

**Parent Rights and Protections  
(Procedural Safeguards under IDEA)**

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# Early On...

*Guiding parents of infants and toddlers with  
special needs through the steps of early intervention  
supports and services in Wyoming*



**Parent Information Center**  
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Information & Referral  
for Parents of Children  
with Disabilities

## Parent Information Center

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# What Rights and Protection Rights Do You Have Under Early Intervention Services?

**A**s the parent of an infant or toddler who may receive Part C early supports and services because of a disability or special health care need, you have certain rights and protections, which are guaranteed by Part C of the Individuals with Disabilities with Education Act (IDEA). These rights and protections, also called procedural safeguards, include:

## **Prior Written Notice**

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The early intervention program must give you advance written information about any evaluations, services or other actions affecting your child. These must be given in your native language or preferred mode of communication. This information must be provided to you a reasonable time before the early intervention program proposes, refuses to initiate, or changes the identification, evaluation, educational placement or provision of appropriate early supports and services.

## **Informed Parent Consent**

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The early intervention program needs your permission to take any actions that affect your child. You will be asked to give your consent in writing before they evaluate or

provide services. You must be fully informed of all information relevant to whatever activity the early intervention program is proposing, and to understand and agree for them to carry out the activity. You also need to recognize that your consent is voluntary. Families have the right and ability to decline, or revoke permission or consent at any time. You have the right to choose part of the services and supports being offered/ provided to your child under the IDEA. There is no "all or nothing" requirement. You will be asked to provide consent before each screening, evaluation and assessment is conducted and before early supports and services are provided.

## **Revocation of Consent**

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Sometimes parents decide that they no longer want their child to receive early supports and services. Before making this final decision, it is important to weigh all the pros and cons and remember that revoking special education services is your right as a parent. However, it also means that the protection and considerations granted under IDEA no longer apply.

If you decide to revoke all services, the early intervention program must send you written notice as soon as the special education services have ended and your child's program changes. If at a later time, you decide that you would like to have your child continuing to receive supports and services under the IDEA, you will have to go back through the referral and evaluation process to determine your child's eligibility.

Also, if you revoke consent for early supports and services after the early intervention program has already begun to provide special education services and supports to your child, the early intervention program is not required to amend your child's education records to remove any references to special education.

### **Access To All Educational Records**

You have the right to inspect, review and receive copies of all educational records with respect to the identification, evaluation and education placement of your child. This must happen no later than 10 days after you request to see the records. You also have the right to review records without any unnecessary delay, and to do so prior to any meeting regarding an Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP) or hearing relating to the identification, evaluation or placement of your child. A participating agency must provide at no cost to parents, a copy of each evaluation, assessment of the child, family assessment, and IFSP as soon as possible after each IFSP meeting.



## Confidentiality

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Any information from your child's records cannot be released to anyone outside the early intervention program without your consent, or written permission. In addition, health care providers or other service providers can not release information to the early intervention program without your written permission. All records are confidential and should be kept private by the early intervention program.

## Evaluation Procedures

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You have the right to a full and individual evaluation of your child's educational needs prior to initial placement in special education. Your child should be assessed in all areas of suspected disability, and the evaluation must be based on a variety of assessment tools, including information provided by parents. The assessment must be made by a multidisciplinary team, including at least one person who is knowledgeable in the area of the suspected disability. Your child must be reevaluated at least every three years or more frequently if conditions warrant, or if you or your child's early intervention team request it.



▶ Re-evaluation -- A re-evaluation most often takes place every three years. However, parents may request that an evaluation take place as often as once a year or in some cases, the early intervention program and

parent can choose to not conduct a re-evaluation. When there is no question that the infant, toddler or preschooler on an IFSP or IEP continues to qualify for special education, the 3 year re-evaluation is not required for eligibility purposes, but can be used to gather additional relevant data for developing an appropriate IFSP or IEP.

- ▶ **Independent Educational Evaluation (IEE)** -- You have the right to request an independent educational evaluation at public expense if you disagree with the educational evaluation provided by the early intervention program. They must provide you with information, upon request, as to how and where to obtain an IEE and ensure that the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, are the same as the criteria that the early intervention program uses when it initiates an evaluation.

Before paying for such evaluation, the early intervention program may initiate a due process hearing to show that its own evaluation is appropriate. If you obtain an IEE at your own expense, the early intervention program must consider the results of the independent educational evaluation in any decision it makes about your child's educational program.



## **Surrogate Parents**

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The early intervention program appoints a surrogate parent when the parents of the child are not known, if after reasonable efforts, no parent can be located, or the child is a ward of the state. The surrogate parent protects the rights of the child in all matters relating to early supports and services.

## **Dispute Resolution Options**

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If you and the early intervention program do not agree on plans or services, every attempt should be made to resolve differences with the local program as soon as they arise. If they cannot be resolved, there are procedures for resolving these concerns quickly. You may request mediation or a due process hearing, (Mediation or due process may be requested by parents OR the early intervention program). You may also choose to file an individual child complaint. For more information on these, call the Early Intervention and Education Program Manager at the WY Department of Health at (307) 777-6972.



- ▶ **Mediation** -- Mediation is a process to assist you and the early intervention program in resolving disagreements regarding



an infant or toddler's special education program. A trained mediator works with both parties to facilitate problem-solving solutions and reach an agreement that satisfies both of you. Airing and solving problems can improve communication and make programs stronger. This process should be at no cost to parents.

- ▶ **Resolution of Individual Child Complaint** -- The WY Department of Health has established procedures to provide for the filing of complaints by individuals or organizations alleging that an early intervention program has failed to follow state and/or federal law in providing an individual infant or toddler with disabilities or a special health care need appropriate early supports and services. To file a complaint, the complainant must send a written and signed complaint to the Wyoming Department of Health for infants and toddlers age birth through 2.
- ▶ **Due Process Hearing** -- This administrative hearing is on any matter relating to the proposal or refusal of an early intervention program to initiate or change the identification, evaluation, educational placement or appropriate early supports and services of an infant or toddler. The process starts with a written complaint by a family, which will go to the state, and then on to an impartial hearing officer. That hearing officer

will then conduct a meeting (hearing) to review all the information and hear your complaint. The hearing will be scheduled at a time and place reasonably convenient to you. Then, after reviewing all the information, the hearing officer will make a decision on how to best resolve the complaint. Call the Wyoming Department of Health, Early Intervention and Education Program at (307) 777-6972, or (307) 777-5246 to learn more.

For more information about special education and disability related topics, or to sign up for the Parent Information Center's e-newsletter, go to our website at [www.wpic.org](http://www.wpic.org).

## Sources and References

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

[www.ed.gov/IDEA](http://www.ed.gov/IDEA)

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[www.parentcenterhub.com](http://www.parentcenterhub.com)