinate the evaluation, the IFSP, and early intervention services, as well as other community resources for your child and family.

Team – the early intervention professionals involved with your family, at a given point in the early intervention process. If your child has recently been referred, the team may be the service coordinator and other early intervention professionals involved with developmental screening and evaluation to determine your child's eligibility. If your child is eligible, your team is the IFSP team, of which you are a member.

Child and Family Rights in the Arizona Early Intervention Program

The Individuals with Disabilities Education Act (IDEA), Part C, is a federal law, which includes provisions for early intervention services for eligible infants and toddlers (birth through two years of age) with disabilities and their families.

In Arizona, the overall system of early intervention is known as the Arizona Early Intervention Program (AzEIP). AzEIP is designed to maximize family involvement and ensure parental consent in each step of the early intervention process, beginning with developmental screening and evaluation, and continuing through service delivery and transition. Families seeking or receiving early intervention services through AzEIP have special rights under federal law. Parents must be informed about these rights and procedural safeguards, so you can have an active role in the decision making regarding services provided to your family.

Your service coordinator will provide critical information about your family rights and safeguards under IDEA, Part C, including this brochure, “The Child and Family Rights in the Arizona Early Intervention Program,” which is part of the official notice of your rights and safeguards.

Within the Arizona Early Intervention Program you, as a parent, have the following rights:

- The completion of a multidisciplinary evaluation, and, if eligible, an assessment, and the development of an Individualized Family Service Plan (IFSP) by a multidisciplinary team within forty-five (45) calendar days from the date of referral to AzEIP
- If eligible, the provision of appropriate early intervention services on or before the Planned Start Date on your IFSP
- To receive service coordination and assurance of procedural safeguards at no cost
- To consent to or refuse to consent to screening, evaluations, assessments and early intervention services, including a refusal of some portion of the services documented on the IFSP
- To be invited to, and participate in, all meetings in which a decision is expected to be made regarding your family’s early intervention services, including a proposal to change the identification, evaluation or placement of your child, or the provision of early intervention services to your child or family
- To receive timely written notice before a change is proposed or refused in the identification, evaluation, or placement of your child, or in the provision of early intervention services to your child or family
- To receive early intervention services in natural environments within your family’s routines, to the maximum extent appropriate, to meet your child’s developmental needs
- Confidentiality of personally identifiable information
- To inspect, review and, upon request and if appropriate, amend records
- To exercise certain dispute resolution processes, such as filing a complaint and/or requesting mediation or a due process hearing

***Please Note:** If your child is eligible for the Department of Economic Security’s Division of Developmental Disabilities (DDD), you have additional rights and remedies available to you. Your DDD support coordinator will explain your rights and remedies under the Arizona Early Intervention Program and other programs administered by DDD for which your child is eligible.*

Description of AzEIP Rights

As noted above, you have certain rights when your child is being considered for or is receiving early intervention services. These rights are described in more detail in the following sections.

Confidentiality

The information you provide about your family to early intervention professionals from the time of referral and throughout your family’s contact with AzEIP is confidential. Personally identifiable information will only be shared with your written consent unless a subpoena, law or court order requires disclosure. The Family Educational Rights and Privacy Act (FERPA) and Individuals with Disabilities Education Act (IDEA), Part C, are the federal laws that protect the confidentiality of your family’s and child’s early intervention records.

As a parent, you have the right to:

- Confidentiality of your family’s personally identifiable information
- Written notice of, and written consent to, the exchange of your family’s information with agencies outside of the AzEIP network, consistent with federal and state law

Access to Records

Your early intervention records may at times be shared between the Early Intervention Programs, such as when a decision is being made about which program will provide services. If your child is eligible for more than one AzEIP Service Providing Agency, the information will be shared among those AzEIP Service Providing Agencies, and specifically, the Early Intervention Programs acting on their behalf, to ensure that your services are coordinated.

As a parent, you have the right to:

- Request to see anything in your child’s early intervention record
- Have a representative inspect and review your child’s early intervention record
- Have information in your child’s records explained to you
- Review your child’s records within 10 calendar days of your request to your service coordinator
- Obtain copies of the records within a reasonable time after a written request, but no later than 14 calendar days from the request
 - You may be asked to pay for the copies unless the charge would prevent you from having the copies
 - You may not be charged fees for the search and/or retrieval of the records
- Receive at no cost a copy of each evaluation, child and family assessment, and IFSP as soon as possible after each IFSP meeting, but no later than 10 calendar days after the IFSP meeting

- Have the source, access, use and policies for location, storage, retention and destruction of personally identifiable information explained to you
- Request that personally identifiable information in your child’s file be destroyed when the information is no longer needed to provide services
 - *However the State may retain a permanent record of a child’s name, date of birth, parent contact information, names of service coordinator(s) and early intervention providers, and exit data may be maintained without time limitation.*
- Request that changes be made to your child’s records if you believe information is inaccurate, misleading, or in violation of your privacy or other rights, by sending a written request to your Early Intervention Program
 - The Early Intervention Program must send a written decision on the requested record change within 14 calendar days receipt of the request.
 - If the Early Intervention Program decides not to change the record, the program will send you its decision with an explanation for denying your request, and notify you of your right to request a hearing on the decision.
 - If you disagree with the program’s decision, you may request a hearing by submitting a written request within 30 calendar days of your denial letter from the program to:

Department of Economic Security, Arizona Early Intervention Program
3839 North 3rd Street, Suite 304
Phoenix, AZ 85012
 - Upon receipt of your request for a hearing, DES/AzEIP will contact you to confirm the type of hearing you would like:
 - A formal due process hearing as further explained in the Dispute Resolution Options section (page 7) of this Child and Family Rights brochure; **OR**
 - A hearing conducted by an individual, including an official of DES/AzEIP, who does not have a direct interest in the outcome of the hearing.
 - After the hearing, a written determination as to whether the early intervention records will be amended will be provided to you. If the decision is not to change the record, you will be notified of your right to prepare a statement of disagreement, which will be placed in your child’s early intervention record.

If you have reason to believe that AzEIP has failed to comply with the above FERPA requirements, you may file a complaint containing your specific concerns:

The complaint should be sent to:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue
SW Washington, D.C. 20202-4605

Prior Written Notice

Prior Written Notice is designed to ensure that you have information about the actions being proposed or refused regarding your child's participation in AzEIP **before** the action takes place, so that you can make informed choices and decisions.

Prior Written Notice is provided to you after your team makes a decision and before that decision goes into effect. Your Early Intervention Program must give you advance written information about:

- Identification (screening)
- Evaluation (evaluation)
- Placement (eligibility determination)
- Provision of any early intervention services affecting your child and family

As a parent, you have the right to:

- Receive prior written notice before your Early Intervention Program proposes or refuses to begin or change your child's identification (screening), evaluation, placement (eligibility), or the provision of early intervention services. The notice must be sufficiently detailed to inform you about:
 - The actions being proposed or refused
 - The reasons for the proposal or refusal
 - A description of available rights under IDEA, Part C, and
 - The dispute resolution options available and the timelines for those options, as described later in this booklet

The notice must be:

- Written in language understandable to the general public and provided in your native language, unless it is clearly not feasible to do so
- In the native language or, if the way you communicate is not a written language, the service coordinator will take steps to ensure that:
 - The notice is translated orally or by other means to you in your native language, or in the way you communicate
 - There is documentation that this requirement has been met, and

- If you have a visual or hearing impairment, the mode of communication must be what is normally used by you (such as sign language, Braille, or oral communication)

Parent Consent and Ability to Decline Services

The Early Intervention Program needs your permission to take specific actions that affect your child. You will be asked to give your consent in writing before your Early Intervention Program conducts:

- A screening to determine whether your child is suspected of having a developmental delay
- An evaluation
- A child assessment, and/or
- Provision of early intervention services

If you choose not to give consent, your child will not receive the service for which consent is not provided. Your service coordinator will explain what action is being proposed, the purpose of the proposal or refusal, and the results of providing or not providing consent.

- Only one parent with legal rights needs to provide consent. If both parents have legal rights and disagree, the parents are to work together to try to reach an agreement. If that is not possible, the Early Intervention Program may not proceed until a Court or other legal entity decides which parent has the authority to make decisions
- Only a parent who has legal rights to consent to early intervention decisions may consent. In general, this will be the biological or adoptive parents of the child. However, special circumstances may exist when there is a Custody Order or when Child Protective Services is involved, and a relative, guardian, or surrogate parent may act as the parent

Parental consent is also required before the Early Intervention Program:

- Uses your health insurance (private or public) as described more fully in *A Family's Guide to Funding Early Intervention Services in Arizona*, and
- Obtains and/or discloses your records and personally identifiable information

As a parent, you have the right to:

- Provide, decline, or withdraw written consent before specific activities, such as a screening, an evaluation, child assessment, or the provision of early intervention services are started, changed, or ended
- Provide, decline, or withdraw written consent to one or more early intervention services and/or the frequency of service(s) without impacting other services. The service(s) you consent to will be provided
 - If you decline consent to a service on your IFSP, you may later consent
- Decline a service after first accepting it, without jeopardizing other early intervention services

- If you decline all early intervention services, you may refer your child in the future, until your child is 2 years and 10 ½ months of age; eligibility would need to be re-determined

Dispute Resolution Options

If you and the early intervention team do not agree with the identification (screening), evaluation, placement (eligibility), or the provision of early intervention services, or if you have other complaints about your experience with the program, there are procedures for resolving your concerns quickly.

- **Informal Dispute Resolution**

- If early intervention activities do not occur in the timeframe or the manner in which you expect, we encourage you to contact your service coordinator and he or she can answer your questions, help communicate with other early intervention professionals, and/or, if needed, bring your IFSP team together to discuss your concerns
- For example, if you've submitted a referral to AzEIP, but an eligibility decision has not been made, and you have concerns or feel the early intervention activities are not occurring in the timeframe or manner in which you expect, we encourage you to contact your service coordinator or his/her supervisor to seek assistance addressing your concerns and/or answering any outstanding questions you may have. Additionally, you may contact the DES/AzEIP office for informal help with your concerns

- **Formal Dispute Resolution**

- Although we encourage you to work with your service coordinator and/or early intervention team members, there are instances when you may want to (1) request mediation, (2) request a due process hearing to resolve the disagreement, and/or (3) file a written complaint. While your request is being reviewed, investigated, or processed, and unless you and the participating Early Intervention Program agree, your child and family will continue to receive early intervention services identified on the IFSP, for which written consent was provided

You may submit a written request for mediation and/or a due process hearing, or file a complaint with the:

Department of Economic Security, Arizona Early Intervention Program
3839 North 3rd Street, Suite 304
Phoenix, AZ 85012

Phone: 602-532-9960 (Phoenix Metro Area), or Toll Free 1-888-439-5609

Or

You may visit the AzEIP website: <https://www.azdes.gov/azeip/> for a Complaint Request form

As a parent, you have the right to:

- Be informed of your right to request mediation, a due process hearing, and/or file a complaint under specific circumstances
- Request a mediation to resolve a dispute concerning any matter under IDEA, Part C
- Request a due process hearing if you disagree with an Early Intervention Program's proposal or refusal to initiate or change the identification (screening), evaluation, placement (eligibility), or the provision of early intervention services (e.g., IFSP services) under IDEA, Part C
- File a complaint if you believe there has been a violation of IDEA, Part C
- File a complaint if a due process decision is not implemented

Mediation

Mediation is a voluntary process and may only be used when both parties to the dispute agree to do so. You may ask for mediation when you disagree with your child's identification (screening), evaluation, placement (eligibility), or the provision of early intervention services (IFSP services).

With the help of a mediator, you and the early intervention professionals who work with your family have an opportunity to talk about the problem. A mediator is a qualified and impartial person who is trained in mediation techniques and is knowledgeable in the law related to early intervention. The State is responsible for the cost of the mediation process, including the cost of the mediation.

As a parent, you have the right to request or refuse to participate in mediation. If mediation is agreed upon by both parties, you have the right to:

- Require that the mediation conference is scheduled in a timely manner and held in a location that is convenient for you and others who will attend
- Have all personally identifiable information maintained in a confidential manner
- Receive a written signed (by you and a representative of the Early Intervention Program) mediation agreement that details the results of the mediation conference
- Have mediation discussions kept confidential and not used as evidence in any subsequent due process or civil proceedings, unless a party seeks to enforce the agreement

Due Process Hearing

A due process hearing is a formal legal procedure. Parents may request a due process hearing to resolve disagreements related to the Early Intervention Program's proposal or refusal to initiate or change the identification (screening), evaluation, placement (eligibility), or the provision of appropriate early intervention services (such as IFSP services).

At the hearing, a knowledgeable and impartial person hears your complaint and decides how to best resolve it. The due process hearing must be completed, and a written decision issued, within 30 calendar days of the date DES/AzEIP receives your signed, written request. The due process hearing officer may grant an extension beyond the 30 day timeline at the request of either party.

During the due process timeframe, your child will continue to receive the early intervention

services identified on the IFSP that he or she is currently receiving, unless you and your IFSP team agree to a change. If your disagreement involves a new service that has not yet started, the service will not start until the hearing decision is made. Your child and family will receive the services identified on the IFSP that are not in dispute.

As a parent, you have the right to:

- Require that the proceeding is carried out at a time and place that is reasonably convenient to you
- Have all personally identifiable information maintained in a confidential manner
- Receive services identified on the IFSP that are currently being provided, unless otherwise agreed, and if the complaint involves a request for a new service(s), your family will receive the services that are not in dispute
- Bring a civil action in state or federal court following completion of the proceeding if you disagree with the results

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

- Be accompanied and advised by an attorney and/or individual(s) with special knowledge or training with respect to early intervention services for eligible children, at your own expense
- Request the hearing officer grant an extension beyond the 30 calendar day period
- Present evidence, and confront, cross-examine, and compel the attendance of witnesses
- Prohibit the introduction of any evidence at the proceeding that has not been disclosed to you at least five business days before the proceeding begins
- Obtain a written or electronic verbatim transcription of the proceeding at no cost
- Receive a written copy of the findings of facts and decision within 30 calendar days from the date the request for due process is filed, at no cost

Complaints

Any individual or organization may file a written, signed complaint alleging a violation of the requirements of IDEA, Part C, and/or its regulations by DES/AZEIP, an Early Intervention Program or early intervention provider, and the facts on which the complaint is based. The complaint must be filed within one year of the date the alleged violation occurred or, if the complaint is filed later than one year after the alleged violation(s), it must assert a continuing violation(s) or request reimbursement or corrective action for a violation within the past three years.

As a parent you have the right to:

- File a formal State Complaint and use the informal complaint resolution process or mediation
- File a request for a due process hearing at the same time
- Receive assistance from your service coordinator to file a complaint

Any individual or organization who files a Complaint has the right to:

- Receive a final written decision within 60 calendar days of the date DES/AzEIP receives the complaint
- Receive an extension to the 60 calendar day timeline if:
 - An exceptional circumstance exists with respect to the complaint
 - There is an agreement amongst all parties involved in the complaint to engage in mediation

Resources

If you have questions or need assistance in understanding your rights, please contact your family's service/support coordinator. Other sources of assistance are:

AzEIP Family Technical Assistance & Monitoring Specialist Northern Arizona University/Institute of Human Development

Maria Bravo Phone 520-638-2578

Fax 520-748-8765

Email: maria.bravo@nau.edu

Department of Economic Security/Arizona Early Intervention Program

3839 North. 3rd Street, Suite 304

Phoenix, AZ 85012

602-532-9960; 1-888-439-5609

Email: ALLAZEIP2@azdes.gov

Website: www.azdes.gov/azeip

Arizona Center for Disability Law

5025 E. Washington Street, Suite 202

Phoenix, AZ 85034

Phone: (602) 274-6287 (voice or TTY); (800) 927-2260 (toll free)

Fax: (602) 274-6779

Email: center@azdisabilitylaw.org

Website: <http://www.acdl.com/default.htm>

Raising Special Kids

5025 East Washington Street, Suite 204

Phoenix, AZ 85034

602-242-4366; 800-237-3007

Email: info@raisingspecialkids.org

Website: www.raisingspecialkids.org

IDEA, Part C, Electronic Code of Federal Regulations (e-CFR)

<http://ecfr.gpoaccess.gov/cgi/t/text/text->

[idx?c=ecfr&sid=63e053a60a61825b440a40d3851a15d6&rgn=div5&view=text&node=34:2.1.1.1.2&idno=34](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=63e053a60a61825b440a40d3851a15d6&rgn=div5&view=text&node=34:2.1.1.1.2&idno=34)

Child and Family Rights in the Arizona Early Intervention Program (AzEIP)

Parent Signature Sheet

I have received a copy of the Child and Family Rights in the Arizona Early Intervention Program (AzEIP). The contents of the brochure have been fully explained to me and I understand my rights as they have been explained.

_____ (please initial) I understand that this signature page will be kept in my child's file.	
Parent Signature _____	Date _____
Parent Signature _____	Date _____
Parent Signature _____	Date _____