# Zarents' RIGHTS:

EARLY
START
GUIDE
for
FAMILIES



## **Publishing Information**

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## **Ordering Information**

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## Introduction

arly Start is a statewide system of early intervention services for infants and toddlers. from birth to 36 months of age, with disabilities and their families. Services are provided in a family-centered, multidisciplinary, interagency, and community-based system. California's Early Start system is governed by federal and state statutes and regulations. Parents\* have rights and access to procedural safeguards to assure that early intervention services are provided in a manner appropriate to their child's needs and to the concerns of the family. This booklet is intended for parents and other interested persons and provides information on parents' rights under Early Start.

<sup>\*</sup> See page 3 for definition of parent as used in this booklet.

tatute and regulation citations are provided in the margins of this booklet to enable the reader to refer to the specific language found in law. The federal statute governing Early Start is Part C of the Individuals with Disabilities Education Act (IDEA), Title 20, United States Code, Section 1431 et seq.

Federal regulations are found in Title 34, Code of Federal Regulations (CFR), Part 303.

The state law governing Early Start is the California Early Intervention Services Act, Government Code (GC), Section 95000 et seq. State regulations are found in Title 17, California Code of Regulations (CCR), Section 52000 through Section 52175.

If you have questions concerning your rights as a parent under Early Start, please contact your regional center or local education agency (LEA).

## Confidentiality & Access to Records

arly Start records are an important source of information about your child. The information you provide to the regional center or LEA about your child and your family is confidential. Such information will only be shared with authorized persons involved in your child's services.

## As a parent, \* you have the right to

CFR 303.402 CCR 52164 CCR 52168

- 1. access records, including the right to have you or your authorized representative examine and obtain copies of records relating to your child;
  - **2.** request that any regional center or LEA amend or remove information relating to your child from the records;

CCR 52164

**3.** receive, within five days of your request, copies of records relating to your child and/or explanations that you request;

CCR 52168

**4.** request a meeting with the director of the regional center or the superintendent of the LEA about information contained in the record; and

CFR 303.401 CFR 303.460 CCR 52160 CCR 52162 CCR 52165 CCR 52169 5. have personally identifiable information about your child maintained in a confidential manner and have its sources, access, uses, and policies for location, storage, disclosure, retention, and destruction explained to you per the Family Education Rights and Privacy Act.

CFR 303.19 CCR 52000(b)(36)

- \* In Early Start, parent means:
  - (A) A natural or adoptive parent of a child;
  - (B) A guardian;
  - (C) A person acting in place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare);
  - (D) A surrogate parent who has been assigned in accordance with CFR 303.406 and CCR 52175; or
  - (E) A foster parent, when:
    - 1. The foster parent has no interest that would conflict with the interests of the child,
    - The natural parents' authority to make the decisions required of parents has been limited or relinquished under State law, and
    - 3. The foster parent is willing to make the decisions required of parents.

## Evaluation & Assessment

CFR 303.322 CFR 303.406 CCR 52082 California includes a timely, comprehensive, multidisciplinary evaluation and assessment of every child under age three years who is suspected to be in need of early intervention services. If no parent or guardian is available or the child is a ward of the court, a knowledgeable surrogate parent who has no conflicting interest will be appointed by a regional center or LEA under Title 17, Section 52175. Procedural safeguards ensure that

he determination of eligibility for Early Start in

CFR 303.403 GC 95020(c) CCR 52160 CCR 52161

As a parent, you have the right to

CFR 303.401 CFR 303.404 CCR 52040(d) 1. be fully informed of your rights under Early Start;

families are provided their rights under the law.

CFR 303.405 CCR 52162 **2.** refer your child for evaluation and assessment, provide information throughout the process, make decisions, and give informed consent for your child's early intervention services;

CFR 303.404 Note 2 CCR 52172(b) • 3. understand and provide voluntary written permission or refusal before the initial evaluation and assessments are administered;

CFR 303.322 GC 95020 CCR 52082 CCR 52084 Consent for evaluation and assessment is required only at the time of initial evaluation and assessment to receive services. (If consent is refused, the regional center or LEA may take steps to obtain an initial evaluation without parental consent.)

CFR 303.321 CFR 303.322 CCR 52086 participate in the initial evaluation and assessment process including eligibility determination;

GC 95020(b)

**5.** receive a completed initial evaluation and assessment within 45 days after the referral of your child to a regional center or an LEA;

C 93020(b)

**6.** participate in a meeting to share the results of evaluations and assessments; and

CFR 303.343 GC 95014(a) GC 95020(b) CCR 52082(a) CCR 52104 7. participate in all decisions regarding eligibility and services.

The Individuals with	Disabilities	Education Act	(IDEA)
requires the following:			

CFR 303.323 CCR 52084 1. Evaluation and assessment materials are administered in the language of the parents' choice or other mode of communication, unless it is clearly not feasible to do so.

CFR 303.323 CCR 52082

**2.** Evaluation and assessment procedures and materials are selected and administered so as not to be racially or culturally discriminatory.

CFR 303.322 CCR 52082 **3.** Evaluation and assessment materials are appropriate to assess the specific areas of developmental need and are used for the specific purposes for which they were designed.

CFR 303.322 CCR 52082 CCR 52084

**4.** Evaluations and assessments are conducted by qualified personnel.

CFR 303.322 CCR 52082 **5.** Evaluations and assessments administered to children with known vision, hearing, orthopedic, or communication impairments are selected to accurately reflect the child's developmental level.

CFR 303.322 CCR 52082 CCR 52084 CCR 52102 **6.** Evaluations and assessments are administered in the five developmental areas, which include physical development (motor abilities, vision, hearing, and health status); communication development; cognitive development; adaptive development; and social or emotional development. Assessments and evaluations are ongoing while your child is in Early Start.

CCR 52082(i) CCR 52084(e) **7.** Evaluations and assessments shall be conducted in natural environments whenever possible.

CFR 303.322 CCR 52082 **8.** Pertinent records relating to your child's health status and medical history are reviewed.

CFR 303.323 CCR 52082

**9.** No single procedure is used as the sole criterion for determining your child's eligibility for early intervention services.

CFR 303.322 CCR 52084 CCR 52106 **10.** Interviews to identify family resources, priorities, and concerns regarding the development of your child and your family's needs are voluntary.

## Individualized Family Service Plan

CFR 303.340 CFR 303.342 GC 95020(b) CCR 52100 CCR 52102 n Individualized Family Service Plan (IFSP) is a written plan for providing early intervention services to an eligible child and the child's family. For an infant or toddler who has been evaluated for the first time, a meeting must take place within 45 days of the referral to the regional center or LEA to share the results of the evaluation, to determine eligibility, and, for children who are eligible, to develop the initial IFSP. Evaluation results and determination of eligibility may be shared with families prior to the first IFSP meeting.

CFR 303.342 CCR 52102

A periodic review of your child's IFSP must take place at least every six months. A review may occur more frequently if there are any changes to the IFSP or if you request a periodic review with the regional center or LEA. The IFSP must also be reviewed annually to evaluate how your child is doing and to make any needed changes to the IFSP.

During the development and implementation of an IFSP, you have the right as the parent to

CFR 303.343 CCR 52104

1. attend the IFSP meetings and participate in developing the IFSP;

CFR 303.343 CCR 52104 CFR 303.343 • 2. invite other family members to attend IFSP meetings;

CCR 52104

**3.** invite an advocate or persons other than family members to attend and participate in the IFSP meetings;

CFR 303.402 CCR 52102

**4.** have a copy of the complete IFSP;

CFR 303.342 CFR 303.403 CCR 52102 **5.** have the contents of the IFSP fully explained in the language of your choice;

CFR 303.342 CFR 303.404 CFR 303.405 CCR 52102

**6.** give consent to services listed on the IFSP. If you do not give consent to a service, it will not be provided. You may withdraw consent after initially accepting or receiving a service;

CFR 303.12 CFR 303.344 CCR 52106

**7.** have services provided in the natural environment or an explanation of why that is not possible;

CFR 303.460 CCR 52112 CCR 52169

8. exchange information about your child among other agencies;

CFR 303.403 CCR 52161 9. be notified in writing before any agency or service provider proposes or refuses to initiate or change your child's identification, evaluation, assessment, placement, or the provision of appropriate early intervention services to your child or your family.

CFR 303.400 to 303.460 CCR 52161

- The notice must contain:
- the action that is proposed or refused;
- reasons for the action; and
- all available procedural safeguards.

The notice must be presented in the language of your choice, unless it is clearly not feasible to do so, and may be translated so that you understand its contents.

## Mediation Conferences, Due Process

CFR 303.422 CCR 52173 CCR 52174 n Early Start, parents have rights and protections to assure that early intervention services are provided to their children in a manner appropriate to their needs, in consideration of family concerns, and in compliance with applicable federal and State statutes and regulations. The following procedures are only for children under the age of three years.

## As a parent, you have the right to

CFR 303.419 CFR 303.420 CCR 52172 1. request a due process hearing any time a regional center or LEA proposes or refuses to initiate or change the identification, evaluation, assessment, placement, and/or provision of appropriate early intervention service(s);

CFR 303.510 CCR 52170 **2.** be informed of your right to file a complaint or a request for mediation and/or due process;

CFR 303.511 CCR 52170 **3.** file a complaint if you believe there has been a violation of any federal or state statute or regulation governing early intervention services under Early Start;

CCR 52171(e)

4. request a mediation conference immediately prior to a complaint or due process hearing request or any time during the complaint/due process hearing processes to resolve a dispute related to any matter concerning a federal or state statute governing early intervention services under Early Start including eligibility and services; and

CCR 52170(b)

5. file a complaint if a due process decision fails to be implemented.

## **Mediation Conference**

CFR 303.419 CCR 52173 Mediation is a voluntary, non-binding, confidential process in which a neutral mediator facilitates settlement negotiations between you and another party. Voluntary mediation conferences are an informal way to resolve disagreements with early intervention service agencies or to address alleged violations of any state and federal statutes or regulations.

## Hearings, and State Complaints

services.

CFR 303.419 CCR 52173	igapha As a parent, you have the right to
CCR 52173	1. file a request for mediation as the initial option for resolving a dispute or any time during the due process hearing or complaint process;
CCR 52173	• 2. request a due process hearing or file a state complaint if the disagreement is not resolved;
CFR 303.419 CCR 52173 CFR 303.419 CCR 52173(c) CFR 303.419 CCR 52173	• 3. refuse to participate in mediation;
	• 4. have an impartial person facilitate the mediation conference;
	<ul><li>5. require that the mediation conference is carried out at a time and in a location that is reasonably convenient for you;</li></ul>
CFR 303.419(b) CCR 52173(j)	<b>6.</b> have all personally identifiable information maintained in a confidential manner; and
CFR 303.419 CCR 52173(i)	• 7. receive a written document outlining the agreements reached as a result of the mediation conference.
	Requests for mediation are filed with the:
CCR 52173	<ul> <li>Office of Administrative Hearings</li> <li>Attention: Early Start Intervention Section</li> <li>2349 Gateway Oaks Drive, Suite 200</li> <li>Sacramento, CA 95833</li> <li>(916) 263-0654 Fax: (916) 376-6318</li> </ul>
	Due Process Hearings
CFR 303.420 CCR 52172	All parents are encouraged to resolve differences at the lowest administrative level possible. When differences between you and a regional center or LEA cannot be resolved, due process hearings are available. You, as a parent, are encouraged to seek assistance from your child's service coordinator, the regional center, or the Special Education Local Plan Area (SELPA) office.
CCR 52172(a)	<ul> <li>Circumstances leading to a due process hearing may be disagreements related</li> <li>to a proposal or refusal for identification, evaluation, assessment, placement, or</li> </ul>

## Mediation Conferences, Due Process

## CCR 52172(g) ◆

Your child will continue to receive the early intervention services identified on the IFSP that he/she is currently receiving unless you and the regional center or LEA otherwise agree to a change. If your disagreement involves a new service that has not started, your child will receive all services identified on the IFSP that are not in dispute. This does not include your regional center providing early intervention services after your child has reached 36 months of age, as federal law and regulations do not allow states to pay for early intervention services under any circumstances once your child transitions from Early Start. The program or programs your child enrolls in subsequent to transition from Early Start is responsible for providing you and your child services for which he or she is eligible to receive.

Requests for a due process hearing are filed at the following address:\*

### CCR 52172

Office of Administrative Hearings Attention: Early Start Intervention Section 2349 Gateway Oaks Drive, Suite 200 Sacramento, CA 95833 (916) 263-0654 Fax: (916) 376-6318

\*The due process hearing request form may be obtained from your service coordinator, the regional center, the LEA, and the Department of Developmental Services (DDS) website: www.dds.ca.gov/Forms/pdf/DS1802.pdf

### CCR 52172(e)

The due process hearing must be completed within 30 days of receipt of the request by the Office of Administrative Hearings. The timely issuance of the written decision may not be delayed by any concurrent voluntary local efforts to resolve the matter. The decision will be final unless appealed.

### CFR 303.421(a) CCR 52172

- As a parent, you have the right to:
  - 1. have the due process hearing conducted by an impartial person, not employed by an agency serving your child, who is knowledgeable in the laws

## Hearings, and State Complaints

	relating to early intervention and the service needs of infants, toddlers, and families;
CFR 303.423(a) CCR 52172(f)	<ul><li>2. require that the proceeding is carried out at a time and in a location that is reasonably convenient for you;</li></ul>
CCR 52172	• 3. have all personally identifiable information maintained in a confidential manner;
CFR 303.424 CCR 52172	◆ 4. bring a civil action against the other party following completion of the proceeding if you disagree with the results;
CFR 303.425(a) CCR 52172(g) CFR 303.460(a) CCR 52173(j)	• 5. receive services identified on the IFSP that are not in dispute; and
	• 6. have mediation discussions kept confidential and not used as evidence in any subsequent due process or civil proceedings.
	• During a due process hearing, you also have the right to:
CFR 303.422(b) CCR 52174(d)	• 1. be accompanied and advised by counsel and/or by individuals with special knowledge with respect to early intervention services for children under age three years;
CFR 303.422(b) CCR 52174(d)	<ul><li>present evidence, confront, cross-examine, and compel the attendance of witnesses;</li></ul>
CFR 303.422(b) CCR 52174(d)	<ul><li>3. prohibit the introduction of any evidence at the proceeding that has not been disclosed to you at least five days before the proceeding begins;</li></ul>
CFR 303.422(b) CCR 52174(d)	<ul> <li>4. obtain a written or electronic verbatim transcription of the proceeding;</li> <li>and</li> </ul>
CFR 303.422(b) CCR 52174(d)	• 5. obtain written findings of facts and decisions within 30 days from the date the request is filed.
	State Complaints
CFR 303.510 CCR 52170(a)	Any individual or organization may file a signed, written complaint against DDS, the California Department of Education (CDE), or any regional center, LEA, or private service provider that receives Part C funds alleging violation of any state or federal early intervention statute or regulation. However, even though DDS is mandated to investigate any complaint it receives, state law

## Mediation Conferences, Due Process

does not allow disclosure of the Early Start recipient's personally identifiable information without written parental consent, other than authorized employees specified by the regional center or LEA.

CFR 303.423 CCR 52170 Information or assistance in filing complaints is available from your child's service coordinator, the regional center office, or the SELPA. DDS and CDE are available for consultation regarding the filing of a complaint. Additional assistance is available from advocacy organizations such as the State Council on Developmental Disabilities or Disabilities Rights California.

CFR 303.425 CCR 52170(e) Complaints are filed directly with the

Department of Developmental Services Office of Human Rights and Advocacy Services Attention: Early Start Complaint Unit 1600 9th Street, Room 240, MS 2-15 Sacramento, CA 95814 (916) 654-1888 Fax: (916) 651-8210

## Any individual or organization who files a complaint has the right to

- CCR 52170
- **1.** receive assistance in filing the complaint from the service coordinator, regional center, and/or LEA;
- CCR 52170
- 2. not be compelled to use any other procedures under the Education Code or the Lanterman Developmental Disabilities Services Act to resolve the complaint;
- CCR 52171(a)
- **3.** submit additional information to DDS that may be helpful to the investigation;
- CCR 52171(c)
- **4.** receive a final written decision within 60 days of the date DDS receives the complaint;
- CCR 52171(a)
- **5.** receive appropriate remedies that may include monetary reimbursement or other corrective action, and assurance that services will be provided appropriately in the future if the decision of DDS includes remedies for denial of appropriate services;

## Hearings, and State Complaints

CCR 52171	•	of complaint that is not part of a due process hearing OS within 60 days of the receipt of the complaint;
CCR 52171	being raised in a c	OS that the hearing decision is binding if an issue is complaint that had previously been decided in a due volving the same parties; and
CCR 52171(e)	· · · · · · · · · · · · · · · · · · ·	nt resolved that alleges the failure of a public agency provider to implement a due process decision.
	The complaint must	
CCR 52172(a)	CDE, the regiona	contain a signed statement alleging that DDS, l center, LEA, or other service provider involved as violated a federal or State law or regulation;
CCR 52172(f)	<b>2.</b> provide the name	address, and phone number of the complainant;
CCR 52172(f)	3. contain a statemen	nt of facts upon which the violation is based;
CCR 52172(f)	<b>4.</b> include the name filed;	of the party against whom the complaint is being
CCR 52172(c)	is received by DD	S unless a longer period is reasonable because the continues for the child or other children, or
CCR 52172(c)	the complaint is r	more than three years before the date on which eceived by DDS if the complainant is requesting corrective action as remediation of the complaint;
CCR 52172(f)	*	y also include, if applicable, a description of the sen at the local level to resolve the complaint: and
CCR 52172		ne complainant elects to participate in mediation complaint investigation.



California Early Start is an interagency system of coordinated early intervention services administered by the Department of Developmental Services in collaboration with the California Department of Education.

www.dds.ca.gov/earlystart

