



# GUIDE TO PARENT RIGHTS



## UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT OF 2004 (IDEA), PART C



*DELAWARE HEALTH AND SOCIAL SERVICES*  
Division of Public Health  
Birth to Three Early Intervention Program



Additional copies of this booklet may be obtained by contacting:

Birth to Three Early Intervention Program

Margaret O'Neill Building, Third Floor  
410 Federal Street — Suite 7  
Dover, DE 19901

Phone: 302-739-2730

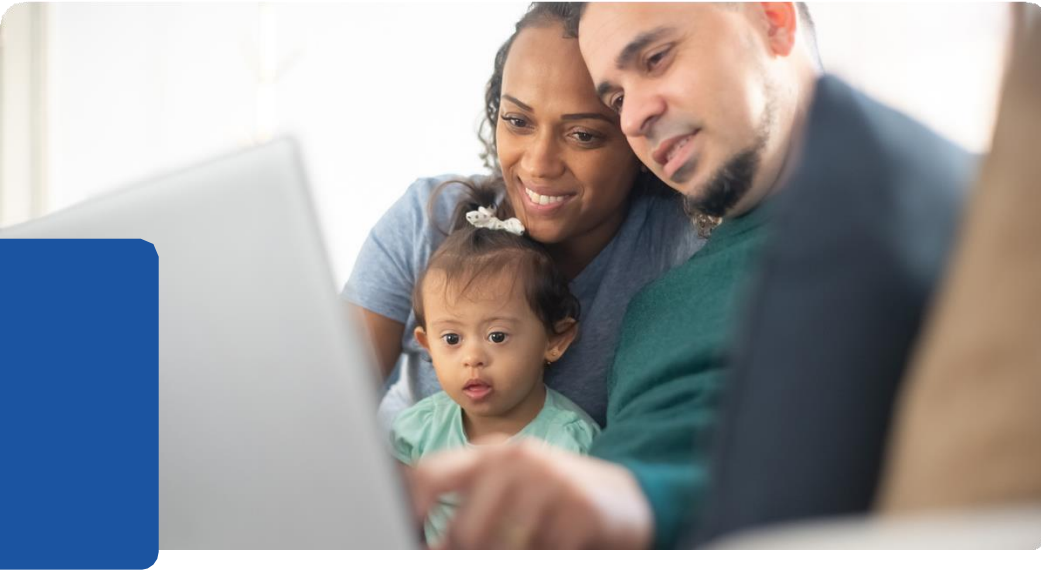
Fax: 302-622-4141

Email: [DHSS\\_DPH\\_BirthtoThree@delaware.gov](mailto:DHSS_DPH_BirthtoThree@delaware.gov)

Website: [de.gov/birthtothree](http://de.gov/birthtothree)

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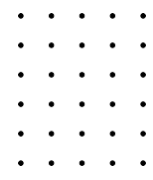
## YOUR RIGHTS

- Families seeking or receiving early intervention services through Delaware’s Birth to Three Early Intervention Program have special rights under federal law and the [Birth to Three Early Intervention Program Policies and Procedures Manual](#) (Manual). You must be informed about these rights and procedural safeguards so you can have an active role in the decision- making regarding early intervention services provided to your infant or toddler and family.
- Your family service coordinator will provide critical information about your family’s rights and safeguards under Part C of the Individuals with Disabilities Education Act (IDEA) and the [Manual](#), including this booklet, Guide to Parent Rights, which is part of the official notice of your rights and safeguards.

The Birth to Three Early Intervention Program is designed to maximize family involvement and to ensure parental consent in each step of the early intervention process, beginning with evaluation, determination of eligibility, assessment, development of an Individualized Family Service Plan (IFSP), and continuing through service delivery and transition at age three. By being involved, you can help the family service coordinator and providers plan for services that match your family’s preferences and needs.

### You have the following rights to:

- Receive service coordination;
- Be provided procedural safeguards at no cost to you;
- Have a multidisciplinary evaluation if your child’s eligibility for early intervention services has not already been determined;



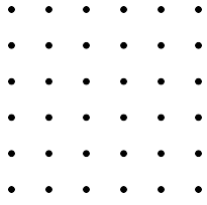
- Receive a prior written notice about any proposal or refusal regarding evaluation, identification (determination of whether your child is eligible for early intervention services), placement (the settings in which services will be provided), and the provision of early intervention services to you and your child (including the content of the IFSP);
- Consent to, or choose not to consent to, evaluations, assessments, and early intervention services, including a choice not to consent to some portion of the services proposed documented on the IFSP;
- If your child is eligible, have a multidisciplinary assessment and family-directed assessment (which must be voluntary on your part);
- Participate in an IFSP meeting within 45 calendar days from the date of referral to the Birth to Three Early Intervention Program;
- If your child is found eligible for early intervention services, have the opportunity to receive appropriate early intervention services within 30 calendar days from the date of your consent for each service documented on your IFSP;
- Choose not to use your private or public health insurance to pay for early intervention services;
- Be invited to, and participate in, all meetings in which a decision is expected to be made regarding your family's early intervention services;
- Receive early intervention services in natural environments within your family's routines, to the maximum extent appropriate, to meet your child's developmental needs;
- Have your child's and your personally identifiable information treated as confidential;
- Inspect, review, and request the amendment of, records; and
- Request certain dispute resolution processes to resolve disagreements between you and the Birth to Three Early Intervention Program or service provider, such as filing a state complaint and/or requesting mediation or a due process hearing.

If you have questions or would like to discuss a concern, you may contact your family service coordinator or the supervisor at the Regional Program:

New Castle County: 302-283-7140

Kent and Sussex Counties: 302-424-7300

You may also contact the State Part C Coordinator at (302)-739-2730 if you have questions or would like to talk to someone about your rights and participation in the Birth to Three Early Intervention Program.



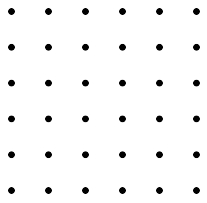
## THE BIRTH TO THREE EARLY INTERVENTION PROGRAM

In Delaware, the Birth to Three Early Intervention Program is carried out by the following components within the Department of Health and Social Services, Division of Public Health (DHSS):

- Birth to Three Early Intervention Program – Administration is responsible for developing policies and procedures, oversight of federal, state, public, and private funds for early intervention services, management of contracts with providers, and ensuring your rights under Part C of IDEA.
- Birth to Three Early Intervention Regional Programs (New Castle County, and Kent and Sussex Counties) are responsible for providing intake, evaluation, assessment, service coordination, and the IFSP, referring for early intervention services, and planning transition at age three for your child and family.

These two components of the Birth to Three Early Intervention Program work closely with independent service provider agencies to make sure that the early intervention system in Delaware works smoothly for families who have infants and toddlers with developmental delays or disabilities.

# PRIOR WRITTEN NOTICE AND CONSENT



## Prior written notice

Prior written notice is designed to ensure that you have information about the actions being proposed or refused regarding your child's and family's participation in the Birth to Three Early Intervention Program before the action takes place so that you can make informed choices and decisions.

Your family service coordinator must give you advance written notice and an explanation about the proposed or refused action before the identification (determination of eligibility), evaluation, placement (location of services), and/or provision of any early intervention services.

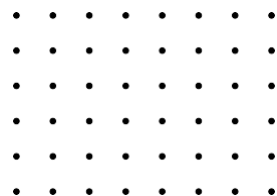
### The notice must be sufficiently detailed to inform you about:

- The action(s) being proposed or refused;
- The reason(s) for the proposal or refusal; and
- Available rights and procedural safeguards under IDEA, Part C and Delaware's [Manual](#).

The written notice must be written in language understandable to the general public and provided in your native language, unless it is clearly not feasible to do so.

If your native language or other mode of communication is not a written language, the Birth to Three Early Intervention Regional Program shall take steps to make sure 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 these requirements 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).



## Consent

The Birth to Three Early Intervention Program, the Regional Program, and/or a service provider needs your informed written parental consent to take specific actions that affect your child and family. You will be asked to give your informed written consent before the following can occur:

- All evaluations and assessments of your child;
- Early intervention services are provided to your child or family;
- Public benefits or insurance or private insurance is used if such consent is required to access your public or private health insurance; and/or
- Obtaining and/or disclosing any personally identifiable information collected, maintained, or used by the Birth to Three Early Intervention Program or service provider consistent with federal and state law.

### As a parent, you have the right to:

- Provide, decline, or withdraw written consent before an evaluation and/or child assessment; and
- Provide, decline, or withdraw written consent, at any time, for each early intervention service, including the type, duration, length and frequency of sessions, intensity, method, and location, without impacting other services. Only the service(s) you consent to will be provided.

Your family service coordinator will provide information in writing to explain what action is being proposed, the reasons and purposes for the proposal or refusal, and the results of not providing consent.

Only one parent with legal rights needs to provide written consent. In situations where both parents have legal rights and disagree, you will be asked to work together to try to reach an agreement. If that is not possible, the Birth to Three Early Intervention Regional Program may not proceed until a court or other legal entity decides which parent has the authority to make decisions.



# DISPUTE RESOLUTION OPTIONS

If you and your child's early intervention team do not agree with the evaluation and/or evaluation results, whether your child is eligible to receive early intervention services, the types and amounts of services or where they will be provided to your child and you, or other issues, there are procedures for resolving your concerns quickly.

## Informal Dispute Resolution

If early intervention activities do not occur in the time frame or the manner in which you expect, we encourage you to contact your family service coordinator so that he or she can answer your questions, help you communicate with other early intervention professionals, and/or, if needed, bring your IFSP team together to discuss your concerns. The family service coordinator's job is to help you navigate the program. Additionally, you may also reach out to the Regional Program supervisor, or state Part C Coordinator for help to resolve disagreement.

However, if the informal steps do not work to satisfy your disagreement, there are formal steps to assure that your concerns are addressed and resolved.

## Formal Dispute Resolution Options

Although we encourage you to work with your family service coordinator, early intervention team members, Regional Program supervisors, and/or the State Part C Coordinator to resolve issues informally, there are other options that are available to you.

### As a parent, you have the right to:

- ♦ Request a mediation, a collaborative problem-solving process, to resolve any kind of dispute concerning any early intervention matter including those arising prior to your filing a complaint or requesting an impartial due process hearing; and/or
- ♦ File a complaint with the Birth to Three Early Intervention Program if you believe there has been a violation of IDEA, Part C or the Manual, and/or
- ♦ Request a due process hearing if you disagree with the Birth to Three Early Intervention Program's proposal or refusal to initiate or change the identification (eligibility), evaluation, placement (location), or the provision of early intervention services (i.e., IFSP services) under IDEA, Part C.
- ♦ Receive assistance from your family service coordinator or the State Part C Coordinator to access any of the dispute resolution options.

## Mediation

Mediation is a voluntary process and may only be used when both parties to the dispute agree to do so. You or the Birth to Three Early Intervention Regional Program or service provider may request mediation to resolve disagreements about early intervention services for your child, the evaluation your child, the determination of eligibility, assessment of your child and family-directed assessment, your child's IFSP, the provision of early intervention services in your child's IFSP, or any other early intervention issue.

With the help of an impartial mediator, you, and the early intervention representative will have an opportunity to talk about the issue(s) and discuss agreeable solutions.

A mediator is a qualified and impartial person who is required to undergo training in mediation techniques and is knowledgeable about the laws, regulations, policies, and procedures related to the provision of early intervention services. The Birth to Three Early Intervention Program – Administration staff is responsible for maintaining a list of qualified, knowledgeable mediators, and for the cost of the mediation process, including the cost of the mediation meetings.

A mediator:

- Cannot be an employee of DHSS, or any other agency or program involved in providing early intervention services or care of the child or family;
- Cannot have a personal or professional interest that would conflict with his or her objectivity in implementing the process;
- Is not considered an employee of DHSS solely because the person is paid by the Birth to Three Early Intervention Program to implement the mediation; and
- Must be selected on a random, rotational basis.

As a parent, you have the right to request or refuse to participate in mediation. If mediation is agreed upon by both parties, you have the right to:

- Have the mediation conference scheduled in a timely manner and held in a location that is convenient for you and other individuals that are part of the dispute;
- Have all personally identifiable information maintained in a confidential manner;

- If the parties resolve a dispute using mediation, receive a written, signed, enforceable mediation agreement that details the results of the mediation meeting; and
- Have mediation discussions kept confidential and not used as evidence in any subsequent due process hearing or court proceedings.

Mediation cannot be used to deny or delay your right to a due process hearing or any other rights. You can request mediation when filing a complaint or simultaneously with a request for a due process hearing. You may refuse mediation or withdraw from the mediation process at any time.

If you wish to request mediation, you may ask your family service coordinator or the State Part C Coordinator for assistance in your native language or other mode of communication.

You may also make your request for mediation in sign language or Braille.

The Birth to Three Early Intervention Program has developed a form that you may choose to use to request mediation. (You are not required to use that form or may choose to request mediation using a different format.) You may request the form by contacting the State Part C Coordinator at:

Birth to Three Early Intervention Program – Administration  
Margaret O’Neill Building, Third Floor 410 Federal Street – Suite 7  
Dover, DE 19901  
Phone: 302-739-2730  
Fax: 302-622-4141  
Email: [DHSS\\_DPH\\_BirthToThree@delaware.gov](mailto:DHSS_DPH_BirthToThree@delaware.gov)



Once the State Part C Coordinator receives your request for mediation:

- A mediator is appointed within 10 working days.
- The Birth to Three Early Intervention Program covers the cost of the mediation.
- Each session in the mediation process is scheduled in a timely manner and must be held in a location that is convenient to the parties (parent and Birth to Three Early Intervention Regional Program or service provider) to the dispute.
- If the parties resolve a dispute through mediation, the parties must execute a mediation agreement that is legally binding and:
  - States that all discussions that occurred during the mediation process shall remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
  - Is signed by both the parent and a representative of the Birth to Three Early Intervention Regional Program and/or early intervention service provider agency who has the authority to bind the Program and/or agency to what has been agreed upon.

A written, signed mediation agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States.

## State Complaints

Any individual or organization may file, with the State Part C Coordinator, a written, signed complaint alleging a violation of the requirements of Part C of IDEA and/its regulations, and/ or those of the [Manual](#) by the Birth to Three Early Intervention Program or a service provider, and a description of the facts on which the complaint is based.

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

- Receive a final written decision within 60 calendar days of the date the State Part C Coordinator receives the complaint. That timeline may be extended if:
  - An exceptional circumstance exists with respect to your specific complaint, or
  - There is an agreement amongst all parties involved in the complaint to engage in mediation.

The written complaint must include the following information:

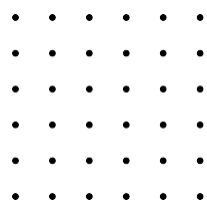
- A statement that the Birth to Three Early Intervention Regional Program or an early intervention service provider has violated a requirement under Part C of IDEA;
- The facts on which the statement is based;
- The signature and contact information for the person or organization filing the complaint; and
- If the complaint is related to a specific child:
  - The name and address of the residence of the child;
  - The name of the Birth to Three Early Intervention Regional Program or service provider serving the child;
  - A description of the nature of the problem, including facts relating to the problem; and
  - A proposed resolution of the problem to the extent known at the time the complaint is filed.

If you decide to file a complaint, it must be within one year of the date the alleged violation occurred. In addition, the federal regulation and the [Manual](#) require that the person filing the complaint must forward a copy of the complaint to the Birth to Three Early Intervention Regional Program or service provider serving the child at the time the complaint is filed.

You may file a written complaint with the State Part C Coordinator at:

Birth to Three Early Intervention Program  
Margaret O'Neill Building, Third Floor 410 Federal Street – Suite 7  
Dover, DE 19901  
Phone: 302-739-2730  
Fax: 302-622-4141  
Email: [DHSS\\_DPH\\_BirthToThree@delaware.gov](mailto:DHSS_DPH_BirthToThree@delaware.gov)

If you need any assistance in filing a complaint, do not hesitate to reach out to the State Part C Coordinator. The Birth to Three Early Intervention Program has developed a form[AF1] that you may choose to use to file a complaint. (You are not required to use that form and may choose to file your complaint using a different format.)



Once the State Part C Coordinator receives the complaint, the Birth to Three Early Intervention Program has 60 calendar days, unless exceptional circumstances exist that are specific to the complaint, to:

- Investigate the complaint, including conducting an independent, on-site investigation, if necessary;
- Make an independent determination as to whether or not a violation of Part C of the IDEA or the [Manual](#) has occurred after reviewing all relevant information; and
- Issue a written decision to the complainant that addresses each allegation in the complaint and that contains related facts and conclusions as well as the reasons for the final decision.

The individual or organization filing the complaint has the opportunity to submit additional information, either orally or in writing, about the complaint.

The Birth to Three Early Intervention Regional Program or the service provider must be given an opportunity to respond to the complaint and there must be an opportunity for the person or organization who filed a complaint and the Regional Program or service provider to voluntarily engage in mediation.

If the final decision indicates that appropriate services were/are not being provided, the State Part C Coordinator ensure that the Regional Program or service provider will address how to remediate the denial of the services including, as appropriate, the awarding of compensatory service or monetary reimbursement or other corrective action appropriate to the needs of the child and family. This must include procedures for effective implementation of the decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance.

The State Part C Coordinator must also ensure the Birth to Three Early Intervention Program, Regional Program, or service provider will address appropriate future provision of early intervention services for all infants and toddlers with disabilities and their families.

If a 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, the State Part C Coordinator must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not part of the due process action must be resolved within the 60-calendar day timeline using the complaint procedures described above.

If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties:

- The hearing decision on those issues is binding; and
- The State Part C Coordinator must inform the complainant to that effect.

Any complaint alleging a Regional Program or service provider failure to implement the details described in a due process decision must be resolved through actions by the Birth to Three Early Intervention Program.



## Due Process Hearing

A due process hearing is a formal procedure that parents may use to resolve disagreements related to the Birth to Three Early Intervention Program's proposal or refusal to initiate or change the identification (determination of eligibility), multidisciplinary evaluation, the provision of appropriate early intervention services, or setting for those services, consistent with Part C of IDEA, Sections 303.435-438 and the [Manual](#). Families may request a due process hearing by contacting the State Part C Coordinator at:

Birth to Three Early Intervention Program – Administration  
Margaret O'Neill Building, Third Floor 410 Federal Street – Suite 7  
Dover, DE 19901  
Phone: 302-739-2730  
Fax: 302-622-4141  
Email: [DHSS\\_DPH\\_BirthToThree@delaware.gov](mailto:DHSS_DPH_BirthToThree@delaware.gov)

The Birth to Three Early Intervention Program has developed a form that you may choose to use to request a due process hearing. (You are not required to use that form and may choose to request a hearing using a different format.)

Upon receipt of the request for a due process hearing, an impartial hearing officer is assigned, as soon as possible, who:

- Has knowledge about the provisions of Part C of IDEA, the [Manual](#), and the needs of, and services available for, infants and toddlers with disabilities and their families; and
- Performs the following duties:
  - Listens to the presentation of relevant viewpoints about the due process complaint;
  - Examines all information relevant to the issues and seeks to reach a timely resolution of the due process issue(s); and
  - Provides a record of the proceedings at the cost of the Birth to Three Early Intervention Program, including a written decision of the hearing.

During the due process time frame, your child will continue to receive the early intervention services identified on the IFSP that he or she is currently receiving, unless you and your IFSP team agree to a change. If your disagreement involves a new service that has not yet started, the service will not start until the hearing decision is made. Your child and family will receive the services identified on the IFSP that are not in dispute.

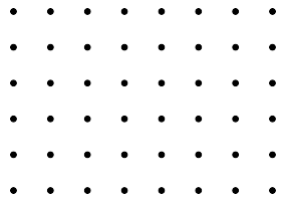
### During a due process hearing, you have the right to:

- Have the due process hearing carried out at a time and place that is reasonably convenient to you;
- Be accompanied and advised by an attorney and/or individual(s) with special knowledge or training with respect to early intervention services for eligible children, at your own expense;
- Present evidence and confront, cross-examine, and compel the attendance of witnesses;
- Prohibit the introduction of any evidence at the proceeding that has not been disclosed to you at least five calendar days before the proceeding begins; Obtain
- a written or electronic verbatim transcription of the hearing at no cost to you; and
- Receive a written hearing decision within 30 calendar days after the date on which the State Part C Coordinator received the hearing request, unless the hearing officer grants a specific extension of that timeline at the request of either party. The decision must include findings of facts and decisions and be at no cost to you.



## Civil Action

If you feel that the dispute was not resolved by the due process hearing, you have the right to bring a civil action in state court within 30 calendar days of the decision or in federal court.



## CONFIDENTIALITY

When your child is referred to the Birth to Three Early Intervention Program, your family service coordinator is required to ensure you are fully informed about the confidentiality requirements that include whose information and what types of information are maintained, what the agency or provider must do to keep your information confidential, and a description of your rights related to your child's and family's information. You have the right to have this information provided in your native language, to the extent possible.

The information you provide about your family to early intervention professionals from the time of referral and throughout your family's contact with the Birth to Three Early Intervention Program is confidential. Personally identifiable information will only be shared with your written consent, unless a subpoena, law, or court order requires disclosure.

From time-to-time, we may ask other service and/or health care providers for information about your child, but we need your informed written consent to do so. We also need your consent before any of your child's early intervention information can be shared with anyone outside of the Birth to Three Early Intervention Program.

Informed written parental consent must be obtained before personally identifiable information is:

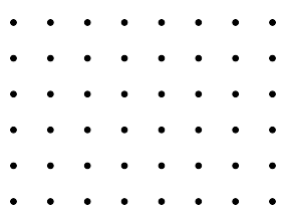
- Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies, including the Department of Health and Social Services, family service coordinators, and service providers who collect, maintain, or use information by the Birth to Three Early Intervention Program, unless authorized to do so under Family Educational Rights and Privacy Act (FERPA)(34 CFR Part 99); or
- Used for any purpose other than meeting a requirement under Part C or the [Manual](#).

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

- The Birth to Three Program, its Regional Programs, and service providers must protect the confidentiality of personally identifiable information during collection, storage, disclosure, and destruction from the point of time when your child is referred for early intervention services until the program is no longer required to maintain or no longer maintains that information under federal or state laws;
- One official from each Birth to Three Early Intervention Regional Program and service provider must be responsible for ensuring the confidentiality of any personally identifiable information;
- All persons collecting or using personally identifiable information must receive training or instruction on maintaining confidentiality;
- Each Birth to Three Early Intervention Regional Program or service provider shall keep a written record of persons obtaining access to records collected, maintained, or used by the program, except access by parents and authorized employees of the Program or service provider, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the child's early intervention record; and
- The Birth to Three Early Intervention Regional Program or service provider must inform you when personally identifiable information collected, maintained, or used by the Birth to Three Early Intervention Program is no longer needed to provide services to your child.

You may also request that personally identifiable information be destroyed at your request when it is no longer needed to provide early intervention services to your child or family; however, the Birth to Three Early Intervention Program may maintain without limitation the following information:

- Child’s name and date of birth;
- Parent contact information, including address and phone number;
- Name(s) of the family service coordinator(s) and early intervention service provider(s); and
- Exit data, including year and age upon exit from the early intervention program, and any programs entered into upon exit.



## ACCESS TO RECORDS

Your child’s early intervention records may at times be shared within the Birth to Three Early Intervention Program to ensure that your services are well coordinated, such as when a decision is being made about which program or contracted provider will provide services.

You have the right to inspect and review records relating to multidisciplinary evaluations and assessments; eligibility determinations; development and implementation of IFSPs; provision of early intervention services; individual complaints pertaining to your child; and any other portion of the Birth to Three Early Intervention Program involving records about your child and your family, unless restricted under the authority of applicable state law over such matters as guardianship, separation, or divorce.

## The right to inspect and review records includes:

- The Birth to Three Early Intervention Regional Program or service provider must provide, at no cost to you, a copy of each multidisciplinary evaluation, child and/or family assessment, and IFSP as soon as possible after each IFSP meeting, and, in no case more than 10 calendar days after the request has been made.
- The Birth to Three Early Intervention Regional Program or service provider must comply with a request for records without unnecessary delay and before any meeting regarding an IFSP or hearing related to identification, evaluation, placement, or provision of early intervention services for your child and family and, in no case more than 10 calendar days after the request has been made.
- The Birth to Three Early Intervention Regional Program or service provider may charge a fee for additional copies of records that are made for you if the fee does not effectively prevent you from exercising your right to inspect and review those records ;however, you cannot be charged a fee to search for or retrieve information.
- If any record includes information about more than one child, you may inspect and review, or be informed of, only the information relating to your child.
- You will receive a response from the Birth to Three Early Intervention Regional Program or service provider to reasonable requests for explanations and interpretations of the record.
- You have the option of having someone who is representing you inspect and review the record.
- The Birth to Three Early Intervention Regional Program or service provider will assume that you have the authority to inspect and review records relating to your child unless the agency or provider has received documentation that you do not have the authority under applicable Delaware law.
- Each Birth to Three Early Intervention Regional Program or service provider shall provide you, upon request, a list of the types and locations of records collected, maintained, or used by the agency or provider.
- If you believe that information in your child's record that has been collected, maintained, or used by the Birth to Three Early Intervention Program contains inaccurate or misleading information, or violates the privacy or other rights of your child or family, you may request that the record be amended.

The agency must respond to your request that a record be amended without unnecessary delay and, in no case more than 10 calendar days after you make the request.

- If the Birth to Three Early Intervention Regional Program or service provider refuses to amend your child's record, as requested, you have the right to receive that refusal in writing and be advised that you have a right to request a hearing related to your child's record.
- A request for a hearing is made to the State Part C Coordinator who will contact you to explain that you have a choice of a hearing:
  - By an individual, including an official of the Birth to Three Early Intervention Program – Administration, who does not have a direct interest in the outcome of the hearing; or
  - A due process hearing following the procedures described on page 28.
- If you have any questions about the following two options, you may contact the State Part C Coordinator.
  - If, because of the hearing, it is decided that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or family, the Birth to Three Early Intervention Regional Program or service provider will amend the information accordingly and will inform you in writing.
  - If, as a result of the hearing, it is decided that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or family, you will be informed of your right to place in the records of your child a statement commenting on the information and setting forth any reasons for disagreeing with the decision of the Birth to Three Early Intervention Program official or the hearing officer.

Any explanation of a refusal to revise a record placed in the records of your child must:

- Be maintained by the Birth to Three Early Intervention Regional Program as part of the records of your child as long as the record or contested portion (that part of the record with which you disagree) is maintained by the agency; and
- If the records of your child or the contested portion is disclosed by the Birth to Three Early Intervention Regional Program or service provider to any party, the explanation must also be disclosed to the party.

The agency must respond to your request that a record be amended without unnecessary delay and, in no case more than 10 calendar days after you make the request.

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  - If, as a result of the hearing, it is decided that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or family, you will be informed of your right to place in the records of your child a statement commenting on the information and setting forth any reasons for disagreeing with the decision of the Birth to Three Early Intervention Program official or the hearing officer.

Any explanation of a refusal to revise a record placed in the records of your child must:

- Be maintained by the Birth to Three Early Intervention Regional Program as part of the records of your child as long as the record or contested portion (that part of the record with which you disagree) is maintained by the agency; and
- If the records of your child or the contested portion is disclosed by the Birth to Three Early Intervention Regional Program or service provider to any party, the explanation must also be disclosed to the party.

# DEFINITIONS

**Consent** means that:

- You have been fully informed in your native language (unless clearly not feasible to do so) or other mode of communication about all information relevant to the activity(ies) for which consent is sought.
- You understand and agree in writing to the carrying out of the activity(ies) for which consent is sought. The consent must describe the activity(ies) for which consent is sought.
- The consent form must include a list of physical documents and recorded information that will be released and to whom.

Your consent is voluntary and may be revoked in writing at any time. If you revoke consent, your revocation is effective on that day and does not apply to any actions that occurred before consent was revoked.

**Destruction** means the destruction of your child's physical and/or electronic early intervention record or ensuring that personally identifiable information is removed from your child's record so that the record is no longer personally identifiable.

**Disclosure** means access to, or the release, transfer, or other communication of your child's early intervention records, to any party, by any means, including oral, written, or electronic means.

**Early intervention record** means the record that is directly related to a child referred to the Birth to Three Early Intervention Program and/or enrolled in early intervention services. The record is maintained by the Birth to Three Early Intervention Program and/or its contractors for the purpose of evaluating and assessing a child referred to early intervention services and for the delivery of services.

**Early Intervention services** are those services identified in IDEA, Part C, that are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to support their child's development. Early intervention services are provided in the context of the family's typical routines and activities so that information is meaningful and directly relevant to supporting the child to fully participate in his or her environment.

**Family Directed Assessment** means a voluntary process to identify your resources, priorities, and concerns and supports necessary to enhance your capacity or that of other caregivers to meet the developmental needs of your eligible child.

**Family Educational Rights and Privacy Act (FERPA)** refers to the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g;34 CFR Part 99). It is a federal law that protects the privacy of early intervention records, including access and disclosure of personally identifiable information, and parents' right to review, copy, and/or request amendments of their child's record.

**Individualized Family Service Plan (IFSP)** is the written plan developed by your family and the early intervention professionals involved with your family. The IFSP:

- Is based on an evaluation and assessment;
- Includes parental consent;
- Is implemented as soon as possible, and no longer than 30 days, after parental consent for early intervention services in the IFSP is obtained; and
- Is developed in accordance with the [Manual](#) and IDEA, Part C.

**Individuals with Disabilities Education Act (IDEA)** is the Federal statute (Public Law 108-446) that governs states' provision of early intervention and special education services to children with disabilities, ages birth through 21. IDEA has four "parts." Part C of IDEA defines early intervention services.

**Multidisciplinary assessment** means the procedures used initially before your child's first Individualized Family Service Plan (IFSP) and continuously throughout your child's period of eligibility for early intervention services, to identify the:

- unique strengths and needs of your child,
- and early intervention services appropriate to meet those needs;

**Multidisciplinary evaluation** means that the developmental evaluation of a child is done by more than one specialized professional who have different areas of training and experience, such as a speech language pathologist and a physical therapist. Part C of IDEA requires that, when determining eligibility, a child must have a multidisciplinary evaluation in all five areas of development (adaptive; cognitive; communication; physical, which includes fine and gross motor, vision, and hearing; and social-emotional), unless the child is eligible for early intervention services based upon a diagnosed established condition with a high probability of resulting in developmental delay.



**Native language** means the language normally used by the parent of the child, except for evaluations and assessments, during which the language normally used by the child is used to conduct the child's evaluation and/ or assessment. Native language, when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, Braille, or oral communication).

**Natural environments** mean the day-to-day routines, activities, and places that promote learning opportunities for your child and family, in settings such as your family's home and community that are natural or typical for same- aged peers who have no disabilities.

**Parent**, within early intervention services means:

- The biological or adoptive parent of a child;
- A guardian in a parental relation to the child authorized to act as the child's parent or authorized to make early intervention, educational, health or developmental decisions, but not the State if the child is under the jurisdiction of a court; or
- An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- A surrogate parent who has been appointed in accordance with 34 CFR Section 303.422.

**Service coordination** is a variety of activities carried out by a family service coordinator to assist a family to understand the parental rights and to:

- Serve as the single point of contact for a family;
- Coordinate the multidisciplinary evaluation and assessments,
- Facilitate the development of the IFSP,
- Refer to early intervention service providers and ensure timely delivery of services,
- Provide follow-up activities to make sure appropriate services are being provided;
- Inform the family of rights of IDEA and the [Manual](#),
- Coordinate funding for early intervention services,
- Assist with coordinating other services that are needed but that Part C and the Manual do not require the Early Intervention Program to pay for or provide; and
- Facilitate transition when the infant or toddler is approaching the time to leave the Birth to Three Early Intervention Program.

**Service provider** means an entity (whether public, private, or nonprofit) or individual that provides early intervention services, whether or not they receive federal Part C funds.

**Surrogate parent** means an individual appointed by the Birth to Three Early Intervention Program to act in the place of a parent in safeguarding an infant's or toddler's rights in the decision-making process regarding multidisciplinary evaluation, assessment, development of the IFSP, delivery of early intervention services and transition planning. The appointment of a surrogate parent is required when a biological parent cannot be identified or located.

# Resources

## **Center for Appropriate Dispute Resolution in Special Education (CADRE)**

576 Olive St, Suite 300, Eugene, OR 97401

Email: [cadre@directionservice.org](mailto:cadre@directionservice.org)

Phone: 541-359-4210

Fax: 458-215-4957

## **Conflict Resolution Program at the University of Delaware**

The Conflict Resolution Program's team of trained practitioners is available to provide voluntary, confidential, and free dispute resolution services for the facilitation of Individualized Family Service Plan (IFSP) team meetings and the mediation of disagreements related to the Birth to Three Early Intervention Program. The Conflict Resolution Program is an initiative in the Institute for Public Administration at the University of Delaware.

**[www.ipa.udel.edu/crp](http://www.ipa.udel.edu/crp)**

**Phone: 302-831-8158**

**Email: [crp-info@udel.edu](mailto:crp-info@udel.edu)**

## **Delaware Bar Association**

<https://www.dsba.org>

405 N. King Street, Suite 100, Wilmington, DE 19801

Phone: 302-658-5279

Fax: 302-658-5212

## **Delaware Volunteer Legal Services**

<https://www.dvls.org>

New Castle County: 302-478-8850 Kent/Sussex County: 888-225-0582

Email: [tventresca@dvls.org](mailto:tventresca@dvls.org)

## **Disabilities Law Program**

<http://www.declasi.org/disabilities-law-program>

New Castle County

100 W. 10th Street, Suite 501, Wilmington, DE 19801

Phone: 302-575-0660

Toll-Free: 800-292-7980

Disabilities Program: 302-575-0690

TTY: 302-575-0696

Fax: 302-575-0840

Office Hours: Monday-Friday, 9AM-5PM

## Kent County

840 Walker Road, Dover, DE 19904

Phone: 302-674-8500

Toll-Free: 800-537-8383

Disabilities Program: 302-674-8503

TTY: 302-674-9430

Fax: 302-674-8145

Office Hours: Monday–Friday, 8:30AM–4:30PM

## Sussex County

Georgetown Professional Park

20151 Office Circle, Georgetown, DE 19947

Phone: 302-856-0038

Toll-Free: 800-462-7070

Disabilities Program: 302-856-3742

TTY: 302-856-7491

Fax: 302-856-6133

Office Hours: Monday–Friday, 8:30AM–4:30PM

## **Governor’s Advisory Council for Exceptional Citizens**

<https://gacec.delaware.gov>

Phone: 302-739-4553

## **Parent Information Center of Delaware**

<https://picofdel.org>

Phone: 303-739-2730

## Wilmington Office

404 Larch Circle, Wilmington, DE 19804

Phone: 302-999-7394

Toll-Free: 888-547-4412

Fax: 302-999-7394

## Kent/Sussex Office

Toll-Free: 888-547-4412



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*DELAWARE HEALTH AND SOCIAL SERVICES*  
Division of Public Health  
Birth to Three Early Intervention Program