
A L A S K A

EARLY INTERVENTION/INFANT LEARNING PROGRAM

Child & Family Rights



Office of Children's Services
Alaska Department of Health and Social Services



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Preface

This booklet is written for parents and guardians of infants and toddlers with disabilities. It is intended to assist you in understanding your family's rights to special needs services.

Definition of Parent: A parent means a biological or adoptive parent of a child, a foster parent, a guardian generally authorized to act as the child's parent, 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 303.422 or section 639(a)(5) of the act.. The term does not include the State if the child is a ward of the State. (§303.27)

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 (DHSS).

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. 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 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:

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. (§303.401 and 303.402)

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. If there is a fee for this activity, the parent must give permission for the agency to use private or public insurance. Permission must be given in writing. (§303.20, 303.342(e) and 303.520(b))

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. (§303.321 and 303.342(a))

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 and renewed annually. If the parent wants the plan reviewed sooner they may request an earlier review. (§303.342)



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. (§303.343(a))

Have Services Coordinated

When a family is referred for service, the program assigns a family service coordinator from the profession most relevant to the child's or family's needs. The family service coordinator helps the family understand how the service system works and how to get the services they need as quickly as possible. (§303.343(a)(1)(iv) and 303.344(g))

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. (§303.421)

Understand

Each parent must be given information in their native language if English is not the family's language of understanding. 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. (§303.25 and 303.421(c))

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. (§303.405)

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. (§303.420)

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. (§303.434)

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. (§303.430(b) and 303.431)

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. (§303.435, 303.436, 303.437 and 303.438)

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. (§303.344(h) and 303.209(d))

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. (§303.422)



Confidentiality & Access to Records

- ▶ 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:

- ▶ 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
- ▶ 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).



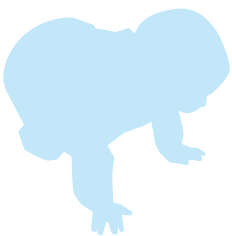


Evaluation & Assessment

- ▶ 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.
- ▶ 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:

- ▶ be fully informed of your rights;
- ▶ 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;
- ▶ understand and provide voluntary written permission or refusal before the initial evaluation and assessments are administered;
- ▶ participate in the initial evaluation and assessment process including eligibility determination;
- ▶ receive a completed initial evaluation and assessment within 45 days after the referral of your child;
- ▶ participate in a meeting to share the results of evaluations and assessments; and
- ▶ participate in all decisions regarding eligibility and services.





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

- ▶ 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.
- ▶ Evaluation and assessment procedures and materials are selected and administered so as not to be racially or culturally discriminatory.
- ▶ 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.
- ▶ Evaluations and assessments are conducted by qualified personnel.
- ▶ Evaluations and assessments administered to children with known vision, hearing, orthopedic, or communication impairments are selected to accurately reflect the child's developmental level.
- ▶ 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.
- ▶ Pertinent records relating to your child's health status and medical history are reviewed as part of the evaluation procedures.
- ▶ No single procedure is used as the sole criterion for determining your child's eligibility for early intervention services.
- ▶ Interviews to identify family resources, priorities, and concerns regarding the development of your child and your family's needs are voluntary.



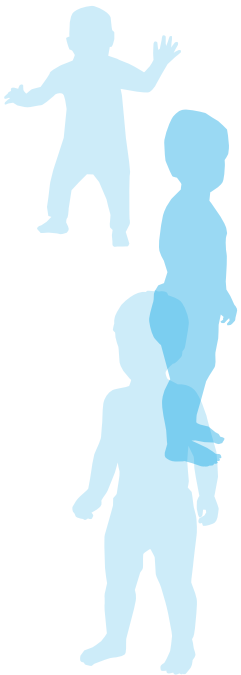
Individualized Family Service Plan

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.

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:

- ▶ attend the IFSP meetings and participate in developing the IFSP;
- ▶ invite other family members to attend IFSP meetings;
- ▶ invite an advocate or persons other than family members to attend and participate in the IFSP meetings;





- ▶ have a copy of the complete IFSP;
- ▶ have the contents of the IFSP fully explained in the language of your choice;
- ▶ 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.)
- ▶ have services provided in a natural environment or a written explanation of why that is not possible;
- ▶ 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:
 - 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.



Payment for Services

Consent to access public or private insurance

Parental consent is required before the EI/ILP provider discloses, for billing purposes, a child's personally identifiable information;

If the parent does not provide consent for the use of public benefits or insurance to pay for services, the EI/ILP must still make available those early intervention services on the IFSP for which the parent has provided consent;

The child's parents have the right to withdraw their consent to disclosure of personally identifiable information for purposes of billing at any time;

Billing Public or Private Insurance For Evaluation And Assessment

Service providers may bill Medicaid, Denali KidCare and any other public or private payers for evaluation and assessment services provided by licensed providers such as MD, PT, OT, audiologists or Speech/Language Therapists. Part C is the "payer of last resort" for evaluation and assessment services. This is true whether or not the evaluation results in determining the child to be Part C eligible.

The family's insurance carrier may also be billed for evaluation and assessment services. However, **IT IS IMPORTANT THAT PARENTS SIGN A STATEMENT NOTING THAT ACCESSING THIS PAYMENT SOURCE FOR AN EVALUATION AND ASSESSMENT WILL NOT REPRESENT A COST TO THEM.** Examples of costs to the family include a decrease in the lifetime cap or coverage, loss of coverage, or an increase in premiums. If a family agrees to have their private insurance billed for a



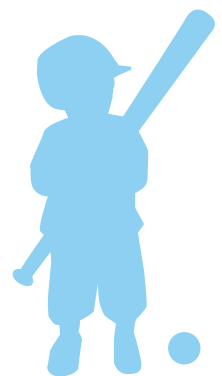
service that must be provided at no cost (such as an evaluation), then the family is billed \$0 for the co-payment or the deductible associated with those services. The early intervention/infant learning program will then cover the cost of the co-payment.

Billing Families For Therapy Services Not Associated With Evaluation And Assessment.

If a child is receiving therapy services and the family doesn't have insurance (an alternate third party payer), the family should be billed for the service. The grantee will apply a sliding-fee scale per 7 AAC 80.030 to determine the amount the family is expected to pay based on their income.

Applying a Sliding-Fee Scale

For fees in excess of \$24.99, a sliding-fee scale will establish the appropriate payment rate for the family. If a family does not have insurance, chooses to not access insurance or has insurance and their deductible has not been met, the sliding fee scale is applied to the total bill. If the family does have insurance and provides consent the sliding fee scale is applied to the portion of the bill not covered by their insurance. A family's income is determined by counting all family income before deductions for the calendar month including the date of service, whether earned or unearned from any source, including the fair market value of in-kind payments, but excluding the Alaska Permanent Fund Dividend or non-taxable payments made under the Alaska Native Claims Settlement Act. (7 AAC 80.030)





Payment for Services *Continued*

Co-Payments and Deductibles

When insurance is billed for therapy services that are not part of the evaluation or assessment, then the family must be charged the full co-payment and deductible. If paying the full amount is a financial hardship to the family, the fee can be reduced using the sliding-fee scale. If the family expresses hardship in paying even the reduced amount, their portion of the payments due may be further reduced or waived upon receiving a written request from the family. Part C funds may be used to satisfy co-payment or deductible. If the family has insurance with a co-payment or deductible, the family should be issued a bill showing the full amount billed for the service and the amount paid by insurance.

As a parent, you have the right to:

- ▶ consent to the use of your public benefits or insurance to pay for services
- ▶ consent to the disclosure your child's personally identifiable information, for billing purposes.;
- ▶ withdraw your consent to disclosure of personally identifiable information for purposes of billing at any time.
- ▶ access your payment source for evaluation and assessment without incurring financial hardship.
- ▶ apply a sliding fee scale to therapy services when you are not covered for this service(s).
- ▶ request payments be reduced or waived if the sliding fee is a financial hardship to your family.



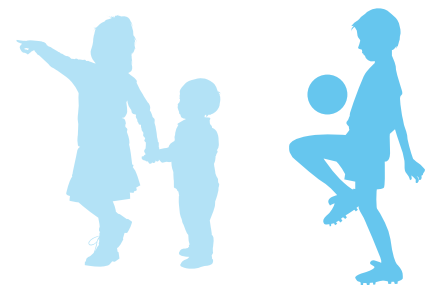
Complaints, Mediation & Due Process

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.

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, Office of Children's Services, Infant Learning Program (800-799-7570).

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

- ▶ 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).
- ▶ be informed of your right to file a complaint; and
- ▶ file a complaint if you believe there has been a violation of any law governing early intervention services.





Complaints

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, 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 Stone Soup Group. 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:

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



The complaint must:

- ▶ be in writing and contain a signed statement alleging the Department of Health and Social Services, Office of Children’s Services, Early Intervention/ Infant Learning Program or a regional or local service provider has violated a federal or state law or regulation;
- ▶ 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.
- ▶ complaints are filed directly with:

**Department of Health & Social Services
Office of Children’s Services
Early Intervention/Infant Programs Learning Manager
323 East 4th Avenue
Anchorage, Alaska 99501**

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

FILL OUT THIS FORM AND MAIL TO: Department of Health & Social Services
Office of Children's Services
Early Intervention/Infant Programs Learning Manager
323 East 4th Avenue
Anchorage, Alaska 99501

OR FAX IT TO: (907) 269-3497

OR DELIVER IT TO US AT: 323 East 4th Avenue Anchorage, Alaska 99501

(907) 269-8442 in Anchorage • Long Distance 1-877-477-3659 or 1-877-HSS-FMLY

Mediation

Circumstances leading to mediation may be disagreements related to a proposal or refusal for identification, evaluation, assessment, placement, or services.

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.

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:

- ▶ 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;
- ▶ 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;
- ▶ bring civil action in court against the other party following completion of the proceeding if you disagree with the results; and
- ▶ receive services identified on the IFSP that are not in dispute.

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

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:

- ▶ 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;
- ▶ confront, cross-examine, and compel the attendance of witnesses;
- ▶ 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;
- ▶ prohibit the introduction of any evidence at the proceeding that has not been disclosed to you at least five days before the proceeding begins;
- ▶ obtain a written or electronic verbatim transcription of the proceeding; and
- ▶ obtain written findings of facts and decisions within 30 days from the date the request is filed.

A request for an impartial due process hearing must be made in writing to the Department of Health & Social Service. 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)

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

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

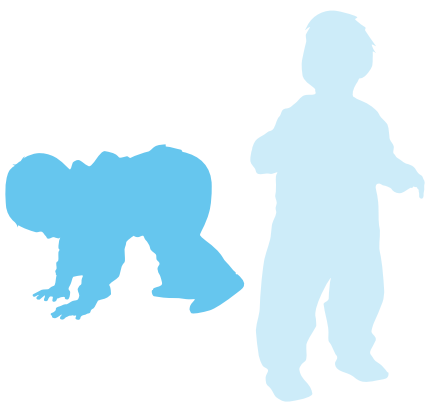
Date

FILL OUT THIS FORM AND MAIL TO: Department of Health & Social Services
Office of Children's Services
Early Intervention/Infant Programs Learning Manager
323 East 4th Avenue

OR FAX IT TO: (907) 269-3497

OR DELIVER IT TO US AT: 323 East 4th Avenue Anchorage, Alaska 99501
(907) 269-8442 in Anchorage • Long Distance 1-877-477-3659 or 1-877-HSS-FMLY

Request for Due Process Hearing



Resources

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

Early Intervention/Infant Learning Program

323 East 4th Avenue
P.O. Box 240249
Anchorage, Alaska 99501

Stone Soup Group

Phone: (907) 561-3701
Fax: (907) 561-3702
Web site: <http://www.stonesoupgroup.org>

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

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

Disability Law Center

Anchorage: (907) 565-1002
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





Sean Parnell, *Governor*
State of Alaska

William J. Streur, *Commissioner*
Department of Health and Social Services

Christy Lawton, *Director*
Office of Children's Services



Alaska Infant Learning Program

323 East 4th Avenue
PO Box 240249
Anchorage, Alaska 99501

Phone: (907) 269-8442 in Anchorage
1-877-477-3659 Long Distance in Alaska
1-877-HSS-FMLY

Fax: (907) 269-3497

Website: earlyintervention.alaska.gov