****

**Information on Requesting an Early Intervention Mediation**

**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 mediation?** Mediationis a confidential, voluntary, informal process that can help solve disagreements between parents and an Early Intervention program. It is a meeting where parents and the EI team agree to have a mediator guide a conversation about the disagreement with the goal of developing an agreement that satisfies both sides. Mediation is an effective process that encourages both sides to openly discuss the disagreement, consider different points of view, and find solutions.

**What can I do if I have a concern or disagree with the program?** 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 disagreement, you have options:

* Have an Individualized Family Service Plan (IFSP) meeting. Review the entire IFSP with other members of the team. What are your concerns for your child? Do your concerns and priorities connect with your outcomes? Is your child making progress? Are the activities and services still appropriate or are changes needed?
* Talk about your concerns with your service coordinator. Let them know what you 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: There are times when parents and the EI team cannot agree. Parents have the right to request a due process hearing even if they have not tried mediation.

**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.

Some examples include 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.

2

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 will not delay a due process hearing or 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 request mediation?**

A parent or an EI program can request mediation. Both sides must agree to participate. The chances of reaching an agreement are more likely when both sides are willing to work with the mediator to consider new ideas and different points of view.

**How do I request mediation?**

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 write your own letter, or contact Mary Dennehy-Colorusso at 978-851-7261 ext. 4016 to request mediation.

**What happens after requesting mediation?** You will receive a letter that DPH received your mediation request. If you do not receive a letter, please call Mary Dennehy-Colorusso at 978-851-7261, ext. 4016. DPH will assign a mediator who will contact you and the program.

**What happens at mediation?**

The mediation will be scheduled at a location that is convenient to both you and the EI program. Mediations happen within 14-days unless you agree to extend the timeline. The mediator generally starts by explaining the process. The mediator will remind everyone that discussions during the mediation session are confidential and may not be used as evidence at a due process hearing or civil suit. You may be asked to sign a confidentiality agreement.

The mediator will give each side a chance to present their concern(s) and view of the disagreement. The mediator will guide a conversation to keep the focus on clarifying information, finding solutions and helping parents and the EI program create their own agreement.

The mediator will then meet with each side separately to ask more questions and gather more information. This is known as a “caucus”. Everyone comes together again to see if there are areas of agreement and what disagreements remain. If the parties work together and compromise, any agreements reached are written down in a mediation agreement.

**What is a “mediation agreement”?**

A mediation agreement is a legally binding document that is enforceable in court. It lists what has been agreed to by the parent and the EI program. Each side will receive a copy of the agreement.

**How long does the process take?**

Mediation can be scheduled within 14 days. A mediation session can last anywhere from a few hours to a day. More mediations sessions can be scheduled if needed.

**What are the qualifications of the mediators?**

Mediators have training in mediation and the Individuals with Disabilities Education Act. The mediators are employed by the Bureau of Special Education Appeals and are a neutral third party. Mediators do not offer opinion(s), take sides or make a decision about the disagreement. Their role is to listen and help parents and the EI program come up with their own solutions and agreements.

**Who pays for the mediator?**

The Department of Public Health pays for the mediator.

**What if we don’t reach an agreement?** You can continue to try to work things out with the EI program or move forward and have a due process hearing.

**What about my child’s IFSP services?** **Do they stop because I requested mediation?**

No. The IFSP services that you gave written consent for are provided unless you and the EI team agree to something different. This is known as “stay put”. It means that the child’s last agreed upon services will “stay put” (not change) unless both you and the EI program agree to something different.

**Can I withdraw my request for mediation after I have filed it?** Yes. You may withdraw your request for mediation any time before the mediation takes place by contacting DPH or the mediator.

**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>

4