



# Early Steps

Part C of the Individuals With Disabilities  
Education Act (IDEA) System in Florida

*An Overview for Part B Hearing Officers:  
Module 3*





# Purpose and Disclaimer

## Purpose:

- Orient hearing officers who are familiar with Part B of the Individuals with Disabilities Education Act (IDEA) with the Part C requirements.
- Provide a collection of resources on Part C requirements.

## Disclaimer:

- This Module is a technical assistance product intended for discussion purposes only and does not constitute legal advice nor is it intended to interpret law or regulation.



# Outcomes of Modules

- Develop familiarity with Part C/Early Steps requirements, processes, and procedures
- Recognize key differences between Parts B & C
- Be knowledgeable about state-specific information relating to Early Steps
- Know where to locate Part C resources



# Module 3: Overview

- Summarize Part C of IDEA/Early Steps Procedural Safeguards/Family Rights:
  - Records/Confidentiality and Release of Information
  - Prior Written Notice/Native Language
  - Parental Consent
  - Surrogate Parents
  - Mediation
  - Complaint Procedures
  - Due Process Hearing



# Records/ Confidentiality

- Early Steps must ensure:
  - parents of a child referred are afforded the right to confidentiality of personally identifiable information (PII), including the right to written notice of, and written consent to, the exchange of PII among agencies 34 CFR §303.401(a)
  - protection of confidentiality of any personally identifiable data, information, and records collected or maintained 34 CFR §303.401(b) and the Family Educational Rights and Privacy Act (FERPA) 34 CFR Part 99



# Records/ Confidentiality

- Early Steps must disclose to the Florida Department of Education and the Local School District:
  - A child's name;
  - A child's date of birth; and
  - Parent contact information (names, addresses, and phone numbers) for the purpose of identifying all children potentially eligible for the school system unless the parents opt out 34 CFR §303.401(d)



# Records/ Confidentiality

- Early Steps must ensure:
  - parents of a child referred are afforded the opportunity to inspect and review all records about the child and the child’s family that are collected, maintained, or used including evaluations/assessments, screenings, eligibility determinations, development and implementation of IFSPs, provision of services, individual complaints involving the child, or any part of the child’s Early Steps record. 34 CFR §303.401(b)



# Records/ Confidentiality

- Early Steps:
  - may charge a fee for copies of the record only if it does not prevent the family from inspecting and reviewing the record.
  - may not charge a fee for copies of each evaluation, assessment, IFSP, or to search for or collect information.
  - will respond to reasonable requests to explain and interpret a child's record. 34 CFR §303.401(b)(2), 34 CFR §303.405(a), 34 CFR §303.405(b), 34 CFR §99.10





# Records/ Confidentiality

- Families may submit a written request to change something in the record if they feel a statement is wrong or misleading.
- Early Steps will either change the statement in a reasonable period of time or formally refuse to do so.
- Families will be informed in writing of their right to dispute the decision to change the statement in the record (due process hearing). 34 CFR §303.410 and 34 CFR §99.20



# Prior Written Notice

- Prior Written Notice must be provided to families before Early Steps proposes, or refuses, to initiate or change:
  - the identification;
  - evaluation; or
  - placement of the child; or
  - the provision of services to a child and family 34 CFR §303.421(a)



# Prior Written Notice

- The Prior Written Notice must be in sufficient detail to inform parents about:
  - the action that is being proposed or refused;
  - the reasons for taking the action;
  - all procedural safeguards that are available under Early Steps including complaint procedures and timelines 34 CFR §303.421(b)



# Prior Written Notice



## PRIOR WRITTEN NOTICE UNDER EARLY STEPS, PART C OF THE INDIVIDUAL WITH DISABILITIES ACT (IDEA)

Dear:   
(Parent/Guardian)

RE:   
(Child's Name)

The Local Early Steps is required to notify you in writing, within a reasonable time, before taking actions regarding your child's eligibility, early intervention services or termination. This is called **Prior Written Notice**. If you do not agree with the actions in this notice, there are informal ways of sharing your concerns with your team and Early Steps. If informal steps do not work to satisfy your concerns or you believe that a violation of Part C has occurred, you may file a written, signed complaint with the Early Steps State Office Part C Coordinator at the following address:

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 following action(s) have been recommended:

- Description of the action that the Local Early Steps proposes or refuses to take:

- Effective date of the action:

- The reasons for taking the action:

The *Summary of Family Rights and Procedural Safeguards Within Early Steps* is attached. If you have questions or concerns about the action in this Prior Written Notice, please contact your Service Coordinator.

\_\_\_\_\_  
(Service Coordinator)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Phone)

\_\_\_\_\_  
(Email)

If you have questions concerning your rights and procedural safeguards, contact your Family Resource Specialist or the **Central Directory at: 1-800-654-4440**.

\_\_\_\_\_  
(Family Resource Specialist)

\_\_\_\_\_  
(Phone)

\_\_\_\_\_  
(Email)



# Native Language

- The Prior Written Notice must be written in understandable language and provided in the family's native language, unless it is clearly not feasible to do so. 34 CFR §303.421(c)



# Parental Consent

- Consent means:
  - the parent has been fully informed of all the information relevant to the activity for which consent is being sought;
  - the parent understand and agrees in writing; and
  - the parent understands that consent is voluntary and may be revoked at any time 34 CFR §303.7



# Parental Consent

- Early Steps must get consent before:
  - administering screening procedures used to determine whether a child is suspected of having a disability;
  - all evaluations and assessments;
  - services are provided;
  - public or private insurance is used; and
  - disclosure of personally identifiable information  
34 CFR §303.420(a)



# Parental Consent

- If a parent does not provide consent, Early Steps must make reasonable efforts to ensure that the parent:
  - is fully aware of the nature of the evaluation and assessment or services that would be available
  - understands the child will not be able to receive the evaluation, assessment, and/or services unless consent is given 34 CFR §303.420(b)





# Surrogate Parents

- A surrogate parent will be identified to ensure the rights of a child are protected when:
  - No parent can be identified;
  - The parents whereabouts cannot be located, after reasonable efforts; or
  - The child is a ward of the state.
- A surrogate parent has the same rights as “parents” in Early Steps. 34 CFR §303.422



# Dispute Resolution Options

- Early Steps has written procedures for the timely resolution of disputes through:
  - Mediation
  - State Complaint Procedures
  - Due Process Hearing Procedures

34 CFR §303.430



# Mediation

- Mediation is an informal option to resolve disputes regarding any matter concerning a family's involvement with Early Steps.
- It is voluntary on the part of all parties.
- An impartial trained mediator (qualified and knowledgeable with Early Steps) helps the parties reach a mutually satisfactory agreement. 34 CFR §303.431



# Mediation

- Mediation:
    - must occur within 21 calendar days of the receipt of a signed request;
    - is free; and
    - does not interfere with the right to a due process hearing;
  - Any agreements are confidential and in writing.
  - An impartial trained mediator (qualified and knowledgeable with Early Steps) helps the parties reach a mutually satisfactory agreement.
- 34 CFR §303.431



# Complaints

- A complaint is:
  - an allegation that Early Steps has violated a Part C of IDEA requirement;
  - must be written and signed;
  - conducted via independent investigation within 60 days of receipt of complaint;
- Results in a written decision that includes findings of facts, conclusions, and reasons for the final decision. 34 CFR §303.434



# Due Process Hearing

- Parents, providers, and Local Early Steps 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;
  - placement of a child;
  - provision of appropriate services; or
  - challenge information in the record they feel is inaccurate, misleading, or a violation of privacy.

34 CFR §303.440



# Due Process Hearing

- The Florida Department of Health/Early Steps State Office has an agreement with the Florida Department of Management Services, Division of Administrative Hearings to conduct due process hearings.
- Once a due process hearing request is received by the Early Steps State Office, it will be forwarded to DOAH who will determine the sufficiency of the request.



# Due Process Hearing

- To be determined sufficient, a due process request must include all of the following:
  - Name of the child;
  - Address of the residence of the child (or available contact information in the case of a homeless child);
  - The name of the early intervention provider serving the child;
  - A description of the nature of the problem related to the proposed or refused initiation or change, including the facts related to the problem; and
  - A proposed resolution of the problem to the extent known and available to the party at the time.

34 CFR §303.441





# Due Process Hearing

- The hearing officer will review the due process request.
- When the request meets the requirements, the hearing officer will determine it is sufficient unless either party files a sufficiency challenge.
- Within 15 days of the due process request, either party may file a written claim with the hearing officer that challenges the sufficiency of the request.
- Within 5 days of receipt of the claim, the hearing officer will issue a ruling on the sufficiency of the hearing request. 34 CFR §303.441



# Due Process Hearing

- The Early Steps State Office (ESSO) will convene a resolution meeting with the parent and other team members for the opportunity to resolve the dispute, unless the parents and ESSO agree to waive the meeting or agree to mediation.
- The resolution meeting will be conducted within 15 days of a due process hearing request and conclude by day 30.

34 CFR §303.442(a)



# Due Process Hearing

- A party may amend a due process request if:
  - the other party consents in writing to the amendment and is given the opportunity to resolve the issues via a resolution meeting; or
  - the hearing officer grants permission no later than 5 days before the due process hearing is scheduled.

34 CFR §303.441(d)



# Due Process Hearing

- During a due process hearing, a parent has the right to:
  - be accompanied and advised by counsel and/or individuals with special knowledge of early intervention services for infants and toddlers;
  - present evidence, cross-examine, and compel the attendance of witnesses;
  - prohibit the introduction of evidence that has not been disclosed to them at least 5 business days before the hearing;
  - obtain one written or electronic verbatim transcript;
  - obtain one written or electronic findings of fact; and
  - open the hearing to the public.

34 CFR §303.441(d)



# Due Process Hearing

- Due process hearings:
  - must be at a time and place that is reasonably convenient to the parents and child involved;
  - may only allow evidence raised in the hearing request unless the other party agrees;
  - must be completed and mailed to each party no later than 45 days after the end of the 30 day time period for a resolution meeting.  
34 CFR §303.443(d), 34 CFR §303.447(d), 34 CFR §303.440(c)



# Due Process Hearing

- A hearing officer may find that a child was not appropriately identified, evaluated, placed, or provided early intervention services only if it:
  - impeded the child’s right to identification, evaluation, and placement or provision of services for the child and family;
  - significantly impeded the parent’s opportunity to participate in the decision-making process regarding identification, evaluation, and placement or provision of services for the child and family; or
  - caused a deprivation of developmental benefit.

34 CFR §303.445(a)



# Summary of Family Rights

Summary of Family Rights found at:

[http://www.floridahealth.gov/AlternateSites/CMS-Kids/home/resources/es\\_policy/es\\_Policy.html](http://www.floridahealth.gov/AlternateSites/CMS-Kids/home/resources/es_policy/es_Policy.html)



# Regulations

- Federal Part B: 34 CFR Part 300

<http://idea.ed.gov/download/finalregulations.html>

- Federal Part C: 34 CFR Part 303

<http://idea.ed.gov/part-c/regulations/1>





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