

---

# Contents

Preface .....	2
Introduction .....	3
Overview of Child & Family Rights .....	4
Confidentiality & Access to Records .....	7
Evaluation & Assessment .....	8
Individualized Family Service Plan (IFSP) .....	10
Complaints, Mediation & Due Process.....	12
Complaints .....	13
Mediation.....	17
Due Process Hearing.....	18
Resources.....	21

---

# Preface

This booklet is intended for parents and other interested persons.

**Parent.** A parent, natural or adoptive, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with 34 CFR 303.406. The term does not include the state if the child is a ward of the state.

The term parent has been defined to include persons acting in the place of a parent, such as a grandparent or stepparent with whom a child lives, as well as persons who are legally responsible for the child's welfare.

A foster parent may act as a parent under Part C of IDEA if the natural parent's authority to make decisions required of parents under the Act has been extinguished under state law, and (1) the foster parent has an ongoing, long-term parental relationship with the child; (2) is willing to make the decisions required of parents under the Act; and (3) has no interest that would conflict with the interests of the child.

The contents of this booklet were developed under a grant from the U.S. Department of Education. However, those contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the Federal Government. {34CFR75.620(b)}

---

# Introduction

The Early Intervention/Infant Learning Program (EI/ILP) is a statewide system of early intervention services for families with infants and toddlers, from birth to 36 months of age, with disabilities or at risk of having disabilities. The EI/ILP system is administered by the Department of Health and Social Services, Division of Public Health, Section of Maternal, Child, and Family Health (DHSS, DPH, MCFH).

Infants and toddlers, ages birth to three years, who have been evaluated and found to experience a 50 percent or greater developmental delay, or a condition likely to result in a 50 percent or greater delay, are eligible for early intervention services under Part C of the *Individuals with Disabilities Education Act (IDEA)*. ***The Alaska DHSS is the lead agency for these services.*** An infant or toddler eligible under Part C of IDEA is entitled to receive a flexible array of services, as determined by a multi-disciplinary team of providers in conjunction with the child's parents, and as specified on the Individual Family Service Plan (IFSP) written by this multidisciplinary team.

As funding is available, infants and toddlers who experience mild or moderate developmental delays or who are at risk for developmental delays *may* receive services from the statewide system of Early Intervention/Infant Learning Programs administered by the DHSS, DPH, MCFH. The services available to these children may be limited due to availability of funding. The rights of these children and their families are limited to those contained in the State of Alaska Statute (AS 47.20) and regulations (7AAC 23.010-100) cited within this booklet.

Statute 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 intervention/infant learning programs 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.

This booklet is for informational purposes only, and is not to be comprehensive of all the legal rights and remedies available to a family under IDEA.

---

# Overview of Child & Family Rights

**The Alaska Department of Health and Social Services, the lead agency for the Early Intervention/Infant Learning Program (EI/ILP), including Part C, ensures that the following are provided to families enrolled in the EI/ILP. Each family has the right to:**

## **An Evaluation**

Each infant and toddler that is suspected of being Part C-eligible is entitled to have an evaluation conducted within 45 days of the referral to help determine if they are eligible and which services will be needed.

## **Receive Written Notice of Changes in Service**

Each time a service is being planned, changed or refused by the agency to the family, the agency must give written notice to the family before the change occurs.

## **Understand**

Each parent must be given information in their native language if English is not the family's language of understanding. Also, if the family uses sign language or other means of communication, the family has the right to be given information in the manner they can best understand.

## **Confidentiality**

The parent has the right to give their permission before any information is released that identifies the child or the family to other agencies or individuals not otherwise entitled by law to see it.

---

## Give Permission

Before a family or child participates in the services of the program, the parent has the right to approve or disapprove the recommended activity. This approval must be given in writing.

## Examine their Child's Records

Each parent may ask to examine their child's early intervention record whenever they need to. The family may also ask for a copy of the record at any time.

## Individualized Family Service Plan (IFSP)

Within 45 days of an EI/ILP receiving a request for a Part C evaluation, the family is entitled to receive an evaluation and schedule a meeting to develop an IFSP for early intervention services. This plan is jointly developed with the family and must be reviewed every six months. If the parent wants the plan reviewed sooner they may request an earlier review.

## Receive Support

When the plan is being developed, parents have the right to request whomever they would like to attend the meeting. They can ask other family members, a friend, or an advocate.

## Have Services Coordinated

When a family is referred for service, the family has the right to choose a service coordinator. The service coordinator helps the family understand how the service system works and how to get the services they need as quickly as possible.

---

# Overview of Child & Family Rights Continued

## **Disagree**

If the family does not agree with any recommendation for services or if they think that they are not receiving the services to meet their child's need, they have a legal voice. They may ask for a change or refuse service without losing other services for their child.

## **File a Complaint**

Each parent has the right to file a written complaint and ask for an impartial person to hear the complaint and get a decision in a timely manner.

## **Request Mediation**

The parent may ask for a mediator to assist in resolving a conflict between the parent and the EI/ILP regarding services for their child. In order for mediation to occur both the parents and the EI/ILP must agree to mediation. Mediation is at no expense to either party.

## **Request a Due Process Hearing**

Due process hearings are similar to mediation in that both may be for disputes and are initiated by either parent or a public agency. Due process hearings are formal and may be at the expense of either parent or agency.

## **Written Plan to Transition to the School at Age Three**

When a toddler turns 30 months of age, a written plan for transition from EI/ILP to the local school or other community resources must begin.

## **A Child Has a Right to Representation**

A child has a right to a surrogate parent to represent them in service matters when a parent is not identified, cannot be located, or the child is a ward of the state.

---

# Confidentiality & Access to Records

- AS 47.20.110  
7AAC 23.090 ♦ Early Intervention/Infant Learning Program (EI/ILP) records are an important source of information about your child. DHSS, the lead agency for EI/ILP assures that the information you provide to the EI/ILP about your child and your family is confidential. Information will only be shared with authorized persons involved in your child's services.

***As a parent, guardian, foster parent, or surrogate parent you have the right to:***

- CFR 303.402 ♦ Access records, including the right to have you or your representative examine and obtain copies of records relating to your child. You may request to amend records generated by the EI/ILP and/or remove information relating to your child from the record;
- ♦ Receive copies of records relating to your child and/or explanations that you request;
- ♦ Request a meeting with the provider's coordinator or administrator about information contained in the record; and
- CFR 303.401  
CFR 303.460  
34 CFR Part 99  
AS 47.20.110(5)(b)  
7AAC 23.090 ♦ 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 (FERPA) (34 CFR Part 99).

---

# Evaluation & Assessment

- CFR 303.322  
AS 47.20.090  
7AAC 23.080  
7AAC 23.090
  - ◆ The determination of eligibility for the EI/ILP in Alaska includes a timely, comprehensive, multi-disciplinary evaluation and assessment of every child under age three years who is suspected to be in need of early intervention services.
- CFR 303.19  
CFR 303.406
  - ◆ If no parent or guardian is available or the child is a ward of the state, a knowledgeable surrogate parent who has no conflicting interest will be appointed to represent the interests of the child.

***As a parent, guardian or surrogate parent you have the right to:***

- CFR 303.403
  - ◆ be fully informed of your rights;
- CFR 303.401  
CFR303.404  
AS 47.20.090
  - ◆ 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 303.405
  - ◆ understand and provide voluntary written permission or refusal before the initial evaluation and assessments are administered;
- CFR 303.322  
AS 47.20.090
  - ◆ participate in the initial evaluation and assessment process including eligibility determination;
- CFR 303.321  
CFR 303.322
  - ◆ receive a completed initial evaluation and assessment within 45 days after the referral of your child;
- AS 47.20.090
  - ◆ participate in a meeting to share the results of evaluations and assessments; and
- CFR 303.343  
AS 47.20.090
  - ◆ participate in all decisions regarding eligibility and services.

---

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

- CFR303.323 ♦ 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 ♦ Evaluation and assessment procedures and materials are selected and administered so as not to be racially or culturally discriminatory.
- CFR 303.322 ♦ 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  
7AAC 23.090 ♦ Evaluations and assessments are conducted by qualified personnel.
- CFR 303.322  
7AAC 23.080 ♦ 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  
AS 47.20.090  
AS 47.20.100 ♦ 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.
- CFR303.322 ♦ Pertinent records relating to your child's health status and medical history are reviewed as part of the evaluation procedures.
- CFR 303.323 ♦ No single procedure is used as the sole criterion for determining your child's eligibility for early intervention services.
- CFR 303.322  
AS 47.20.100 ♦ 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  
AS 47.20.090  
AS 47.20.100  
7AAC 23.090

- ◆ An 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 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  
7AAC 23.090

- ◆ 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. 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  
7AAC 23.090
- ◆ attend the IFSP meetings and participate in developing the IFSP;
- CFR 303.343
- ◆ invite other family members to attend IFSP meetings;
- CFR 303.343
- ◆ invite an advocate or persons other than family members to attend and participate in the IFSP meetings;
- CFR 303.402
- ◆ have a copy of the complete IFSP;
- CFR 303.342  
CFR 303.403
- ◆ have the contents of the IFSP fully explained in the language of your choice;

---

CFR 303.342  
CFR 303.404  
CFR 303.405  
7AAC 23.090

- ◆ 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

- ◆ have services provided in a natural environment or a written explanation of why that is not possible;

CFR 303.460  
AS 47.20.110  
CFR 303.403

- ◆ give consent to exchange information about your child among other agencies; and
- ◆ 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. The notice must contain:

CFR 303.400  
to 303.460

- the action that is proposed or refused
- reasons for the action
- 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.

---

# Complaints, Mediation & Due Process

CFR 303.422  
AS 47.20.110

In early intervention/infant learning programs, 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.

CFR 303.19  
CFR 303.420  
CFR 303.421  
AS 47.20.110

◆ All parents are encouraged to resolve differences at the lowest administrative level possible. You, as a parent, are encouraged to seek assistance from either your child's family service coordinator, or the Alaska Department of Health and Social Services, Division of Public Health, Section of Maternal, Child, and Family Health, Special Needs Services Unit Manager at (800-799-7570).

***As a parent, guardian or surrogate parent you have the right to:***

CFR 303.420  
AS 47.20.110

◆ request a mediation and/or a due process hearing any time an EI/ILP proposes or refuses to initiate or change the identification, evaluation, assessment, placement, and/or provision of appropriate early intervention service(s).

CFR 303.510

◆ be informed of your right to file a complaint; and

CFR 303.511

◆ file a complaint if you believe there has been a violation of any law governing early intervention services.

---

# Complaints

CFR 303.501  
CFR 303.510  
CFR 303.511  
AS 47.20.110

◆ Any individual or organization may file a signed, written complaint against a regional or local service provider that receives Part C funds, or against the Alaska Department of Health & Social Services, Division of Public Health, Section of Maternal Child, and Family Health, alleging violations of state or federal early intervention statutes or regulations. Information or assistance in filing complaints is available from your child’s family service coordinator, EI/ILP agency and/or the State of Alaska. Consultation regarding the filing of a complaint is available. Additional assistance is available from advocacy organizations such as Disability Law Center and PARENTS, Inc. As efforts to resolve the matter at the local level are undertaken, a complaint may be filed concurrently with a request for mediation and/or due process hearing.

***Any individual or organization that files a complaint has the right to:***

- CFR 303.511
- ◆ receive assistance in filing the complaint from the family service coordinator, provider agency or State of Alaska;
- CFR 303.510
- ◆ submit additional information that may be helpful to the investigation to the Department of Health and Social Services;
- CFR 303.512
- ◆ receive a written decision within 60 days of the date the Department of Health and Social Services receives the complaint; and
- CFR 303.512
- ◆ request a review by the Secretary of the U.S. Department of Education if not satisfied with the findings.

---

# Complaints continued

***The complaint must:***

- CFR 303.511      ♦ be in writing and contain a signed statement alleging the Department of Health and Social Services, Division of Public Health, Section of Maternal, Child, and Family Health, or a regional or local service provider has violated a federal or state law or regulation;
- CFR 303.511      ♦ contain a statement of facts upon which the violation is based; include the name of the party responsible; and provide the name, address, and phone number of the complainant. The complaint may also include, if applicable, a description of the voluntary steps taken at the local level to resolve the complaint.
- CFR 303.512      ♦ complaints are filed directly with:
- Department of Health & Social Services  
Division of Public Health  
Section of Maternal, Child, and Family Health  
Special Needs Services Unit Manager  
PO Box 240249  
Anchorage, Alaska 99524-0249
- ♦ The **Notice of Complaint** form on the next page may be used to file a complaint.

## Notice of Complaint Early Intervention/Infant Learning Program (EI/ILP)

Please check who is filing the complaint:  Parent       Agency       Other \_\_\_\_\_

Name:	Address:	Phone: _____ Fax: _____ Email: _____
Who is Complaint About?	Address:	Phone: _____ Fax: _____ Email: _____

*Anyone can file a written complaint if they disagree with the identification, evaluation, placement, or early intervention services for a child, and/or believe that the child or family's rights under federal or state law have been violated.*

**DESCRIPTION OF THE COMPLAINT:**

**Describe the problem and the specific actions that the EI/ILP program has taken or refused to take. Include facts about the problem. (Use the other side or include additional sheets as needed.)**

**1. What law, regulation or other applicable policy do you believe has been violated?**

**2. What are the facts related to this complaint?**

\_\_\_\_\_  
**Complainant's Signature**

\_\_\_\_\_  
**Date**

**FAX or MAIL TO:**  
Section of Maternal, Child & Family Health  
Special Needs Services Unit Manager  
3601 C Street, Suite 934  
P.O. Box 240249  
Anchorage, AK 99524-0249  
Fax: (907)269-3465



---

# Mediation

- CFR 303.419  
CFR 303.403
- ◆ Circumstances leading to a mediation may be disagreements related to a proposal or refusal for identification, evaluation, assessment, placement, or services.
- CFR 303.425
- ◆ Your child will continue to receive the early intervention services identified on the IFSP that he/she is currently receiving unless the parties agree otherwise. 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.
- CFR 303.422  
CFR 303.423
- ◆ The impartial mediation must be held within 30 days of receipt of the request. 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.
- As a parent, you have the right to:*
- CFR 303.421  
CFR 303.419
- ◆ have the mediation conducted by an impartial person(s) not employed by the agency serving your child and who is knowledgeable in the laws relating to early intervention and the service needs of infants, toddlers, and families;
- CFR 303.423  
CFR 303.419
- ◆ require that the proceeding is carried out at a time and in a location that is reasonably convenient for you;
  - ◆ have all personally identifiable information maintained in a confidential manner;
- CFR 303.419  
CFR 303.424
- ◆ bring civil action in court against the other party following completion of the proceeding if you disagree with the results; and
- CFR 303.425
- ◆ receive services identified on the IFSP that are not in dispute.
- CFR 303.419
- A request for mediation can be made by calling **Alaska Special Education Mediation Services at 1-800-580-2209** or by fax at **1-406-863-9229**.

---

# Due Process Hearing

CFR 303.420 Due Process Hearing ensures parents of eligible children are afforded their rights. During the due process hearing, the child must continue to receive the appropriate early intervention services that are not in dispute and/or currently being provided.

*During a due process hearing, you also have the right to:*

CFR 303.422 ♦ 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 ♦ confront, cross-examine, and compel the attendance of witnesses;

CFR 303.422 ♦ present evidence, including an independent evaluation obtained at private expense and disclosed to the party, at least five days prior to the start of the proceedings;

CFR 303.422 ♦ prohibit the introduction of any evidence at the proceeding that has not been disclosed to you at least five days before the proceeding begins;

CFR 303.422 ♦ obtain a written or electronic verbatim transcription of the proceeding; and

CFR 303.422 ♦ obtain written findings of facts and decisions within 30 days from the date the request is filed.

CFR 303.420 A request for an impartial due process hearing must be made in writing to the Department of Health & Social Service Division of Public Health, Section of Maternal, Child, & Family Health. The request must include the information required on the **Request for Due Process Hearing** form. A copy of this form is on the following page.

## Request for Due Process Hearing Early Intervention/Infant Learning Program (EI/ILP)

<b>Child's Name</b>	<b>Child's Date of Birth</b>	<b>EI/ILP Service Provider</b>
<b>Parent or Guardian's Name</b>	<b>Parent/Guardian's Address</b>	<b>Parent/Guardian's Phone/Fax</b>
<b>Attorney/Legal Representative (If Any)</b>	<b>Address</b>	<b>Phone/Fax Numbers</b>

**PROBLEM:** Describe the problem with your child's services, and the specific actions that the EI/ILP program has taken or refused to take. Include facts about the problem. (Use the other side or include additional sheets.)

**PROPOSED SOLUTION:** Describe what you think needs to be done to solve the problem and what services you would want for your child. (Use the other side or include additional sheets.)

\_\_\_\_\_  
**Parent Signature**

\_\_\_\_\_  
**Date**

**FAX or MAIL TO:**  
Section of Maternal, Child & Family Health  
Special Needs Services Unit Manager  
3601 C Street, Suite 934  
P.O. Box 240249  
Anchorage, AK 99524-0249  
Fax: (907)269-3465



---

# Resources

The publicly funded organizations listed here may be able to assist you in understanding the procedural safeguards and other provisions of the IDEA.

## **Your local Early Intervention/Infant Learning Program.**

### **PARENTS, Inc.**

Toll Free: 1-800-478-7678 or in Anchorage: 337-7678  
Fax: (907) 337-7671  
Website: <http://www.parentsinc.org>

### **National Information Center for Children and Youth with Disabilities (NICHCY)**

Toll Free: (800) 695-0285  
Website: <http://www.nichcy.org>

### **Disability Law Center**

Anchorage: (907) 344-1002  
Juneau: (907) 586-1627  
Fairbanks: (907) 456-1070  
Bethel: (907) 543-3357  
Toll Free: (800) 478-1234

### **The Governor's Council on Disabilities and Special Education**

Anchorage: (907) 269-8990

### **Alaska Special Education Mediation Services**

Toll Free: 1-800-580-2209  
Fax: 1-406-863-9229



Tony Knowles, *Governor*

**State of Alaska**

Jay Livey, *Commissioner*

**Department of Health and Social Services**



Karen E. Pearson, MPH, *Director*

**Division of Public Health**

Pam Muth, MPH, *Chief*

**Section of Maternal, Child and Family Health**

**Special Needs Services Unit**

3601 C Street, Suite 934

PO Box 240249

Anchorage, Alaska 99524-0249

(907) 269-3400

(800) 799-7570

This publication was released by the State of Alaska Department of Health & Social Services, Division of Public Health, Section of Maternal, Child & Family Health. It was printed at a cost of \$1.68 per copy by Northern Printing, Anchorage, Alaska. This cost block is required by AS 44.99.210.

Design & typography - J. Matricardi