

KANSAS INFANT-TODDLER SERVICES CHILD AND FAMILY RIGHTS AND KS ITS COMPLAINTS PROCESS

Procedural Safeguards Notice (34 CFR 303. 421)
System of Payments Notice (34 CFR 303.520)



What families need to know about their rights according to the
Individuals with Disabilities Education Act (IDEA) under 34 CFR 303.400, Subpart E

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INTRODUCTION

The Individuals with Disabilities Education Act (IDEA) is a federal law that includes provisions for early intervention services (EIS) for eligible infants and toddlers (ages 0 – 36 months) with developmental delays or disabilities and their families. These provisions are set by Part C of IDEA and are described in federal regulations (34 CFR Part 303.400). The regulation citations are provided in this booklet so that the reader may refer to the specific language found in the law.

In Kansas, the Part C system is called Kansas Infant-Toddler Services (KS ITS). KS ITS is a program of the Kansas Department of Health and Environment (KDHE). The local programs are referred to as local tiny-k programs. The system is designed to maximize family involvement and ensure parental consent in each step of the early intervention process, beginning with referral to KS ITS and continuing through service delivery and transition out of KS ITS when your child turns three. This Child and Family Rights document is the official notice of the procedural safeguards for children and families as defined under federal Part C regulations.

Information about child and family rights and safeguards are available through local tiny-k programs, or KS ITS. Families Together, Inc. has been contracted to provide advocacy assistance to parents/families that have concerns. Families Together, Inc. is the Parent Training and Information Center for Kansas. The Parent Training and Information Center assists families whose children have disabilities to be partners in their child's services and education.

The mission of Families Together, Inc. is to Encourage, Educate and Empower families as they learn about systems and available resources and services for their sons and daughters. For help with any concerns contact:

Families Together, Inc.

Parent Training and Information Center (PTI):

Topeka 1-800-264-6343

Wichita 1-888-815-6364

Garden City 1-888-820-6364

Kansas City 1-877-499-5369

<http://www.familiestogetherinc.org/>

OVERVIEW OF PROCEDURAL SAFEGUARDS

Local tiny-k family service coordinators can suggest additional materials to help families understand their rights and safeguards under Part C. They can also suggest ways that you and other family members can be partners with the local professionals to help meet the developmental needs of your child.

In Kansas, you, as a parent, have the following family rights:

- The right to a multidisciplinary evaluation and assessment, and (if determined eligible for services) the development of an Individualized Family Service Plan (IFSP) within forty-five (45) calendar days from referral for evaluation;
- The right to receive screening, evaluation, assessment, and if eligible, IFSP development, service coordination, and procedural safeguards at public expense;
- If eligible under Part C, the right to receive appropriate early intervention services for your child and family as addressed in an IFSP;
- Early intervention services are available at no cost to families; however, if authorized by the parent, private insurance may be billed. You must be notified of intent to bill public insurances;
- The IFSP must tell you the specific services needed to meet the needs of your child and family to reach the outcomes (goals) identified in the IFSP;
- The right to be invited to and participate in all meetings in which a decision is expected to be made regarding a proposal to change the identification, evaluation, or placement of your child, or the provision of appropriate early intervention services to your child or family;
- The right to receive written timely notice before a change is proposed or refused in the identification, evaluation, or placement of your child, or in the provision of appropriate early intervention services to your child or family;
- The right to receive each early intervention service in natural environments to the extent appropriate to meet your child's developmental needs;
- The right to maintenance of the confidentiality of personally identifiable information;
- The right to inspect and review and, if appropriate, amend your child and family's records;
- The right to receive an initial copy of your child's record at no cost to you;
- The right to file a formal complaint; and
- The right to request mediation and/or an impartial due process hearing to resolve parent/provider disagreements. These forms can be found at the end of this document.

All Procedural safeguards begin at referral to KS ITS and continue as long as records are maintained.

RIGHTS DEFINED

All children referred to Part C, and their families, are entitled to be notified of specific procedural safeguards under Part C. For help in understanding these rights you may talk to your local tiny-k family service coordinator or call Families Together, Inc. at the phone number found on the back of this brochure.

Prior Written Notice 34 CFR 303.421

Prior written notice must be given to you 10 days before a local tiny-k program proposes or refuses to initiate or change the identification, evaluation, or placement of your child or the provision of appropriate early intervention services to your child and your family. You may waive the 10 day notice if you wish. The notice must be sufficiently detailed to inform you about:

- The action being proposed or refused by the early intervention services contractor or early intervention services provider;
- The reasons for taking the action;
- All procedural safeguards available under Part C; and
- The state's complaint procedures, including a description of how to file a complaint and the timelines for those procedures.

The notice must be written in language understandable to the general public and provided in your native language unless clearly not feasible to do so. Your native language is the language or mode of communication normally used by you and your child. Each early intervention provider will explain to the parent/guardian the availability of the notice in their native language.

If your native language or other mode of communication is not a written language, the local tiny-k program shall 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;
- There is written evidence that the requirements described in these procedures have been met; and
- If you are deaf, blind, unable to read, or have no written language, the mode of communication must be that normally used by you (such as sign language, Braille, or oral communication.)

Parental Consent 34 CFR 303.420

KS ITS, through local tiny-k programs, must have your permission to provide any services to your child and your family. Your consent must be in writing. Parental consent is required before:

- Administering screening
- Conducting evaluation and assessments
- Early intervention services are provided
- Private insurance is billed
- Disclosure of any personally identifiable information among agencies collected, used or maintained under Part C, consistent with Federal and State law. (34 CFR 303.414)

Consent means that:

- You are fully informed of all information about the activities for which consent is sought. This information is provided in your native language or other mode of communication;
- You understand and agree in writing to the carrying out of the activities for which your consent is sought;
- The consent describes the activity(s) and lists the records (if any) that will be released and to whom; and;
- You understand that the granting of consent is voluntary and may be revoked at any time.

If you do not consent, the local tiny-k program or appropriate qualified staff shall make reasonable efforts to ensure that you:

- Are fully aware of the nature of the evaluation and assessments or early intervention services that would be available;
- Understand that your child will not be able to receive the screening, evaluation, assessments, or early intervention services unless consent is given; and
- Understand that a local tiny-k program or KS ITS cannot use due process hearing procedures to challenge your refusal to grant consent.

If refusal to consent for evaluation or assessment constitutes neglect or abuse, Kansas laws apply as appropriate.

As the parent of a child eligible under Part C, you may determine whether your infant or toddler or other family members will accept or decline any early intervention service(s) under this program. You may also decline a service after first accepting it without jeopardizing other early intervention services under the KS ITS program.

SYSTEM OF PAYMENT FOR FAMILIES

A FAMILY GUIDE

Early Intervention services are provided at no cost to parents. In order to ensure that all children receive the services they need, a variety of funding sources may be accessed to pay for EI services. These include federal, state and local funds, as well as private and public health insurance plans.

Once a child is determined to be eligible for the local tiny-k program parents participate in determining what services are going to be provided and included in an Individualized Family Service Plan and what payment sources may be available to cover the EI services specified on the child's IFSP. Each child has a Family Service Coordinator (the person who is helping you organize your child's services) who makes sure that all EI services on your child's IFSP are funded using appropriate funding sources. The order in which funding sources will be accessed is based upon the utilization of the use of Federal Part C funds being utilized as the "Payor of Last Resort". Meaning that all other funding sources are exhausted before Part C funds are utilized.

Kansas Infant-Toddler Services No-cost Protections for Families

Kansas Infant-Toddler Services through its local tiny-k programs are required by Part C of the Individuals with Disabilities Education Act (IDEA) to inform parents of the following no-cost protections regarding payment for EI services:

- Parents must provide prior consent to the local tiny-k program before EI services can be billed to the parent's private insurance.
- Local tiny-k programs must notify parents in writing if they are going to bill Medicaid.
- Parents cannot be required to enroll in Medicaid or other public or private insurance program to receive EI services from a local tiny-k program.
- EI services, as specified in the child's IFSP and to which the parent has consented, cannot be denied due to a parent's refusal to allow their private insurance be billed or due to not giving permission to share information with Medicaid.
- Parents must provide prior written consent to the local tiny-k program before a child's personally identifiable information (name, date of birth, policy number, and address) can be submitted to a health insurance carrier for billing purposes.
- Parents have the right to withdraw their consent to disclose their child's personally identifiable information to any entity at any time without affecting the EI services their child is receiving as specified in their child's IFSP.
- Billing a parent's private insurance plan may affect the premiums and lifetime cap of their policy.
- Co-payments are reimbursable by the local tiny-k program, as EI services are provided at no-cost to the family.
- Parents must provide consent when the local tiny-k program seeks to use the private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP; and each time consent is required due to an increase in frequency, length, duration, or intensity in the provision of services in the child's IFSP.
- Each time consent is required to use private insurance, the entire System of Payments document must be provided to parent. This is the Part C Services Financial System of Payments.
- Parents are responsible for private insurance premiums, but not co-pays or deductibles.
- You are not charged family fees; therefore no income information is required to be given to the local tiny-k program.
- Use of private insurance may make other public funding options (e.g., Medicaid, Children and Youth with Special Health Care Needs) available.

How are EI Services Paid for?

There are several ways EI services are paid for in Kansas. State and Local funds must be used before Federal Part C EI funds. This is known as “Payor of Last Resort”. The following is a list of some of the funding sources available for EI services in the State of Kansas.

- The Children’s Initiative Funds (CIF) provide funding to the statewide program.
- Local tiny-k programs can access State Special Education Funds, known as Categorical Aid, to help pay for the EI Providers salaries.
- Local tiny-k programs can bill private insurance under the provisions listed above.
- Local tiny-k programs can bill Medicaid.
- Some local tiny-k programs have identified local funding sources through their County Mil Levy funds.
- Some local tiny-k programs access funding through other CIF grants.
- Some local tiny-k programs utilize private funding sources such as United Way funding and other local funding sources.

If a parent wants to contest Kansas’ system of payments, they may do any of the following:

- A. Participate in mediation in accordance § 303.341
- B. Request due process hearing under §§ 303.436 or 303.441, whichever is applicable
- C. File a state complaint under §303.434
- D. Use of any other procedure established by the State (informal complaint) provided that it does not prevent the options in A., B., or C. from occurring
- E. The parent must be provided with a copy of the *Child and Family Rights* which contains System of Payment policies

More information about these processes is found at the end of the *Child and Family Rights and Kansas ITS Complaints Process* booklet.



RECORDS

Records 34 CFR 303.403-413

The following definitions are used in this section: (1) “destruction” means physical destruction or removal of personal identifiers from information to ensure that it is no longer personally identifiable; (2) “Early Intervention records mean all records regarding a child that are required to be collected, maintained or used under Part C.; and (3) “Participating agency” means any agency, individual or entity which collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part C. It excludes primary referral sources, and other agencies who act solely as funding sources for Part C (as defined in 34 CFR 303.403(c)).

Examination of Records 34 CFR 303.401

In accordance with the Confidentiality of Information procedures outlined in this document, you must be given the opportunity to look at (inspect) and review records relating to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints concerning your child, or any part of your child’s early intervention record.

Each local tiny-k program must give you the opportunity to inspect and review, during business hours, any early intervention records relating to your child which are collected, maintained or used by KS ITS under Part C. The local tiny-k program must comply with a request without unnecessary delay (no more than ten (10) calendar days) and before any meeting, or hearing occurs, regarding identification, evaluation, placement, or provision of services for your child and family. The opportunity to inspect and review early intervention (KS ITS) record(s) includes:

- The right to a response from the local tiny-k program to reasonable requests for explanations and interpretations of the early intervention record;
- The right to request copies of the early intervention record;
- The right to have someone who is representing you inspect and review the early intervention record with your written consent;
 - A local tiny-k program may presume that you have the authority to inspect and review records related to your child unless the tiny-k program has been provided documentation that you do not have the authority under applicable Kansas law governing matters such as custody, foster care, guardianship, separation and divorce.

Each local tiny-k program shall keep a written record of parties obtaining access to early intervention records collected, maintained, or used under Part C (except access by parents, authorized representatives, and employees and contractors of KS ITS and local tiny-k programs). This shall include:

- The name of the party,
- The date access was given, and
- The purpose for which the party is authorized to use the child’s record.

If any early intervention record includes information on more than one child, you may only inspect, review, or be informed of that specific information pertaining to you or your child. Each local tiny-k program shall provide you, upon request, a list of the types and locations of early intervention records collected, maintained, or used by the local tiny-k program. The local tiny-k program may charge a fee for copies of records which are made for parents under Part C if the fee does not effectively prevent you from exercising your right to inspect and review those records. However, they may not charge a fee to search for or to retrieve information under Part C. You must be given copies of some records, such as evaluations, assessments of child and family, and IFSPs at no charge as soon as possible after each IFSP meeting.

Amending Records 303.410-412

If you believe that information in the KS ITS early intervention records collected, maintained, or used by the local tiny-k program under Part C is inaccurate or misleading, or violates the privacy or other rights of your child or family, you may request the local tiny-k program to amend the information.

The local tiny-k program must decide whether to amend the information within a reasonable period of time after receiving the request. If the tiny-k program refuses to amend the information as you request, you must be informed of the refusal in writing and be advised of the right to a hearing.

The local tiny-k program, on request, must provide an opportunity for a hearing to challenge information in early intervention records to ensure that it is accurate, not misleading, or otherwise in violation of the privacy or other rights of the child or parent(s).

If, as a result of a hearing, the local tiny-k program decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parent, the local tiny-k program must amend the information accordingly and inform the parent in writing.

If, as a result of a hearing, the tiny-k program decides that the information is accurate, not misleading, or not in violation of the privacy or other rights of the child or parent, you must be informed of your parent's right to place a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the tiny-k program, in the early intervention record.

Any explanation placed in the records of your child under these procedures must:

- Be maintained by the local tiny-k program as part of the early intervention records of your child as long as the record is maintained by such tiny-k program. If the early intervention records of your child or the parts you disagree with are disclosed by the local tiny-k program to any party, the explanation must also be disclosed to the party.

A hearing held under this section must be conducted according to the procedures under the Family Education Rights & Privacy Act (FERPA) regulations at 34 CFR 99.22 and Kansas Administrative Regulations.

Confidentiality 34 CFR 303.401, 303.402

Personally identifiable means the information including:

- The name of your child, parent or other family member;
- The address of your child;
- A personal identifier such as the child's or parents' social security number; and
- A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

Parental consent must be obtained before personally identifiable information is:

- Disclosed to anyone other than authorized representatives, officials or employees of the local tiny-k program in collecting, maintaining, or using information under Part C, unless it is Part C information contained in the record and is authorized under FERPA (34 CFR 99.31); and/or used for any purpose other than meeting a requirement under Part C.

In accordance with CFR 303.401 (d), the local tiny-k program **must disclose** to the Local Educational Agency and the State Educational Agency the following: **child's name, child's date of birth, and parent contact information, including name, address, and telephone number**. The purpose of this disclosure is in order to meet the requirement to identify all potentially eligible children and does not require parental consent.

The following safeguards must be in place to ensure and protect confidentiality of records:

- Each local tiny-k program must protect the confidentiality of personally identifiable information at collection, maintenance, use, storage, disclosure, or destruction stages.
- The coordinator of each local tiny-k program is the one responsible for ensuring the confidentiality of any personally identifiable information.
- All persons collecting or using personally identifiable information must receive training or instruction regarding Kansas' Part C policies and procedures which comply with IDEA and FERPA (34 CFR 99.3).
- Each local tiny-k program must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who have access to personally identifiable information.
- The local tiny-k program must inform parents when personally identifiable information collected, maintained, or used under Part C is no longer needed to provide services to the child or family.
- The information must be destroyed at the request of the parents. (Permanent records of your child's name, date of birth, parent contact information, address, phone number, enrollment date and completion date, may be maintained without time limitations.)
- Each local tiny-k program must give notice to fully inform parents about confidentiality of personally identifiable information.

DISPUTE RESOLUTION 34 CFR 303.430

Kansas Dispute Resolution Options

We encourage you to resolve any disagreements with your local tiny-k program staff. However, if you disagree with a local tiny-k program on the identification, evaluation, placement of your child, or provision of appropriate early intervention services to your child or family, KDHE has procedures in place to address your concerns. These concerns may be addressed by:

1. **Informal Complaint:** an informal way to address matters of concern that are resolved within 10 to 15 business days.
2. **Formal Complaint:** a formal, written complaint to KDHE which is resolved within 60 calendar days.
3. **Mediation:** a meeting with a neutral person (a mediator) to talk about the problem and try to come up with a solution that is acceptable to both parties.
4. **Due Process Hearing:** a formal process with a neutral person (a hearing officer) who listens to the party filing the complaint and to the parties involved *to decide who is right and how to resolve the problem.*

Forms for requesting these options are available at the end of this section. Forms may also be accessed on KS ITS website at the following link: <http://www.ksits.org/>. A request for Mediation or Due Process may be requested at the same time that a formal complaint is made.

Complaints 34 CFR 303.433, 434

An **informal complaint** is available by calling the KS ITS services at KDHE and visiting with our staff at 1-800-332-6262.

A **formal complaint** can be filed by an individual or organization, including those from another state. The complaint process includes submitting a written signed complaint against KDHE, KS ITS, or any local tiny-k program that is violating a requirement of the Part C program.

The complaint must include:

- A statement that a requirement of Part C has been violated by KS ITS, a local tiny-k program or a local tiny-k provider;
- A statement of the facts on which the complaint is based; and
- The signature and contact information of the person filing the complaint.

If alleging violations in respect to a specific child, the name and residence of that child, the name of the local tiny-k program and the provider(s) serving the child, a description of the nature of the problem of the child, including facts relating to the problem of the child, and a proposed resolution to the extent known and available to the party at the time the complaint is filed, must be included in the complaint.

A copy of the complaint must be sent to the local tiny-k program/provider(s) at the same time the complaint is filed with KDHE.

What happens after I file a formal complaint?

Remember that continued communication between parents and professionals at all stages is important. It will help to ensure resolution of complaints in a satisfactory manner.

- You will be sent information about your rights.
- You will be informed of the next steps that need to be taken.
- You will have a chance to have questions answered.
- The process will be monitored by Kansas Infant-Toddler Services.
- Kansas Infant-Toddler Services will follow up after resolution has been reached to make sure that all agreements are fulfilled.
- Your child will continue to receive services that are not in dispute.

Formal complaints must be filed and received by KDHE within one (1) year of the alleged violation.

Once KDHE has received the complaint, it has sixty (60) days to:

- Investigate the complaint, including conducting an independent, on-site investigation, if necessary;
- Allow the local tiny-k program to respond to the complaint, including a proposal to resolve the complaint;
- Make an independent determination as to whether or not a violation of a Part C requirement has occurred after reviewing all relevant information;
- Issue a written decision to the complainant that addresses each allegation in the complaint and that contains the facts and conclusions as well as the reasons for the final decision.

Timelines may be extended if there are exceptional circumstances with respect to a particular case or, if the parties have agreed to extend the timelines to engage in mediation.

Procedures for effective implementation of KDHE's final decision will include technical assistance activities, negotiations and corrective actions to achieve compliance.

The individual or organization filing the complaint has the opportunity to submit additional information, either orally or in writing, about the complaint. If the final decision indicates that appropriate services were not /are not being provided, KDHE must address:

- How to remediate the denial of those services including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child and the child's family; and
- Appropriate future provision of services for all infants and toddlers with disabilities and their families.

If a formal written complaint is received that is also the subject of a due process hearing, or contains multiple issues, of which one or more are part of that hearing, KDHE must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. Any issue in the complaint that is not a part of the due process action must be resolved within the 60 calendar day timeline using the complaint procedure described above.

Complaints that have already been decided in an impartial due process hearing involving the same parties cannot be considered under this procedure. KDHE must notify the complainant that the hearing decision is binding. Any complaint alleging that an agency failed to implement a due process hearing must be resolved by KDHE.

Any party aggrieved by the findings and decision issued by a due process hearing officer has a right to file a civil action in State or Federal Court.

MEDIATION 34 CFR 303.431

Mediation is a meeting designed to provide an opportunity to resolve a disagreement regarding Part C services, and is voluntary on the part of both parties. Mediation can be requested by either individuals or organizations by submitting the form at the end of this section.

Mediation involves a meeting with a neutral person (a mediator) to talk about the issues and come up with a solution that is acceptable to all parties. The mediator is:

- Impartial, which means he is not an employee of an agency providing services to the child, and has no other personal or professional interests that would conflict with his objectivity. (A person who otherwise qualifies as a mediator is not considered an employee solely because he is paid to serve as a mediator.)
- A qualified person who is trained in effective mediation techniques.
- Knowledgeable in laws and regulations relating to the provision of early intervention services.
- Assigned on a random, rotational or other impartial basis.
- The mediation will occur within 7 days of the receipt of the request (sent to KS ITS at KDHE) with a written agreement provided within 30 calendar days of the receipt of the request. (If a due process hearing is in progress, the timeline to complete mediation will be 15 days to allow adequate time for the hearing to meet required timelines). Timelines may be extended upon agreement by both parties.

Other things to remember about mediation:

- Is voluntary and must be agreed upon by both parties
- It does not interrupt (delay or deny) any of your services or rights in the program including your right to a due process hearing
- Will be paid for by KDHE
- Will be held at a location that is convenient to both parties

Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent impartial due process hearings or civil proceedings. The parties will be allowed to sign a confidentiality pledge prior to beginning the process.

At the conclusion of the mediation process, both parties must sign a mediation agreement and are given a copy of the written agreement (or disagreement) that resulted from the mediation process. Any signed agreement is legally binding and enforceable in any State court of competent jurisdiction or in a district court of the United States. 34 CFR 303.431 (b) (6).

Mediation does not restrict you from requesting a due process hearing. You may request both mediation and a due process hearing at the same time.

Due Process 34 CFR 303.435-438

An **impartial due process hearing** is a formal procedure conducted by an impartial hearing officer and is an option for families seeking to file a complaint regarding the decision of a local tiny-k provider or KDHE to initiate, or change the identification, evaluation, or placement of an infant or toddler, or a change in services for that infant or toddler. Families seeking a due process hearing may submit a request by using the form at the end of this section. The request must be submitted directly to:

**Attn: Part C Infant-Toddler Coordinator
KDHE-Kansas Infant-Toddler Services
1000 SW Jackson, Suite 220
Topeka, Kansas 66612-1274**

The impartial due process hearing must be completed, and a written decision made, within thirty (30) calendar days of KDHE'S receipt of the request. (Mediation, if attempted, must occur within the same 30 days.)

Impartial hearing officers are appointed to conduct due process hearings. Hearing officers must have knowledge about the provisions of Part C and the needs of, and early intervention services available for infants and toddlers and their families. Hearing officers shall not:

- Be an employee of, or entity involved in the provision of early intervention services or care of the child.
- Be an employee of the agency solely because the person is paid by the agency to implement the complaint resolution process.
- Hold a personal or professional interest that would conflict with his or her objectivity in implementing the process.

Hearing officers perform the following duties:

- Listen to the presentation of relevant viewpoints about the due process complaint, examine all information relevant to the issues, and seek to reach a timely resolution of the due process complaint; and
- Provide a record of the proceedings at the cost of the state, including a written decision.

Under Part C, you are given the rights listed below in any impartial due process hearing carried out under these procedures:

- To be accompanied and advised by counsel and by individuals with special knowledge or training about early intervention services;
- To present evidence and confront, cross examine, and to compel (require) the attendance of witnesses;
- To prohibit the introduction of any evidence at the hearing that has not been disclosed to you at least five calendar days before the hearing;
- To obtain a written or electronic word by word transcription of the hearing at no cost to you; and
- To receive a written copy of the findings of fact and decisions at no cost to you.

The impartial due process hearing (or any related activities) described in these procedures must be carried out at a time and place that is reasonably convenient to you. No later than thirty (30) calendar days after KDHE receives your complaint, the impartial due process hearing must be completed and a written decision must be mailed to each of the parties. At the request of either party, a hearing officer may grant specific extensions beyond the 30 days timeline. Any party not satisfied with the findings and decision of the impartial due process hearing has the right to bring a civil action in state or federal court.

During the time period of any proceeding involving a complaint, unless the local tiny-k program and you otherwise agree, your child and family will continue to receive the early intervention services consented to on the IFSP.

If the complaint involves an application for initial services, your child and family must be provided those services that are not in dispute.

Surrogate Parents 34 CFR 303.422

In Kansas, Surrogate Parents are referred to as Child Advocates.

A child advocate has the same rights as the parent and may represent the child in all matters relating to Part C.

A child advocate would be assigned if:

- No parent can be identified;
- The local tiny-k program, after reasonable efforts, cannot determine the whereabouts of a parent (s); or
- The child is in the custody of the State of Kansas under Kansas law.

Child advocates are selected by Families Together, Inc. through a contract with KDHE. Families Together, Inc. must make reasonable efforts to ensure the assignment of a child advocate not more than 30 days after a public agency determines that the child needs a child advocate. Families Together, Inc. will work together with foster care providers to determine the need for a Child Advocate for a particular child. A Judge who oversees the case of an infant or toddler who is in State custody can also appoint a child advocate for that child.

Any child advocate must meet the following requirements:

- Has no interest that conflicts with the interest of the child he or she represents;
- Has knowledge and skills that ensure adequate representation of the child; and
- Is not an employee of any state agency, a person providing KS ITS, or an employee of any person providing KS ITS services, education, care, or other services to the child or to any family member of the child. (A person who otherwise qualifies to be a surrogate parent under these procedures is not an employee solely because he or she is paid by a public agency or early intervention services contractor to serve as a surrogate parent.)



PART C INFANT-TODDLER SERVICES FORMAL COMPLAINT REQUEST

Any parent of a child with a disability, another individual, or agency or organization that believes the Kansas Part C Infant-Toddler Services or one of the local programs is not following federal or state laws or regulations related to the Individuals with Disabilities Education Act, may file a formal complaint. This complaint must be in writing, signed, and mailed or personally delivered to Part C Infant-Toddler Services at the Kansas Department of Health and Environment (KDHE). KDHE assures that it will give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint. **A copy of the complaint will be forwarded to the Infant-Toddler program, agency or organization against whom the complaint is being made.**

Your request for a formal complaint investigation should include the following information:

The name, address, and telephone number of the person or organization filing the formal complaint:

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

E-mail: _____

The name and address of the local Infant-Toddler program or other Part C public agency against whom the formal complaint is made:

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

The name and home address of the child involved:

Name of Child: _____

Home Address: _____

City/State/Zip: _____

Please see Following Page:

On this page state your concern(s). Please include the facts that provide the basis of your concern(s). Facts should include when the concern(s) arose and who, or what circumstances caused the concern(s). State your efforts to resolve the issue(s) with the Part C public agency or any proposed resolution. (Attach additional pages if needed.)

Please include the following when explaining your concern (add additional pages if needed):

- The specifics of your concern.
 - What the facts are.
 - What steps have been taken to resolve the concern at the local level?
-

Upon receipt of a written, signed complaint, the Kansas Part C Coordinator will conduct an investigation and provide a written report of findings to the person or agency making the complaint and to the Part C public agency against whom the complaint was filed. The formal complaint report is final, unless one of the parties appeals the decision. Either party may appeal the findings in the report by filing a written notice of appeal with the Kansas Department of Health and Environment.

Signature of Person(s) Filing Complaint

Date

The Formal Complaint Request Form must be signed and mailed or personally delivered to:
Attn: Part C Infant-Toddler Coordinator, KDHE-Kansas Infant-Toddler Services 1000 SW Jackson Ste 220 Topeka KS 66612-1274



Robert Moser, MD, Secretary

Department of Health & Environment

Sam Brownback, Governor

**PART C INFANT-TODDLER SERVICES
REQUEST FOR MEDIATION**

Parent(s) Name: _____

Address: _____

City/State/Zip: _____

E-mail address: _____

Phone Number(s): _____

Part C Local Lead Agency: _____

Address: _____

City/State/Zip: _____

Contact Name: _____

Phone Number(s): _____

Child for whom mediation is requested: _____

Date of Birth: _____

Has a due process hearing been requested? Yes No

Has a hearing been scheduled? Yes No **If yes, please enter the date:** _____

Please indicate preferred dates and times you are available for a mediation session:

Preferred Dates: _____

Why are you requesting mediation (add additional pages if needed):

**The Request for Mediation Form must be mailed or personally delivered to:
KDHE Infant-Toddler Services, 1000 SW Jackson Suite 220, Topeka KS 66612-1274**

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Robert Moser, MD, Secretary

Department of Health & Environment

Sam Brownback, Governor

**PART C INFANT-TODDLER SERVICES
NOTICE OF REQUEST FOR PART C DUE PROCESS HEARING**

I have a complaint relating to the identification, evaluation, or placement of my child or the provision of appropriate early intervention services to my child. Therefore, I submit this request for an impartial due process hearing including the following information:

My name, address and telephone number:

Name: _____

Address: _____

Telephone Number: _____

The name and address of my child:

Name: _____

Address: _____

The name, address and telephone number of my child's Infant-Toddler Services program:

Name of Program: _____

Address: _____

Telephone Number: _____

A short description of each concern and facts related to each concern (add additional pages, if needed):

A statement of what I think needs to be done to correct each problem or concern.

I have been informed that a Mediation Process is available to help resolve disputes relating to Identification, Evaluation, Placement, or the provision of early intervention services under Part C of the Individuals with Disabilities Education Act (IDEA).

Signature of Parent or Representative

Date

The Due Process Request Form must be mailed or personally delivered to:
Attn: Part C Infant-Toddler Coordinator, KDHE-Kansas Infant-Toddler Services 1000 SW Jackson Ste 220 Topeka KS 66612-1274

CONTACT INFORMATION

If you need more information about your rights (procedural safeguards) contact your local tiny-k Coordinator or Kansas Infant-Toddler Services.



**For more information,
or to file an informal complaint, formal complaint or request mediation:**

Kansas Infant-Toddler Services (KS ITS)
Kansas Department of Health and Environment
1000 SW Jackson, Suite 220
Topeka, Kansas 66612-1274
Toll Free Phone -- 1-800-332-6262
Phone – (785) 296-6135
FAX – (785) 296-8626

Advocacy Resource at:

Families Together, Inc.
Parent Training and Information Center(PTI):
Topeka 1-800-264-6343
Wichita 1-888-815-6364
Garden City 1-888-820-6364
Kansas City 1-877-499-5369
<http://www.familiestogetherinc.org/>

Due Process Hearing request must be sent to:

Attn: Part C Infant-Toddler Coordinator
KDHE-Kansas Infant-Toddler Services
1000 SW Jackson, Suite 220
Topeka, Kansas 66612-1274