

# Early Intervention Program –

## Procedural Safeguards

**5123-10-01**

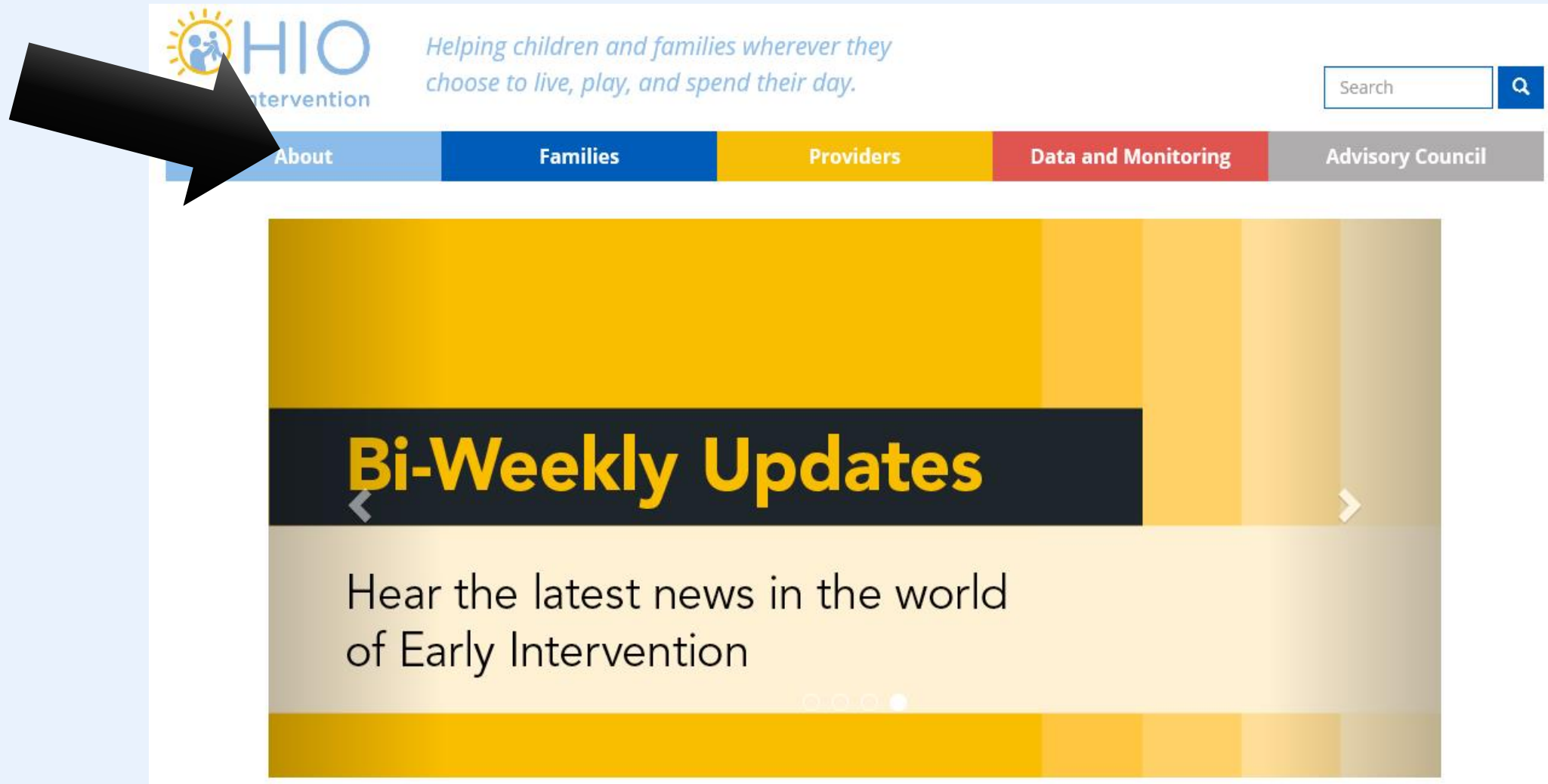
**2019**



Why are  
Procedural  
Safeguards  
important in Early  
Intervention?



Once the rules are finalized they will be found at the Ohio Early Intervention website  
<https://ohioearlyintervention.org/>  
Under the “Providers” tab:





# How is the Rule Organized?

- A. Purpose
- B. Definitions
- C. Parent's consent and withdrawal of consent
- D. Prior written notice
- E. Retention of early intervention records
- F. Confidentiality of personally identifiable information in early intervention records
- G. Access to early intervention records
- H. Amendments to early intervention records
- I. Dispute resolution
- J. Investigation of a complaint
- K. Mediation process
- L. Due process hearing procedures



## A. Purpose:

This rule sets forth the procedural safeguards in the early intervention program, including the provisions of parental consent and notice; retention, confidentiality, access to, and amendment of records; and dispute resolution.



Visit the EI Site here to view the Parent Rights Brochure:  
[https://ohioearlyintervention.org/up\\_doc/Parents-Rights-in-EI.pdf](https://ohioearlyintervention.org/up_doc/Parents-Rights-in-EI.pdf)

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## B. Definitions

1. **"Complainant"** means an organization or individual, including an organization or individual from another state.  
"Complainant" does not include a parent.
2. **"Consent"** means that a parent:
  - (a) Has been informed of the information relevant to the activity for which consent is sought, in the parent's native language;
  - (b) Agrees in writing to the carrying out of the activity for which the parent's consent is sought; and
  - (c) Understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time and that if the parent revokes consent, revocation is not retroactive.
3. **"Department"** means the Ohio department of developmental disabilities.

- **"Complainant" is a new term**
- **"Consent" has been expanded and clarified from previous definitions to more closely match the federal regulations definition.**





## B. Definitions

4. **“Early intervention program”** means Ohio's statewide system that provides coordinated services to parents of infants and toddlers with delays or disabilities in accordance with part C.
5. **“Early intervention records”** means all records regarding a child that are collected, maintained, or used under part C.
6. **“Early intervention service coordinator”** means a person who holds an early intervention service coordinator credential or an early intervention service coordination supervisor credential issued in accordance with rule 5123-10-04 of the Administrative Code and assists and enables an infant or toddler with a disability and the child's family to receive the services and rights, including procedural safeguards, required under part C.
7. **“Early intervention service provider”** means an entity that, or an individual who, provides early intervention services under part C, and may include, where appropriate, the department and a public agency responsible for providing early intervention services under part C.

**These terms are closely related to the previous rules with clarified language.**



## B. Definitions

- 8. “Early intervention services”** means developmental services described in appendix A to rule 5123-10-02 of the Administrative Code, selected in collaboration with a parent of a child birth through age two who is eligible for services under part C, and designed to meet the developmental needs of the child and the needs of the child's family to assist appropriately in the child's development as identified in the individualized family service plan.
- 9. "Individualized family service plan"** means the written plan for providing early intervention services to an eligible child and the child's family.
- 10. "Native language"** means the language or mode of communication normally used by a child or a parent of the child.
- 11. "Parent"** means a biological or adoptive parent of a child, a guardian, a foster parent or person acting in place of a biological or adoptive parent with whom the child lives, or an appointed surrogate parent, consistent with 34 C.F.R. 303.27, as in effect on the effective date of this rule.
- 12. “Part C”** means part C of the Individuals with Disabilities Education Act, 20 U.S.C. 1431 through 1445, as in effect on the effective date of this rule, and 34 C.F.R. part 303, as in effect on the effective date of this rule.



## B. Definitions

**13. "Participating agency"** means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements in part C with respect to a particular child. A participating agency includes the lead agency, early intervention service providers, and any individual or entity that provides any part C services (including service coordination, evaluations and assessments, and other part C services), but does not include primary referral sources or public agencies (such as the Ohio department of Medicaid) or private entities (such as private insurance companies) that act solely as funding sources for part C services.

**14. "Personally identifiable information"** includes, but is not limited to:

- a) A child's name;
- b) The name of a child's parent or other family member;
- c) The address of a child or the child's family;
- d) A personal identifier, such as a child's social security number;
- e) An indirect identifier, such as a child's date of birth, place of birth, or mother's maiden name;
- f) Information that, alone or in combination, is linked or linkable to a specific child that would allow a reasonable person, who does not have personal knowledge of the relevant circumstances, to identify the child with reasonable certainty; or
- g) Information requested by a person who the early intervention service provider reasonably believes knows the identity of the child to whom the early intervention record relates.



## New Definitions

**Complainant:** entity *other than the parent* who can file a complaint

**Part C:** added as a reminder that the state rule is anchored to the federal regulations

**Participating agency** – all local agencies that implement EI services

## Clarified Definitions

**EI records:** specifically for use in providing EI services

**Early Intervention Service Coordinator (EISC):** Specific to credentialed individuals providing SC services *in EI*

**EI services:** list of services moved to Appendix A

**Parent:** definition more concise than the federal, broader than the ODH rule

**PII:** more detailed description

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## C. Parent's consent and withdrawal of consent

### 1. An early intervention service provider shall ensure that a parent's consent is obtained before:

- a) Administering developmental screening procedures that are used to determine whether a child is suspected of having a disability using form **EI-01** ("Prior Written Notice and Consent for Developmental Screening," July 2019);
- b) Conducting an evaluation or assessment of a child using form **EI-02** ("Prior Written Notice and Consent for Developmental Evaluation and Assessment," July 2019);
- c) Conducting a family assessment using form **EI-03** ("Prior Written Notice and Consent for the Family-Directed Assessment," July 2019);

All of these forms will be available under the forms area of the providers tab of the EI website:  
<https://ohioearlyintervention.org/forms>

Parent rights and recourse are covered in multiple areas throughout the ODH rules: 3701-8-09, 3701-8-10, and 3701-8-10.11



## C. Parent's consent and withdrawal of consent

### 1. **An early intervention service provider shall ensure that a parent's consent is obtained before:** (continued)

- d) Providing early intervention services to a child or the child's family using form **EI-04** ("Individualized Family Service Plan," July 2019);
- e) Using private insurance of a child or the child's parent using form **EI-05** ("Consent to Use Insurance for Early Intervention Services," July 2019); **or**
- f) Disclosing personally identifiable information to anyone other than authorized representatives, officials, or employees collecting, maintaining, or using the information for purposes of early intervention services using form **EI-06** ("Consent for Release of Records and Consent for Release and/or Exchange of Information," July 2019), form **EI-07** ("Consents for Transition," July 2019), or form **EI-08** ("Consent to Refer Child to the Local Educational Agency and the Ohio Department of Education," July 2019).

All of these forms will be available under the Forms tile of the Providers tab of the EI website:  
<https://ohioearlyintervention.org/forms>

## C. Parent's consent and withdrawal of consent

**2. If a parent does not give consent for an evaluation or assessment described in paragraph (C)(1)(b) of this rule, an early intervention service provider shall make reasonable efforts to ensure that the parent:**

- a) Is fully aware of the nature of the evaluation or assessment of the child and early intervention services that might be available; **and**
- b) Understands that the child will not be able to receive the evaluation, assessment, or early intervention services unless consent is given.

**Training:** Motivational Interviewing 3 part series. Part three includes in-person practice.

See Training page of EI website

<https://ohioearlyintervention.org/trainings>

## C. Parent's consent and withdrawal of consent



### **3. The parent of a child may:**

- a) Consent to or withdraw consent for early intervention services at any time; **and**
- b) Withdraw consent for some early intervention services after giving consent, without jeopardizing other early intervention services.

### **4. An early intervention service provider or participating agency shall not use the due process hearing procedures described in paragraph (L) of this rule to challenge a parent's refusal to provide consent**

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## D. Prior written notice:

NEW

The ability for a parent to waive the 10 days advanced written notice is new to this rule.

**1. An early intervention service provider shall** give prior written notice to a parent at least ten calendar days before proposing or refusing to initiate or change the identification, evaluation, or placement of a child, or providing early intervention services to the child and that child's family. A parent may waive the right to the ten-day prior notice.

**2. Prior written notice shall:**

- a) Be sufficient to inform the parent about:
  - i. The action that is being proposed or refused;
  - ii. The reasons for taking the action; **and**
  - iii. The procedural safeguards set forth in paragraphs (I), (J), (K), and (L) of this rule;
- b) Be written in language understandable to the public; **and**
- c) Be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. (continued on next slide)





## D. Prior written notice:

While the specific forms here are new and updated for EI the procedures outlined below align with the regulations on prior written notice in both the federal regulations and ODH rule 3701-8-10 and 3701-8-10.1

### 2. Prior written notice shall: (continued)

- d) Be provided on the prescribed form that is:
  - i. For developmental screening of a child, form **EI-01** ("Prior Written Notice and Consent for Developmental Screening," July 2019);
  - ii. For child evaluation and/or assessment, form **EI-02** ("Prior Written Notice and Consent for Developmental Evaluation and Assessment," July 2019):
  - iii. For a child determined to be not eligible for early intervention, form **EI-09** (Prior Written Notice of Determination of Ineligibility," July 2019):
  - iv. When exiting a child in accordance with paragraph (P)(2) of rule 5123-10-02 of the Administrative Code, form **EI-10** (Prior Written Notice of Exiting," July 2019); and
  - v. For the provision of early intervention services including any proposed placement, form **EI-11** ("Prior Written Notice of Proposed Change to Services," July 2019).

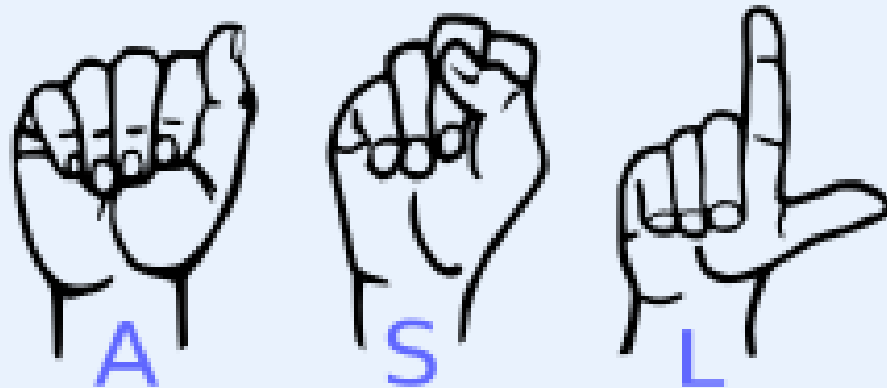
All of these forms will be available under the forms area of the Providers tab of the EI website:

<https://ohioearlyintervention.org/forms>

## D. Prior written notice:

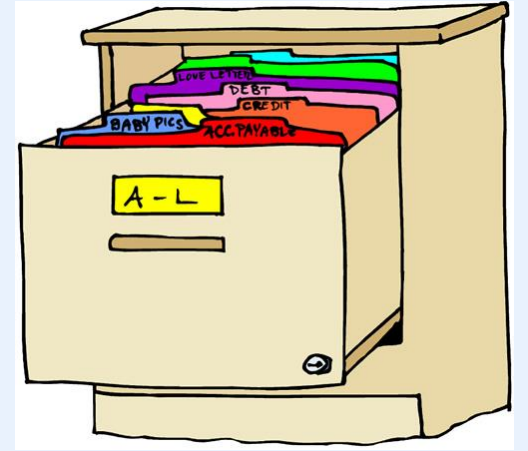
**3. If the native language or other mode of communication used by the parent is not a written language, an early intervention service provider shall take steps to ensure that:**

- a) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;
- b) The parent understands the notice; and
- c) There is written documentation that the requirements of paragraph (D) of this rule have been met.



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## E. Retention of early intervention records

### 1. **An early intervention service provider:**

- a) Shall retain a child's early intervention records until the child's ninth birthday;
- b) Shall inform the parent in writing, upon entry of the child to the early intervention program, when the child's personally identifiable information will be destroyed; and
- c) May retain records longer than specified in paragraph (E)(1)(a) of this rule unless the parent requests destruction of personally identifiable information following the mandated retention period.

### 2. **The department may retain a permanent record of a child's name, date of birth, parent contact information, names of early intervention service coordinators and early intervention service providers, and exit data (including year and age of the child upon exit, and any programs entered into upon exiting) without time limitation.**

Retention of records until the child's ninth birthday marks a change from the previous rule.

# R E V I E W

5123-10-01  
C,D, E

## **Section C Consent/Withdrawal of Consent**

New consent forms  
specific to each activity

## **Section D Prior Written Notice**

The rule allows for  
parent waiver of 10 day  
prior written notice  
requirement.

## **Section E Retention of Records**

Maintain until child's 9<sup>th</sup>  
birthday



**What's  
New?**



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## F. Confidentiality of personally identifiable information in early intervention records

This section matches confidentiality  
of PII in ODH 8701-8-10.1

1. **An early intervention service provider shall ensure the confidentiality of personally identifiable information within a child's early intervention records and:**
  - a) Appoint an employee to assume the responsibility for maintaining the confidentiality of any personally identifiable information;
  - b) Successfully complete department-approved training regarding this rule; **and**
  - c) Maintain, for public inspection, a current listing of the names and positions of those employees who may have access to personally identifiable information.

## F. Confidentiality of personally identifiable information in early intervention records

**This requirement  
should be familiar!**

### **2. An early intervention service provider shall obtain a parent's consent before disclosing personally identifiable information to:**

- a) Anyone other than authorized representatives, officials, or employees of any participating agency in the early intervention program collecting, maintaining, or using the information under part C; or used for any purpose other than meeting a requirement under part C using form EI-06 ("Consent for Release of Records and Consent for Release and/or Exchange of Information," July 2019); **and**
- b) The local educational agency to identify all children potentially eligible for services under part B of the Individuals with Disabilities Education Act using form EI-07 ("Consents for Transition," July 2019).

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# G. Access to early intervention records

Section G correlates with Federal Part C  
Regulation 303.401

## 1. **An early intervention service provider shall:**

- a) Permit the parent of a child who is referred to or receives early intervention services to inspect and review any early intervention records relating to his or her child that are collected, maintained, or used by the provider.
- b) Comply with a parent's request to inspect and review early intervention records within no more than ten calendar days after the request is made. It shall be presumed that the parent has authority to inspect and review early intervention records relating to his or her child unless the early intervention service provider has been provided documentation that the parent does not have the authority under applicable state laws governing such matters as custody, foster care, guardianship, separation, and divorce.
- c) Permit a parent to inspect and review early intervention records relating to his or her child unless the provider has documentation that the parent does not have the authority.
- d) Provide a parent, upon request, a list of the types and locations of early intervention records collected, maintained, or used by provider.
- e) Not charge a fee to search for or to retrieve information or early intervention records requested in accordance with this rule.



# G. Access to early intervention records

**ODH rule 8701-8-09 (C)**  
**Federal Reg 313.415 (d)**

## 1. An early intervention service provider shall: (continued)

- f) Provide at no cost to a parent, either an electronic or paper copy of the evaluation or assessment of the child, the family-directed assessment, and the individualized family service plan within ten calendar days after each individualized family service plan meeting.
- g) Have the option to charge a fee for copies of early intervention records that are made for the parent if the fee does not effectively prevent the parent from exercising his or her right to inspect and review those records.
- h) Keep a record of parties obtaining access to early intervention records collected, maintained, or used under part C (except access by a parent and authorized representatives and employees of the early intervention service provider) including:
  - i. The name of the party;
  - ii. The date access was given; and
  - iii. The purpose for which the party is authorized to use the early intervention records.

# G. Access to early intervention records

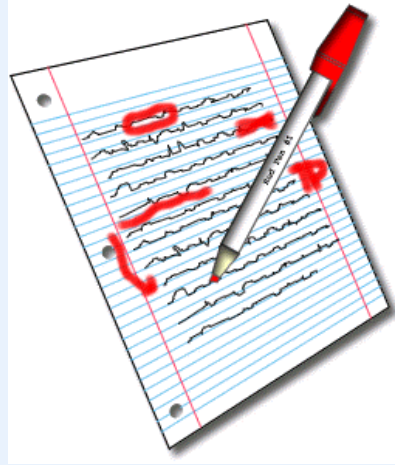
## 2. **A parent's right to inspect and review early intervention records includes:**

- a) The right to a response from the early intervention service provider to reasonable requests for explanations and interpretations of the early intervention records;
- b) The right to request copies of the early intervention records if the parent is unable to otherwise inspect or review the records;
- c) The right to have a representative of the parent inspect and review the early intervention services records; and
- d) The right to inspect and review only the information relating to the parent's child.



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## H. Amendments to early intervention records

Section H correlates with Federal  
Part C Regulation 303.410

- 1. A parent, who believes that information in the early intervention records of his or her child is inaccurate, misleading, or violates the privacy or other rights of the child or parent, may request verbally or in writing that the early intervention service provider that maintains the early intervention records amend the information.**
- 2. The early intervention service provider shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.**



## H. Amendments to early intervention records

- 3. If the early intervention service provider refuses to amend the early intervention records, the provider must inform the parent of the refusal and advise the parent of the parent's right to a due process hearing pursuant to the procedures set forth in paragraph (L) of this rule.**
  - a) The early intervention service provider shall, upon request, provide the parent with the opportunity for a due process hearing in accordance with paragraph (L) of this rule to challenge information in the child's early intervention records to ensure that it is not inaccurate, misleading, or in violation of the privacy and other rights of the child or parent.
  - b) If, as a result of the due process hearing, it is determined that the information is inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, the provider shall amend the information accordingly and so inform the parent in writing.

## H. Amendments to early intervention records

- 3. If the early intervention service provider refuses to amend the early intervention records, the provider must inform the parent of the refusal and advise the parent of the parent's right to a due process hearing pursuant to the procedures set forth in paragraph (L) of this rule.**

**(continued)**

- c) If, as a result of the due process hearing, it is determined that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, the provider shall inform the parent of the parent's right to place in the early intervention records of his or her child, a statement commenting on the information or setting forth any reasons for disagreeing with the decision. Any explanation placed in the early intervention records of the child under this section shall:
- i. Be maintained by the early intervention service provider as part of the early intervention records of the child as long as the early intervention records or contested portion is maintained; and
  - ii. Be disclosed as part of the early intervention records of the child if the early intervention service provider discloses the early intervention records of the child to any party



# REVIEW

5123-10-01  
F, G, H

EIS Provider must:  
appoint staff to maintain confidentiality of  
PII, complete training on procedural  
safeguards, maintain a list of staff who may  
have access to PII

New consent forms  
EI-06 (Consent for Release of records and  
release/exchange of information)  
EI-07 (Consent for Transition)

Clarification of how to amend records



**What's  
New?**

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# I. Dispute resolution

1. **Disputes regarding an alleged violation of part C may be resolved informally at the local level.**
2. **When resolution at the local level is not achieved or preferred, a complainant or parent may file a complaint with the department.**

**These provisions correlate with  
Fed Reg 303.434 and ODH Rule  
3701-8-10**



# I. Dispute resolution

Section (I)(3) correlates with  
Federal Part C regulations  
303.434

## **3. A complaint filed with the department shall:**

- a) Be in writing;
- b) Be filed within one year after the alleged violation that is the subject of the complaint; and
- c) Include:
  - i. A statement that an early intervention service provider violated a requirement of part C;
  - ii. The facts on which the statement is based;
  - iii. The signature of and contact information for the complainant or the parent; and
  - iv. If alleging violations with respect to a specific child:
    - a) The name and address of the residence of the child;
    - b) The name of the early intervention service provider serving the child;
    - c) A description of the nature of the problem, including facts relating to the problem; and
    - d) A proposed resolution of the problem to the extent known and available to the complainant or parent at the time the complaint is filed.

# **I. Dispute resolution**

- 4. The complainant or parent shall forward a copy of the complaint to the early intervention service provider serving the child at the same time the complaint is filed with the department.**
- 5. During the pendency of any proceeding involving a complaint, unless the department and the parent of a child otherwise agree, the child shall continue to receive the early intervention services that were agreed to in the individualized family service plan.**
- 6. If the complaint involves an application for initial early intervention services, the child shall receive those services that are not in dispute.**

# I. Dispute resolution

- 7. After a parent has filed a complaint with the department, the parent may request that the department investigate the complaint pursuant to paragraph (J) of this rule, may request to mediate the complaint pursuant to paragraph (K) of this rule, or may choose to proceed with a due process hearing pursuant to paragraph (L) of this rule.**
- 8. After a complainant has filed a complaint with the department, the department shall investigate the complaint pursuant to paragraph (J) of this rule.**



**NO changes to current process.**

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# J. Investigation of a complaint

The 60 day timeline is consistent with the ODH rule 3701-8-10 (F)

1. **Within sixty calendar days after the complaint is filed and the complainant or parent has requested that the department investigate the complaint, the department shall:**
  - a) Carry out an independent on-site investigation, if the department determines that an on-site investigation is necessary;
  - b) Give the complainant or parent the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
  - c) Respond or provide the early intervention service provider with an opportunity to respond to the complaint, including:
    - i. At the department's discretion, a proposal to resolve the complaint; and
    - ii. An opportunity for the parent who filed a complaint and the department or the early intervention service provider, to voluntarily engage in mediation, consistent with paragraph (K) of this rule;

# J. Investigation of a complaint

1. **Within sixty calendar days after the complaint is filed and the complainant or parent has requested that the department investigate the complaint, the department shall:**

(continued)

- d) Review all relevant information and make an independent determination as to whether the department or the early intervention service provider is violating a requirement under part C; and
- e) Issue a final written decision to the complainant or parent that addresses each allegation in the complaint and that contains findings of fact, conclusions, the reasons for the department's final written decision, and the procedures, if needed, for the effective implementation of the department's final written decision, including:
  - i. Technical assistance activities;
  - ii. Negotiations; and
  - iii. Corrective actions to achieve compliance.



## **J. Investigation of a complaint**

- 2. In resolving a complaint in which the department has found a failure to provide appropriate early intervention services, the department shall address:**
  - a) The failure to provide appropriate early intervention services, including corrective actions appropriate to address the needs of the child whose services are the subject of the complaint and the child's family; and
  - b) Appropriate future provision of early intervention services for all eligible children and their families.
- 3. If a parent disagrees with the department's final written decision issued pursuant to paragraph (J)(1)(e) of this rule, the parent may request to mediate the dispute pursuant to paragraph (K) of this rule or the parent may choose to proceed with the due process hearing procedures pursuant to paragraph (L) of this rule.**

## **J. Investigation of a complaint**

- 4. The department may grant an extension of the time line specified in paragraph (J)(1) of this rule only if:**
  - a) Exceptional circumstances exist with respect to a particular complaint; or
  - b) The parent and the department or early intervention service provider involved agree to extend the time to engage in mediation pursuant to paragraph (K) of this rule.
- 5. If a written complaint is received that is also the subject of a due process hearing under paragraph (L) of this rule, or contains multiple issues of which one or more are part of the due process hearing, the department shall set aside any part of the complaint that is being addressed in that hearing until the conclusion of the hearing. Any issue in the complaint that is not a part of the due process hearing shall be resolved in accordance with the time lines and procedures described in paragraphs (J)(1) and (J)(4) of this rule.**

# J. Investigation of a complaint



6. **If an issue raised in a complaint has previously been decided in a due process hearing involving the same parties:**
  - a) The due process hearing decision is binding on that issue; and
  - b) The department shall inform the parent to that effect.
7. **The department shall resolve a complaint alleging the failure of the department or the early intervention service provider to implement a due process hearing decision.**

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# K. Mediation process

- 1. A parent may file a complaint with the department and may then choose to resolve the dispute through the mediation process at any time.**
- 2. The mediation process:**
  - a) Is voluntary on the part of the parties;
  - b) Shall not be used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under part C; and
  - c) Shall be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- 3. The department shall:**
  - a) Select mediators on an impartial basis;
  - b) Bear the cost of the mediation process;
  - c) Schedule each mediation session in a timely manner; and
  - d) Hold each mediation session in a location that is convenient to the parties to the dispute.





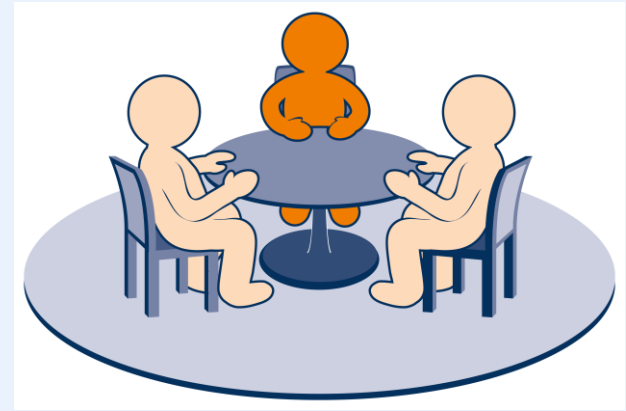
## K. Mediation process



- 4. A person who serves as a mediator shall not:**
  - a) Be an employee of the department;
  - b) Be an early intervention service provider that is involved in the provision of early intervention services or other services to the child; or
  - c) Have a personal or professional interest that conflicts with the person's objectivity.
- 5. If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that sets forth the resolution and:**
  - a) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
  - b) Is signed by both the parent and a representative of the department.
- 6. If the parties do not resolve the dispute through the mediation process, the parties may request the department to conduct an investigation pursuant to paragraph (J) of this rule or the parent may choose to proceed with the due process hearing procedures pursuant to paragraph (L) of this rule.**

# How is the Rule Organized?

- A. Purpose**
- B. Definitions**
- C. Parent's consent and withdrawal of consent**
- D. Prior written notice**
- E. Retention of early intervention records**
- F. Confidentiality of personally identifiable information in early intervention records**
- G. Access to early intervention records**
- H. Amendments to early intervention records**
- I. Dispute resolution**
- J. Investigation of a complaint**
- K. Mediation process**
- L. Due process hearing procedures**



## L. Due process hearing procedures

Consistent with Fed Reg  
303.430 through 303.435

- 1. A parent filing a complaint with the department alleging that an early intervention service provider violated a requirement of part C related to the identification, evaluation, or placement of his or her child, or the provision of early intervention services to the child and his or her family under part C, may choose to resolve the dispute through the due process hearing procedures.**



# L. Due process hearing procedures

## **2. The department shall appoint an impartial due process hearing officer to implement the complaint resolution process. The hearing officer shall:**

- a) Have knowledge about the provisions of part C and the needs of, and early intervention services available to, children and their families;
- b) Listen to the presentation of relevant viewpoints about the complaint;
- c) Examine all information relevant to the issues;
- d) Seek to reach a timely resolution of the complaint;
- e) Provide a written decision within thirty calendar days after the receipt of the parent's complaint; and
- f) Grant specific extensions of the time lines set forth in paragraphs (L)(2)(e) and (L)(3)(a) of this rule at the request of either party.

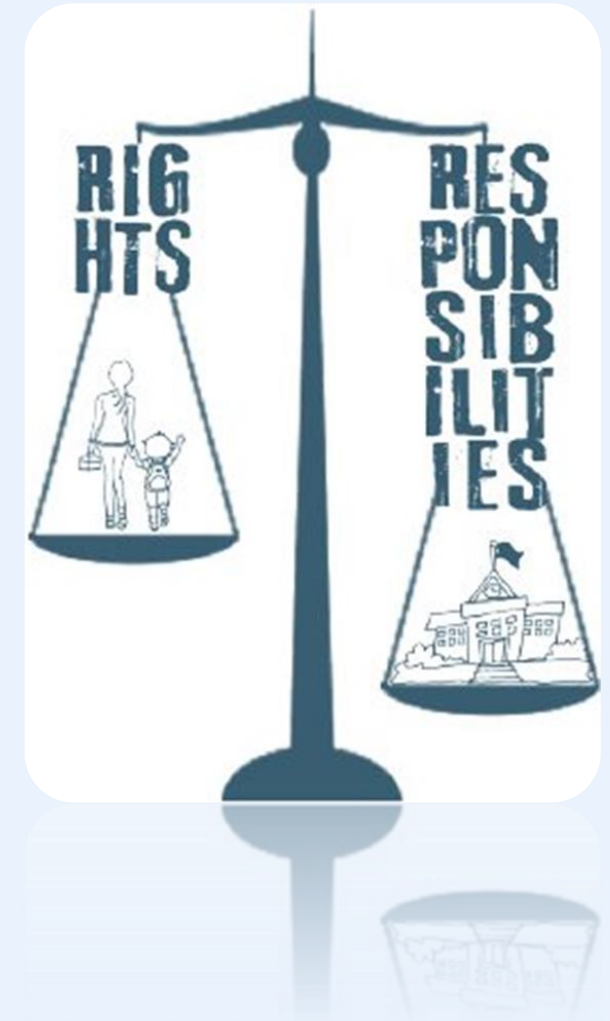


Note: the 30 day timeline in (L)(2)(e) here is shorter than the ODH regulation

# L. Due process hearing procedures

## 3. The parent involved in a due process hearing has the right to:

- a) A completed due process hearing and a written decision mailed to each of the parties within thirty calendar days after the receipt of the parent's complaint;
- b) A due process hearing that is conducted at a time and place that is convenient to the parent;
- c) Be accompanied and advised by counsel and by persons with special knowledge or training with respect to early intervention services, the cost of which shall be borne by the parent;



# L. Due process hearing procedures

## **3. The parent involved in a due process hearing has the right to:** (continued)

- d) Present evidence and confront, cross-examine, and compel the attendance of witnesses through subpoenas issued by the department;
- e) Prohibit the introduction of any evidence at the due process hearing that has not been disclosed to the parent at least five calendar days before the hearing;
- f) Obtain a written or electronic transcription of the due process hearing at no cost; and
- g) Receive a written copy of the findings of fact and decision at no cost.

# L. Due process hearing procedures

## **4. Any party to the due process hearing that disagrees with the findings and decision issued pursuant to the due process hearing procedures:**

- a) May no longer attempt to resolve the dispute through an investigation pursuant to paragraph (J) of this rule or mediation pursuant to paragraph (K) of this rule; and
- b) Has the right to bring a civil action in state or federal court under section 639(a)(1) of the Individuals with Disabilities Education Act, as in effect on the effective date of this rule.





	Investigation	Mediation	Due Process Hearing
Who requests?	Parent or Complainant	Parent	Parent
Who Completes?	The department	The department selects an impartial mediator to assist the parties	The department appoints an impartial due process hearing officer
Timeline	Completed within 60 days of when any complaint was received	At the request of the parent at any time following a complaint and upon agreement of both parties	Decision within 30 days of when the complaint was received
Rights, Duties, and Details	<ul style="list-style-type: none"><li>Carry out independent on site investigation</li><li>Review and make independent determination of compliance under Part C</li><li>Issue detailed final written decision to parent or complainant including: TA, negotiations, and corrective actions</li></ul>	<ul style="list-style-type: none"><li>Mediation is voluntary for BOTH parties</li><li>The dept. bears the cost of the mediation process</li><li>Mediation is scheduled in a timely manner in a location convenient to both parties</li><li>Upon resolution the parties produce and sign a legally binding agreement that resolves the dispute</li><li>If resolution is not reached the parties may still request an investigation or due process hearing</li></ul>	<ul style="list-style-type: none"><li>The due process hearing officer shall hear all viewpoints and examine all relevant information</li><li>The parent has the right to a written copy of decision, convenient location and time of hearing, counsel (at the parent’s own cost), examine and present evidence, and receive a transcript at no cost.</li><li>Any party who disagrees with the finding retains the right to pursue a civil action in state or federal court.</li></ul>

# Ohio Stakeholder rule development



- This rule was developed with feedback from the Early Intervention Advisory Council and stakeholder group.
- If you have questions about Procedural Safeguards please visit:
  - <https://ohioearlyintervention.org/>
  - <http://ectacenter.org/topics/procsafe/procsafe.asp>

A close-up photograph of a young child's face, focusing on the eyes and mouth. The child has large, dark, expressive eyes and a slightly open mouth, looking directly at the camera. The skin is light brown. In the background, a reflection of a person is visible in the child's eyes.

**THANK  
YOU**

[www.ohioearlyintervention.org](http://www.ohioearlyintervention.org)