

KNOW YOUR RIGHTS



NH Family Centered Early Supports and Services
IDEA Part C



- This module has been developed to give you an overview of your rights while receiving Family Centered Early Supports and Services (FCESS)
- You will be given a copy of the *Know Your Rights* Booklet, a yellow booklet commonly referred to as KYR, at intake.



Know Your Rights Booklet

- This is a legal document that outlines your rights. Since it is an official document it may include terminology that is unfamiliar to you
- It is important that your Early Supports and Service (ESS) provider review these rights with you at each step of the process and that you feel comfortable asking questions



Know Your Rights

- “Safeguards”, also known as “rights”, have been determined by the Individuals with Disabilities Education Improvement Act 2004, commonly referred to as IDEA, to protect parents and their children with disabilities.
- These safeguards are designed to help you have a leadership role in determining services for your children



IDEA



- The Individual with Disabilities Education Improvement Act 2004 (IDEA) is a federal law that includes provisions for early intervention services for eligible children ages birth through 2 years.
- Part C, refers to New Hampshire's Family Centered Early Supports and Service Program (FCESS) which provides early intervention services in the state.

Timelines are One Aspect of Your Rights

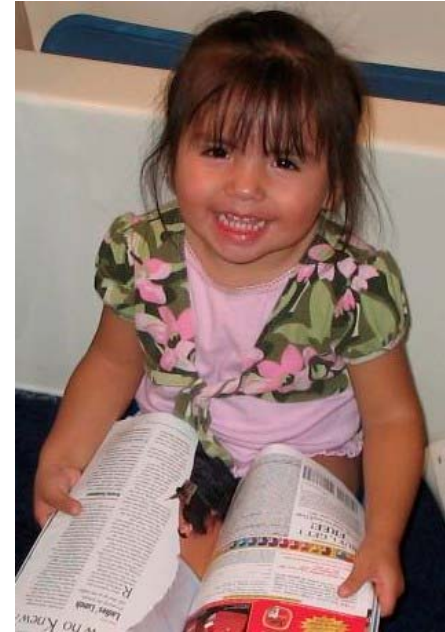
IDEA has identified specific timelines to ensure early supports and services are identified and begin as soon as possible for eligible children.





Important Timelines

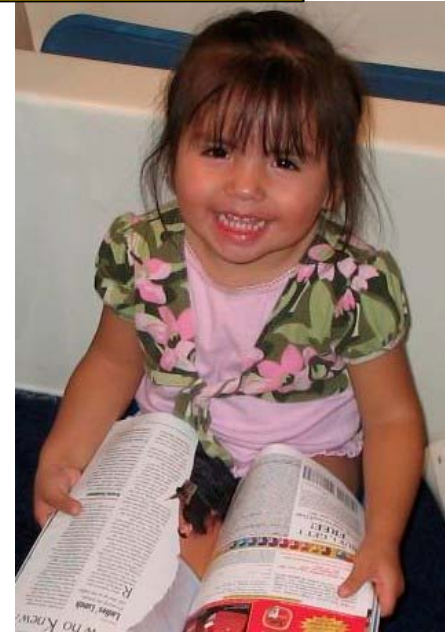
- The **multidisciplinary team** has 45 calendar days from referral to evaluate, determine eligibility and develop an Individualized Family Support Plan (IFSP) for your child.
- It is expected that services start by the projected start date in your child's IFSP
- Sometimes there are **exceptional family circumstances** in which the process will exceed the 45 days



Important

A multidisciplinary team includes the parent and two or more disciplines involved in evaluation, assessment and development of IFSP

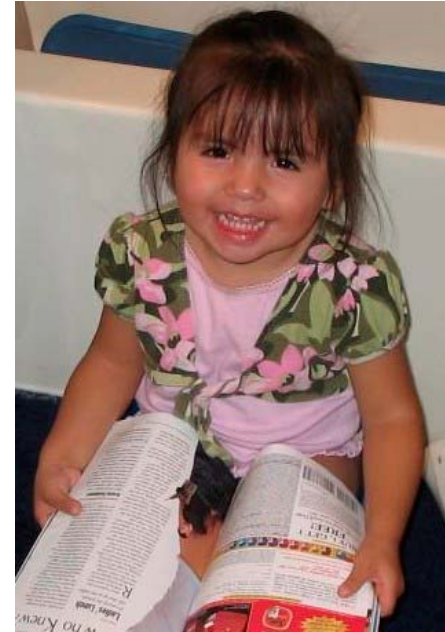
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These are circumstances beyond the family or program control that include; parent or child unavailability, severe weather or unexpected staff illness.



Important Timelines (Continued)



- Transition conferences must be held at least 90 days before your child's 3rd birthday
- If your child was found eligible to receive ESS with less than 90 days until their 3rd birthday, the transition conference must happen as soon as possible

What is Parental Consent?

Parental consent is not only giving written permission, it also means:

- You have been fully informed, in your **native language** or other mode of communication, of all information about the **activity** for which you are giving consent.
- You understand and have agreed in writing to that activity
- You understand that your consent is voluntary and that ***you may withdraw your consent at any time***



What is Parental Consent?

Parental consent is not only given in writing, it also requires

The language or mode of communication normally used by the parent

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What is Parental Consent?

Parental consent is not only giving written permission, it also means:

- You have been fully informed, in your native language or other mode of communication, of all information about the activity for which you are giving consent.

- You understand the consequences of writing to that activity.

- You understand that your consent is voluntary and that you can **withdraw your consent** at any time.

Activity refers to any change in service frequency, beginning of service, removal of service, evaluation, or change in IFSP



Parental Consent

YOU WILL NEED TO GIVE CONSENT AT
EACH STEP IN THE PROCESS

Before:

- Evaluations or assessments
- Early supports and services are provided
- Any changes are made to your child's IFSP
- Any exchange of **Personally Identifiable Information** such as to a doctor.




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Includes 1) the name of your child, your name, or the name of other family members, 2) the address of your child, 3) a personal identifier, such as your child's or your social security number or 4) a list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty

Consent

- The team (which includes you) will make some recommendations for your child's IFSP based on the evaluation and assessment results, you will be asked to give consent
- You can accept some services and refuse others



Refusing to Give Consent



- You can refuse evaluation of your child
- You can refuse a service even if you have already accepted it

•It is important that you fully understand what you are being asked to give consent to.

•If you are unsure whether or not to give consent, request more information from your ESS providers.



Written Prior Notice

- Written prior notice must be given to you before an ESS program proposes or refuses to make changes in your child's eligibility, program or services.
- The notice must provide;
 1. The activity being proposed or refused
 2. The reason it is being proposed or refused
 3. All safeguards that are available to you under the ESS program, Including how to file a complaint
- The notice must be in your native language



Records



- Each ESS program is required to keep a record of each child receiving Early Supports and Services
- You have the right to inspect and review your child's records.
- When you make a request to review records, the program has 10 calendar days to provide you with access to your child's records
- You may, at no cost, have an initial copy of your child's record. Any additional copies may be subject to a fee determined by the ESS program

Confidentiality

- ESS is responsible for having policies and procedures that comply with IDEA and FERPA on personally identifiable information
- Staff collecting personally identifiable information must receive training in these policies
- Information will be kept for 6 years in accordance with state law.
- Parents can request that after 6 years only permanent early supports and service information be kept, and all other information be destroyed



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The Family Education Right to Privacy Act (FERPA) is a federal law that governs the release of a child's records, including personal identifiable information



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Permanent early supports and service information includes; child's name, address, phone number and the dates of Early Supports and Services

Individual Child Complaints



- Sometimes parents and ESS providers disagree
- NH Family Centered Early Supports and Services have procedures in place when there is a disagreement
- If you disagree with the ESS program on identification, evaluation or the supports and services for your child or family, you have the right to seek resolution
- There are three types of resolution available; informal, mediation and impartial due process hearing

Informal Individual Child Complaints

Communicating with you ESS provider

- Communicate with your service providers, IFSP team or the ESS director about your concerns.
- Ask for a IFSP team meeting to discuss your concerns.
- Our goal is to provide you and your family with the supports and services you need.
- Most often, this is the method used to settle disagreements.





Individual Child Complaints Mediation

- Mediation is also an informal process to resolve disagreements
- Mediation will not delay an impartial due process hearing if you have requested one.
- A qualified impartial mediator will be assigned by the Bureau of Developmental Services Family Centered Early Supports and Services to help find a resolution
- Mediation is voluntary
- The decision to seek mediation must be agreed upon by the parents and the program
- Once the mediation request is received by the NH Bureau of Developmental Services, it must be completed within 30 calendar days



Mediation (Continued)

- The mediation meeting must be scheduled at a time and location that is convenient for the program and the family
- A mediation agreement must be accepted by both parties and comply with state and/or federal law
- If an agreement is reached and a due process hearing is scheduled, the hearing will be cancelled
- The ESS program is responsible for any costs associated with the mediation process

Individual Child Complaints- Impartial Due Process Hearing

An Impartial Due Process Hearing is a formal complaint procedure

1. An Impartial Due Process Hearings Officer is assigned to the complaint
2. The hearing will be scheduled at a time that is convenient for you
3. Unlike mediation, The hearing officer will make the final decision about the outcome of the complaint
4. The decision is final and the written findings are mailed to each of the parties within 30 days of the filed complaint
5. Any party not satisfied with the findings has the right to bring it to civil or federal court

Individual Child Complaints-

Impartial Due Process

An Impartial Due Process

Impartial person appointed to conduct the hearing and must understand PART C rules, listen to presentation of complaint, examine all information related to the issue, seek timely resolution of the disagreement and provide record of the proceedings, including the written decision.

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How to Request a Hearing

- A request for hearing must be sent directly to the NH Bureau of Developmental Services Family Centered Early Supports and Services
- You must include in your complaint:
 - Child's name, home address and ESS program
 - Explanation of what the disagreement is
 - What you think would solve the disagreement
 - Your signature and the date
- Please Call The NH Bureau of Development Services Early Supports and Services Director for assistance in filing a complaint at (603) 271-5034



What Happens While You Wait for Hearing?



- If your child is currently receiving Early Supports and Services, your child and family will continue to receive the appropriate supports and services
- If the disagreement involves the initial services, your child and family must begin to receive the services that are not in dispute
- If it involves on going services, you will continue to receive those not in dispute

Administrative Complaints



- Administrative Complaints are different than individual child complaints.
- Individual child complaints typically involve disagreements between the family and the ESS provider in regards to eligibility, frequency of services, type of service, etc.
- Administrative complaints are made when an individual believes the ESS program is not following IDEA law.



Administrative Complaints

- These complaints are filed, in writing, if an individual feels that a program has violated the IDEA law.
- The complaint must include a statement with the IDEA requirement that has been violated and information to support the claim.
- Complaints must be mailed to the Bureau of Developmental Services Family Centered Early Supports and Services within one year of the alleged violation
- Once received, the Bureau of Developmental Services FCESS program has 60 calendar days to investigate and issue a written decision addressing the allegations
- The Bureau of Developmental Services may conduct an on-site investigation, if determined necessary.



Knowing Your Rights

- New Hampshire Family Centered Early Supports and Services is dedicated to providing quality supports and services to your family
- Understanding your rights helps you be an informed member of your IFSP team as well as how to advocate for your child and family needs.
- Timelines, requirements and complaint procedures have been developed to help ensure that your child and family receive quality, appropriate services in a timely manner.



Knowing Your Rights is Important

- ESS providers will go over your rights with you during several phases of ESS.
- You can request clarification on any of the Know Your Rights information from your service provider(s), service coordinator or ESS program director.

