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**Information on Filing an Early Intervention Formal Complaint**

 **Frequently Asked Questions**

Massachusetts Early Intervention (EI) services support a young child’s learning through meaningful, every day activities. Early intervention services are provided differently than services provided in a hospital or outpatient therapy center. Services are based on developmentally appropriate practice, current research and Part C of the Individuals with Disabilities Education Act.

Massachusetts Early Intervention focuses on three concepts in our work with families:

1. Infants and toddlers learn best through repeated practice during daily activities.
2. Parents and caregivers have the greatest impact on a child’s progress.
3. Early Intervention supports you and your family’s relationship with your child.

**What is a formal complaint?** A formal complaint is a written statement that an Early Intervention program has violated one or more requirements of the Early Intervention Operational Standards or Part C of the Individuals with Disabilities Education Act (IDEA). Formal administrative complaints do not address disagreements about a child’s eligibility, type, frequency, or duration of EI services (see due process hearing and mediation).

There are requirements and timelines the EI program must follow while you receive services. Some examples include:

* Providing you with written notice about your rights, or an action proposed or refused
* Obtaining consent
* Including you in any IFSP meeting where decisions about services are made
* Providing services within 30 days of when you give consent unless you agree in writing to a different timeframe
* Maintaining your child and family’s confidentiality
* Allowing you to look at your child’s record

There are other requirements the program must follow. If you are unsure about a requirement or timeline, speak with your service coordinator, program director or someone at the Department of Public Health (DPH)

**What can I do if I have a concern or complaint?** You are an important member of your child’s early intervention services. As a parent, you may have concerns about how the EI program is providing services. If you find that you have a concern, problem or conflict, you have options:

* Talk about your concerns with your service coordinator. Let them know what your concerns are.
* Speak with the Program Director. He/she might be able to address the concern quickly.
* Call the Department of Public Health Division for Early Intervention. A staff person can provide you more information about your rights and options.
* Request mediation: Mediation is a voluntary process. Parents and members of the EI team agree to talk about the issue with a neutral person (a mediator). Mediation helps parents and the EI team come up with new ideas to negotiate an agreement.
* Request a due process hearing: A hearing may be helpful if the violation links to your child receiving appropriate EI services. However, a due process hearing may not be needed to resolve a violation of a child or parent’s rights.

**What is the difference between a formal complaint, mediation and a due process hearing?**

A **formal complaint** investigation is a process used to determine if an EI program followed a requirement procedure, policy or timeline. The decision about whether or not a violation occurred is made by DPH.

Examples of violations include:

* If the program did not allow you to see what records are kept on your child
* If the program did not provide you with prior written notice of an action the program proposed or refused to take related to your child’s IFSP services.
* If the program did not complete an evaluation/assessment within 45-days of referral

**Mediation** is a process used to try to resolve a disagreement about a child’s eligibility for EI services or the types of EI services by working with a trained mediator. The mediator will clarify the issues and encourage both sides to think about new ideas to negotiate an agreement. The EI program and parent make their own decisions. The mediator does not make a decision about the disagreement.

A **due process hearing** is a process used to resolve a disagreement about a child’s eligibility for EI services or the types of EI services. A due process hearing can also resolve a disagreement about what is in a child’s EI record. A due process hearing can address some procedural and timeline issues if they involve providing appropriate services. The hearing officer will clarify which issue(s) are heard at the hearing. The decision about the disagreement is made by the hearing officer.

 Some examples of disagreements decided at a due process hearing include:

* If you and the EI program do not agree about the type(s) of EI services or how often the services(s) are provided.
* If the EI program includes information in your child’s record that you believe is inaccurate or misleading.

**Can I file a formal complaint, request mediation and a due process hearing all at the same time?**

Yes. Mediation is available within 14-days and will not delay a hearing or a complaint investigation unless both sides agree to a delay.

If you file a formal complaint and a hearing request at the same time, any issue that is part of the hearing cannot be investigated. The hearing officer will decide which issue(s) are part of the hearing and which issue(s) can be investigated as a formal complaint.

**Who can file a complaint?** A parent or someone acting on behalf of a child or a group of children may file a formal complaint.

**How do I file a complaint?**

DPH has a form that you can complete and mail, fax, or email. The form and where to send it can be found here. You may use this form or write your own letter. The form or your letter must be filed within (1) year of when the violation happened and be signed by you. Your letter must include:

* your contact information
* the name and contact information of the child (if filed on behalf of a specific child)
* the name of the EI program
* a description of the violation
* the facts associated with the violation
* a proposal to resolve the complaint (if you know of one)

**Important:** You must send a copy of the complaint to the EI program and DPH.

**Can I file a complaint anonymously?** DPH reviews complaint received by phone or that are not signed as informal complaints. You may call or submit the form to share your concerns. Informal complaints are not investigated.

**What happens after I file a complaint?** You will receive a letter that DPH received your complaint. If you do not receive a letter, please call Mary Dennehy-Colorusso at 978-851-7261, ext. 4016. If you make a complaint that the program violated a federal or state requirement, DPH will start an investigation. If your complaint does not appear to be a violation of state or federal requirements, you will be notified of that decision in writing.

The program will have a chance to respond to your complaint. You will receive a copy of the program’s response (if the program submits one). You will be able to submit more information if you would like.

**How long does the process take?** DPH will send a report to you and the program 60-calendar days after the formal complaint is received. This timeline may be extended for extenuating reasons or if both sides agree to mediation.

The report will address each issue listed in your complaint. If the investigation finds the program did violate a requirement, the program will submit a plan to DPH to correct the violation. The plan to correct the violation may include training of staff, changing a program policy or practice, or make other corrections so that the program follows all state and federal requirements.

**Can I appeal the decision if I do not agree with the report?** No. There is no appeal of the decision in the report.

**Can I withdraw my complaint after I have filed it?** Yes. You may withdraw your complaint any time before DPH sends the report.

**Do you have other questions?**

If you have questions or would like more information about your family rights, contact Mary Dennehy-Colorusso at **978-851-7261, ext. 4016** or mary.dennehy-colorusso@state.ma.us.

For a copy of the DPH Early Intervention Family Rights Notice, click here:

<https://www.mass.gov/lists/early-intervention-family-rights-and-procedural-safeguards>