

Parent Rights & Responsibilities in Nevada Early Intervention

What are my rights and why are they important?

Rights protect your family and child. All families enrolled in early intervention programs in Nevada have the same rights. Your rights within the early intervention process begin as soon as you are referred to a program and continue as long as you and your child participate in the early intervention program. The IDEA, Part C law gives families' rights. **You can find more information about these rights at: <http://ectacenter.org/families.asp>**

Your rights are briefly listed below:

The Right to Have Your Child Evaluated to Determine Eligibility for Services

When your child is referred to an early intervention program, you have the right to an evaluation to determine eligibility. Sometimes programs screen children first. This is to determine if an evaluation is needed. If you disagree with the screening results, you can still ask for and receive an evaluation. Refer to P.L. 108-446, Section 639 (a) (1) and 34 CFR 303.12 (i)

The Right to Timely, Comprehensive Evaluation

Your child and family must have an evaluation that considers all areas of your child's development and includes a voluntary family needs assessment. If your child is eligible, the team will assist in the development of an Individualized Family Service Plan (IFSP) **no later than 45 days from your referral date.**

Refer to P.L. 108-446 and 34 CFR 303.322

The Right to Give Your Consent or Permission and the Right to Refuse Services

Your early intervention program must have your permission in writing before any evaluations, assessments, or services are provided. You can decide not to give permission for any specific service and you may refuse a service at any time. You can also refuse one service and accept another. An early intervention program must also have your permission before sharing information about you or your child with others. Consent means that you have been fully informed about the activity for which consent is being sought and that you understand and agree.

If you do not give consent for recommended services, the early intervention program is still able to give you information about the results of the evaluation and assessment(s). They may also provide literature, and/or encourage you to talk with other parents about the value of early intervention for your child. The program will attempt to ensure that you understand your child will not be able to receive services unless consent is given.

Refer to P.L. 108-446, Section 639 (a) (3) and 34 CFR 303.401 (a) (1-3)

Payment for Your Child's Early Intervention Services

Nevada Early Intervention Services (NEIS) is the payor of last resort for early intervention services. NEIS is responsible for those services that are designated on your child's IFSP. To maximize services, funding is sought from a variety of sources including Medicaid, and other private insurance providers. NEIS policy is that if you have private insurance you will be asked for written consent to allow NEIS to bill your insurance or, you may decline. If you consent, it is the responsibility of NEIS to pay your co-pay or deductible for those services. If you choose to decline having your insurance billed, the services will be provided without charge. Your decision will not affect the quality of services you or your child will receive.

The Right to Participate in Your Child's Program

You are an important part of planning services for your child. No one knows your child better than you and your family! You are encouraged to speak up about your family's and child's needs. You can also review the evaluation and assessment of your child and get information about how to help your child develop. You must agree to services for your child and sign the plan before these services begin. Your family's participation in the early intervention program is voluntary. It is your choice as to how much you participate in the program.

Refer to P.L. 108-446, Section 639 (a) (2) and 34 CFR 303.12 (a)

The Right to an Individualized Family Service Plan within 45 days of Referral

If your child is eligible for services, your family must be given the opportunity to participate in writing the Individual Family Service Plan (IFSP) within 45 days of your child's referral. The IFSP will include early intervention services and supports based on your child's and family's needs. Written in the IFSP are the projected dates for initiation of services as soon as possible after the IFSP meeting.

A team, including you and professional staff with different backgrounds, will meet to develop this plan. This IFSP team can also include family members, friends, or advocates that you choose to help you decide what is best for your family and child. This plan is reviewed every six months or more frequently if needed. You can request an IFSP review at any time.

Refer to P.L. 108-446 and 34 CFR 303.342 (a)

The Right to Written Prior Notice So You Can Participate

You will meet with early intervention staff many times for different reasons during your enrollment in early intervention. ***All meetings must be held at a time and place that is convenient for you.*** Each time you meet to make major decisions you must be given a notice in writing or orally in a language you understand. ***You must receive the notice in a reasonable amount of time before the meeting, so you may plan for it.*** For example, you might like to arrange to have a family member or friend at the meeting or think more about the decisions you will be making.

Each notice will include the following information about the meeting:

1. Time and place of the meeting
2. The action that is being proposed or refused and the reason for taking the action
3. Information about your procedural safeguards
4. Information on how to file a complaint if you disagree

You also have the right to written prior notice before a public agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of your child, or the provision of appropriate early intervention services.

Refer to P.L. 108-446, Section 636 (a) (1) and 34 CFR 303.403.

The Right to Receive Services in Natural Environments

Your child has the right to receive early intervention services in places that are familiar and comfortable, such as your home or a grandparent's home, a daycare setting, or other location in your community where typically developing children would be. If this is not possible, the early intervention program must justify, in writing, why an alternate location is necessary to help your child achieve the outcome. These reasons must be included in your IFSP.

Refer to P.L. 108-446, Section 636 (d) (5) and 34 CFR 303.12 (b)

The Right to Confidentiality

All information on your child and family is confidential. Sometimes, your early intervention program may need to request or share information about your child to determine eligibility or to receive services. Your early intervention program must get your permission to request information from or share information with other agencies, service providers, or professionals. It is up to you if you want to share this information. You can ask for a written explanation about how private information is protected at your early intervention program.

Your early intervention program must keep a record of who looks at your files, the date of review, and the purpose for which the person is authorized to view the records. The early intervention program must also give you a list of where the files are kept and what information is in them if you ask. Files should be kept in a secure location and only people who need to view the records should have access.

Your child's records will be kept at least six years after your family has left the program. At any time thereafter the program will destroy the records. You can also ask the program to remove information about your family's identity, such as names, social security numbers, and addresses. However, the

early intervention program must keep a permanent record of your child's name, address, and telephone number.

Refer to P.L. 108-446, Section 639 (a) (2) and 34 CFR 303.460 (a) (6) and/or Part 99 of Title 34 of the Code of Federal Regulations Family Educational Rights and Privacy Act (FERPA)

The Right to Review Records

You have the right to review your child's records. Nevada Early Intervention Services (NEIS) gives you the opportunity to inspect and review any early intervention records relating to your child which are collected, maintained, or used by NEIS. Your early intervention program must comply with a request without unnecessary delay and before any meeting regarding an IFSP or hearing related to identification, evaluation, placement, or provision of appropriate early intervention services. Within 45 days of your request your local early intervention program must comply either with copies of your child's records or access to the records. The law states that you can be charged for these copies of early intervention records if the fee does not effectively prevent you from exercising your right to inspect and review those records.

The local early intervention program may not charge a fee to search for or retrieve information that you have requested. You also have the right to have someone who is representing you inspect and review the early intervention records.

Refer to 34 CFR 300. 560 through 300.576 Sections 303.402

If you think your child's records are wrong, you can ask your early intervention program to correct the information. If they disagree, you can place a written statement in the record explaining your disagreement.

Refer to P.L. 108-446, Section 639 (a) (4) and 34 CFR 300.562, 303.402 and/or Part 99 of Title 34 of the Code of Federal Regulations Family Educational Rights and Privacy Act (FERPA)

The Right to Disagree

At all IFSP meetings your early intervention program must review your rights with you.

Talk to your local early intervention program at any time if you have concerns or questions. Your early intervention program will ask you to sign a form acknowledging you have been informed of and received a copy of your rights.

Refer to P.L. 108-446, Section 639 (a) (7), 636 (e) and 34 CFR 300.561 (0 (1), 303.342 (d) (1) (ii), 303.510 (a).

You can also write or call:

IDEA, Part C Office
1000 E. William St., Suite 105
Carson City, NV 89701
ATTN: IDEA, Part C Coordinator
(775) 687-0587 or
(800) 522-0066 (statewide)
<http://dhhs.nv.gov/Programs/IDEA/PartC/>

What if my early intervention program and I cannot agree?

Sometimes, parents and early intervention staff disagree. If there is a disagreement, try talking to the person with whom you disagree. If the problem is not resolved, talk to the program manager of your local early intervention program. If you are not satisfied after talking to your program manager, you can call the Part C Office at **(775) 687-0587 Carson City** or **1-800-522-0066 statewide**.

If you feel any of your rights or regulations are not being honored or followed by your early intervention program, you can file a complaint, request mediation, and/or request a due process hearing. Your child will continue to receive the services in the plan during the mediation or hearing process. You also have the right to be notified of free and inexpensive legal services and other services in your area.

The Part C Early Intervention Services Office staff may be able to work with you and your local program to resolve your concerns informally. Or, you can send a formal letter of complaint directly to the Part C Office (see sample on next page.) You have the right to request Due Process, Mediation, or submit a letter of Complaint all at the same time. If you have already requested Due Process, a Complaint may not be filed on the same issues.

Refer to P.L. 108-446, Section 639 (a) (3) and 34 CFR 303.405, 303.419, 303.424

What happens during a complaint, mediation, or hearing process?

How to File a Complaint

Individual Child Complaint

The local early intervention program is eager to discuss any concerns you may have. You are encouraged to talk with your service coordinator, the program supervisor, or the program manager if you disagree with the local program on the identification, evaluation, placement of your child, or provisions of appropriate early intervention services to your child or family. If you feel that the early intervention program has ignored a federal law in regards to those listed in this paragraph, you can write a letter of complaint to the Part C Coordinator of Early Intervention Services (see adjacent sample). You have the right to a timely resolution of your concerns through the complaint process, mediation and/or an impartial due process hearing. These are described in the following sections.

Administrative Complaint

In addition to the individual child complaint process, an individual or organization may file a written signed complaint that any public agency or private service provider participating in NEIS is violating a requirement of the early intervention program. The complaint must include a statement that a requirement of early intervention has been violated and the facts on which the complaint is based. You can write a letter of complaint to the Part C Coordinator of Early Intervention Services (see adjacent sample).

After receiving your written complaint (individual child or administrative complaint), the Part C Coordinator will assign a staff person to investigate and gather information from you and others concerned. This office will review all the information and reach a decision about your complaint.

You will receive a written final decision within 60 calendar days of receipt of your complaint. If you disagree with the decision, you have the right to request a Due Process Hearing.

How to Request Mediation

Mediation is another way to handle a problem. ***Through mediation, you and a representative from your early intervention program will meet with a neutral person to help you and the program solve the problem.*** This process may be used only when you and the program both agree to participate. A sample letter to request mediation follows on this page of the handbook.

When requested, the Part C Early Intervention Services Office will arrange for mediation. You may simultaneously file a request for a complaint investigation, mediation, and for an impartial due process hearing. Mediation cannot be used to extend the due process hearing timeline of 45 days. An extension may be granted in certain circumstances. If an agreement is reached in mediation, the due process hearing is canceled.

A mediation agreement must be to the satisfaction of both parties and must not conflict with state or federal law or policy of Early Intervention Services. Both parties must sign the agreement and are given a copy of the written agreement at the end of the mediation. 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, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the beginning of the process.

Refer to P.L. 108-446 and 34 CFR 303.419

Due Process Hearing

You have the right to ask your local program for a due process hearing conducted by a hearing Officer if you disagree with decisions made by the team, including eligibility, evaluation, and/or services, or if your child is not receiving services per the IFSP.

Refer to P.L. 108-446 and 34 CFR 300.507 & 508.

Nevada's Part C Office will appoint an impartial hearing officer. The hearing officer will not be an early intervention administrative staff member, or an employee from any program involved in providing services to your child or family. Also, the hearing officer will not have a personal or professional interest that would conflict with his or her ability to make a decision.

Refer to P.L. 108-446 and 34 CFR 300.511

The program must offer a resolution session prior to the due process hearing. This is to determine if any issues related to the dispute can be resolved prior to proceeding with the due process hearing.

Refer to P.L. 108-446 and 34 CFR 300.510

Each hearing must be at a time and in a place that is convenient for both you and the local early intervention program. You must be notified of the time and place.

Refer to P.L. 108-446 and 34 CFR 300.515

You may be advised and accompanied to the hearing by a lawyer or by someone with special knowledge of early childhood intervention or legal proceedings. The early intervention program must provide a listing of free or reduced cost legal assistance. You may present evidence, confront and cross-examine, and require the attendance of witnesses. Evidence cannot be presented at the hearing unless it has been shown to you at least five (5) days before the hearing.

The hearing must be recorded by a court recorder. All information identifying the child and family will be deleted. Parents decide if hearings are closed to the public or open. A copy of the transcription must be provided at no cost to families for appeal purposes.

Refer to P.L. 108-446 and 34 CFR 300.512

The hearing officer must make a decision within 45 days from the day a request for hearing is received if:

- Both parties agree in writing to waive the resolution meeting, or
- Both parties agree in writing no agreement can be reached.

While the hearing is in process, your child may continue to receive appropriate early intervention services currently being provided, or if applying for initial services shall receive the services not in dispute. If there is good cause by any of the participants in the hearing the officer may extend the 45 day time limit.

Refer to P.L. 108-446 and 34 CFR 300.510

How to Appeal a Decision

Either you or the early intervention program may appeal the due process hearing decision made by a hearing officer. If an appeal is requested, Nevada's Part C Office will appoint an impartial review officer who will review the hearing records to be sure the proper procedure was followed. The review officer has the option to gather additional evidence or testimony if needed. Any additional meetings held to gather information must be scheduled at a time and place convenient to you and the early intervention program. The review officer will make an independent decision upon completion of the review.

An independent decision will be reached and mailed to both you and the agency within 30 days of the request. The Part C Office will delete any personally identifying information and submit the findings and decisions of the due process hearing or the appeal to the State Interagency Coordinating Council. The findings are also available to the public after personally identifying information is removed.

Refer to P.L. 108-446 and 34 CFR 300.515

The decision of the review officer is final unless a civil action is filed in State or Federal court. Any involved party has the right to bring a civil action.
Refer to P.L. 108-446 and 34 CFR 300.516

The following are three samples only, of a Complaint Letter, Request for Mediation, and a Due Process Hearing

Sample Complaint Letter:

(Date)

IDEA, Part C Office
1000 E. William St., Suite 105
Carson City, NV 89701

Dear Part C Coordinator:

I would like to file a complaint because I believe that *(Name and Address)* is not receiving early intervention services as the law requires. I would like the Department to investigate the following actions:
(Statement of Charges. Be specific about the law or regulation that is being violated.)

I understand that my complaint will be investigated within 60 days and that I may be contacted for additional information and that I will receive a copy of the final report. The best time to reach me is on *(Day[s])* at *(time[s])*.

Sincerely,

Signature
(Name)
(Address)
(Phone)

Sample Letter to Request Mediation:

(Date)

IDEA, Part C Office
1000 E. William St., Suite 105
Carson City, NV 89701

Dear *(Early Intervention Local or State Program Manager)*:

I would like to request mediation. I am concerned about the early intervention services that my child, *(Name)*, is receiving or should be receiving.

The specific reasons for this request are as follows: *(State the nature of the problem.)*

I hope you will agree to this request. If so, I understand that someone will contact me to make arrangements for mediation. The best time to reach me is on *(Day[s])* at *(time[s])*.

Sincerely,

Signature
(Name)
(Address)
(Phone)

Sample letter to request a Due Process Hearing with an impartial Hearing Officer:

(Date)

Early Intervention Services
Local Program Address

Dear Program Manager:

The purpose of this letter is to request an impartial due process hearing for (*name of child*), born on (*birth date*), enrolled at (*early intervention program/school*) who currently resides at (*address*).

I am/We are requesting this hearing in order to resolve the issue(s) of the (state the issue, i.e. *identification/evaluation/placement/early intervention services*) of my/our child.

The specific reasons for this request are as follows: (*State the nature of the problem.*)

Facts that support this request include: (*Describe the facts related to the problem.*)

In order for us to prepare for this hearing, would you please provide us with the following information:

- a. The procedure to follow in order to examine and copy my/our child's records.
- b. A list of the agencies where I/we can obtain free or inexpensive legal assistance and other relevant services in the area.

In addition, please forward a statement of my/our rights under the provisions of the Individuals with Disabilities Education Act.

Sincerely,

(Parent(s)/Guardian(s) Signature)
(Parent/Guardian Name)
(Address)
(Phone)