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DEPARTMENT OF ECONOMIC SECURITY

Your Partner For A Stronger Arizona



**Explaining Family Rights and
Dispute Resolution Options**

Purpose of Today's Presentation

To ensure all Service Providing Agencies and their providers have the necessary resources to explain and discuss with families:

- Prior Written Notice
- Procedural Safeguards
- Dispute Resolution options

Procedural Safeguards

- Are designed to protect the rights of children with disabilities and their families
- Offer options for resolving disagreements that arise under Part C of IDEA
- In AzEIP, we call our procedural safeguards booklet “Child and Family Rights in Arizona Early Intervention Program”

IDEA Part C: 303.27 Parent.

(a) Parent means—

- (1)** A biological or adoptive parent of a child;
- (2)** A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- (3)** A guardian generally authorized to act as the child's parent, or authorized to make early intervention, educational, health or developmental decisions for the child (but not the State if the child is a ward of the State);
- (4)** 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
- (5)** A surrogate parent who has been appointed in accordance with [§303.422](#) or section 639(a)(5) of the Act.

(b)

- (1)** Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational or early intervention service decisions for the child.
- (2)** If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (a)(4) of this section to act as the "parent" of a child or to make educational or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the "parent" for purposes of part C of the Act, except that if an EIS provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as the parent for that child.



What Does This Mean for the Provider?

It is the **responsibility** of the Service Providing Agency to determine who can make early intervention service decisions for a child.

When more than one individual is qualified to act as the parent of a child, the biological or adoptive parent who attempts to act as the parent is presumed to be the parent for purposes of making early intervention decisions on behalf of the child.

If the biological or adoptive parent cannot be located or does not attempt to act as the parent, the EIP shall determine the parent in the following order of availability:

- A. a relative or stepparent with whom the child lives
- B. a foster parent
- C. a guardian appointed for the child, other than the state (i.e., DCS, or its' employees/contractors)
- D. a surrogate parent who meets the requirements in this section.

IDEA Part C: 303.404

Notice to Parents

The lead agency must give notice when a child is referred under part C of the Act that is adequate to fully inform parents about the requirements in §303.402, including—

- (a) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
- (b) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information;
- (c) A description of all the rights of parents and children regarding this information, including their rights under the part C confidentiality provisions in §§303.401 through 303.417; and
- (d) A description of the extent that the notice is provided in the native languages of the various population groups in the State.



Procedural Safeguards - What Does This Mean for the Provider?

Service Coordinators thoroughly explain the family's procedural safeguards and provides the family a copy of the "Child and Family Rights In Arizona Early Intervention Program" booklet:

- Initial Visit
- Initial IFSP
- Annually
- When a Prior Written Notice is given to the family
- Anytime a family:
 - Requests a copy
 - Asks for help with understanding their rights
 - Expresses a concern
 - Inquires about filing a complaint or asks about their dispute resolution options

Procedural Safeguards- How to Explain to the Family

- Procedural Safeguards protect the rights of you and your child.
- We have a booklet called the “Child and Family Rights in Arizona Early Intervention Program” that will be reviewed with you at multiple times while you are receiving early intervention services.
- In addition you will be offered a copy of the booklet when it is discussed with you.
- The Child and Family Rights in AzEIP is also located on the website and frequently accessible through a QR code at the bottom of forms when you are requested to provide your signature.
- The purpose of the booklet is to help you understand your rights and to know what to expect under Federal Law.
- Please let me know if you have any questions as I review your child and family’s rights.

IDEA Part C: 303.401

Confidentiality and opportunity to examine records.

The parents of a child referred under this part are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with Federal and State laws.



Confidentiality - What Does This Mean for the Provider?

Parents have the right to confidentiality of personally identifiable information.

- You must keep the families information confidential.
- Families must provide written consent before the family's information is shared outside of the family and the AzEIP Network.
- Families must provide written consent before you request information from other service and health care providers.

Who Can and Can't You Share Information With?

You do not need written permission to share with a Service Providing Agency that has a legitimate educational interest including Division of Developmental Disabilities and Arizona State Schools for the Deaf and the Blind.

If a child is in the care (ward of the state) of the Department of Child Safety, you do not need a consent to share because the Uninterrupted Scholars Act permits disclosure without parental consent.

Individuals that you must obtain written consent from family to share information (this is NOT an exhaustive list):

- Referral Sources
- Child care
- Child's relatives that are not guardians
- Medical community
- Early Head Start

Confidentiality - How to Explain to the Family

- We value the information you and the other community and medical programs have learned about your child.
- If we ask others for this information, we need your written permission to do so.
- The records that your early intervention team develops will not be shared with anyone outside the early intervention program unless you give your permission.
- The Early Intervention program will assure your records are kept private.

IDEA Part C: 303.25

Native Language

Native language, when used with respect to an individual who is limited English proficient or LEP (as that term is defined in section 602(18) of the Act), means—

- The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section; and
- For evaluations and assessments conducted pursuant to §303.321(a)(5) and (a)(6), the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

Native language, when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication).



Native Language - What Does This Mean for the Provider?

- Providers must ask the family what the family considers their native language.
- Evaluations and Assessments of the child and family must be conducted in the family's native language.
- The Prior Written Notice and the Individualized Family Service Plan must be written in the language of the family.
- Native language for individuals with vision or hearing differences means the language that they typically use such as sign language, braille, or oral communication.
- If the team does not speak the language of the family, they must obtain an interpreter.

Native Language - How to Explain to the Family

- It is your right to thoroughly understand all activities and written records about your child.
- If you prefer another language or way of communicating, we will get an interpreter if we are unable to communicate in your native language.
- The early intervention program wants you to understand so that you can be an informed team member and decision-maker.

IDEA Part C:
303.405 Access
Rights

Each participating agency must permit parents to inspect and review any early intervention records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IFSP, or any hearing pursuant to §§303.430(d) and 303.435 through 303.439, and in no case more than 10 days after the request has been made.



Access Rights - What Does This Mean for the Provider?

Families have the right to:

- Receive a copy of assessments, evaluations and the IFSP within ten (10) calendar days.
 - Inspect and review their child's Early Intervention records within ten (10) calendar days.
 - Receive a copy of their child's record within fourteen (14) calendar days.
 - Request for their records to be amended if they feel they are inaccurate, misleading or a violation of their rights.
 - Understand how their child's records are stored and destroyed.
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Access Rights - How to Explain to the Family

- The early intervention record is your family's record.
- You can see anything in the early intervention program's records about your child and family.
- If you do not understand the way records are written, the information in the child's record will be explained to you in a way you understand.
- You are a team member and we want you to have the same information as other team members.
- If you believe the information is not correct or misleading, you can ask us to change it.

IDEA Part C: 303.420

Parental Consent and Ability to Decline Services

The lead agency must ensure parental consent is obtained before—

- Administering screening procedures under §303.320 that are used to determine whether a child is suspected of having a disability;
- All evaluations and assessments of a child are conducted under §303.321;
- Early intervention services are provided to the child under this part;
- Public benefits or insurance or private insurance is used if such consent is required under §303.520; and
- Disclosure of personally identifiable information consistent with §303.414.



Informed Consent - What Does This Mean for the Provider?

Informed Written consent is required before:

- Any screening procedures are used to determine if the child is suspected of having a disability.
 - Evaluation and assessment of the child.
 - Early intervention services are provided to the family.
 - Public benefits or insurance (or private insurance) are used
 - Personally identifiable information is disclosed.
-

What Does it Mean to Obtain the Family's Informed Written Consent?

- The Service Coordinator has explained to the family the reason they are being asked to provide written consent.
 - The family has had the opportunity to read the document or form before being asked to provide written consent.
 - The family understands that they can refuse to give consent for any action or service.
 - Consent is obtained prior to the action.
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Informed Consent - How to Explain to the Family

- 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 we screen, assess, evaluate or provide services.
 - Your early intervention team will explain what happens if you give your consent and if you do not give your consent.
 - We encourage you to ask questions if you do not understand.
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IDEA Part C:

303.421 Prior Written Notice

Prior written notice must be provided to parents a reasonable time before the lead agency or an EIS provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of their infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant's or toddler's family.

Prior



Notice

Prior Written Notice - What Does This Mean for the Provider?

Providers are required to provide written notice to the family when the team proposes or refuses to initiate or change a child's:

- Identification (Screening)
 - Evaluation
 - Placement (Eligibility)
 - Provision of Early Intervention Services (IFSP Services)
-

Prior Written Notice Requirements

The Prior Written Notice must:

- Be provided a reasonable time before the action to allow the family to decide how to proceed.
- Be written in language the general public can understand.
- Be provided to the family in their native language*.
- Explain what is being proposed, changed or refused and why.

*Unless it is clearly not feasible to do so

Prior Written Notice Forms

AzEIP Prior Written Notice Combined Purpose Forms

Propose to Screen: Consent for Screening - Prior Written Notice (GCI-1082A)

Propose to Evaluate: Consent for Evaluation - Prior Written Notice (GCI-1038B)

Individualized Family Service Plan (IFSP)

If the family is in full agreement with the IFSP, the IFSP Informed Consent Page serves as prior written notice.

If the family is not in full agreement with the IFSP, the AzEIP Prior Written Notice Form (GCI-1050B) is used.

For all other instances

Use the AzEIP Prior Written Notice Form (GCI-1050B).

Prior Written Notice - How to Explain to the Family

Your team will be talking to you and providing in writing what they plan to do to give you time to make decisions.

They will give you this advanced notice before they propose, change or refuse to:

- Screen or assess your child
- Evaluate your child
- Identify your child as eligible for AzEIP services

They will also give you advanced notice before they propose or refuse to start or change services on your Individualized Family Service Plan (IFSP).

IDEA Part C: 303.430

State Dispute Resolution Options

Each statewide system must include written procedures for the timely administrative resolution of complaints through mediation, State complaint procedures, and due process hearing procedures.



Dispute Resolution - What Does This Mean for the Provider?

SPAs and their providers should be able to explain dispute resolution options to the family.

Formal Dispute Resolution Options include:

- State Complaint
- Mediation
- Due Process Hearing

What are Cues it's Time to Discuss Dispute Resolution Options with the Family?

- I want to file a complaint
- I want to speak to your boss/supervisor
- Services aren't working and I don't want to hear about TBEIS anymore
- Do I have the right to appeal this decision
- My child isn't making progress and you aren't listening to me
- Well if that's all I can get, I will sign
- If a family tells you they want to close services because they don't like what they are receiving
- Family is upset they have not received all of the services on their IFSP
- If a family asks if there are any other providers that they can switch to
- What is the phone number for customer service
- I am going to (or I have) spoken to my lawyer...

What Do I Do if a Family has a Concern?

- Discuss with the family their dispute resolution options and share a copy of the The Child and Family Rights in Arizona Early Intervention Program with the family
- Share with team the concerns expressed by family
- Invite the family to attend the next Team Meeting to discuss their concerns
- Discuss with your supervisor options to assist family
- Supervisor support/direct contact with family
- Document in contact logs
- Document informal and formal complaints in the SPA tracking system

Written State Complaint - How to Explain to the Family

- A Written State Complaint is used when you believe that there has been an IDEA Part C violation.
- The Child and Family Rights in Arizona Early Intervention Program explains some of your rights.
- If you aren't sure about filing a State Complaint, or you need assistance, my supervisor, the AzEIP Office, or I can help.
- The State Complaint must be in writing, signed by you and must be submitted within one year of when the concern happened.
- You will want to include your child's name, address, the name of who committed the violation, any details that you can provide and if you happen to have a solution in mind, please include that as well.
- AzEIP has a complaint form that you can use or you can write it up as a letter as long as it is signed.
- AzEIP will review your complaint and confirm that a Part C violation has been alleged and if so, they will launch an investigation to see if your allegation is substantiated.
- The AzEIP Office will reach a decision within 60 days of receiving the complaint.
- If AzEIP confirms that violations have occurred, they will identify steps that the program must take to ensure that the violations do not happen again.

Written State Complaint - How to Explain to the Family (Continued)

- The National Center on Dispute Resolution, which is more commonly known as CADRE, offers a variety of resources for families about due process that might be helpful, including written documents and videos. I would be happy to send you the links for this information if you would like.

CADRE Family Resources

- [Overview of Written State Complaints](#)
- [What to Expect After a Written State Complaint is Filed](#)
- [Dispute Resolution Process Comparison Chart](#)

Mediation - How to Explain to the Family

- Mediation is a process where you and your team work with a mediator to help express concerns and resolve a disagreement.
- It is available anytime there is a disagreement between parents and providers about services.
- You, your team or even AzEIP can request mediation, but everyone must be willing to participate and work towards a resolution.
- The cost of mediation is covered by AzEIP.
- When successful, mediation leads to a signed legally enforceable written agreement.
- CADRE has some resources to help explain Mediation as well.
 - [IDEA Early Intervention Mediation](#)
 - [Preparing for Mediation](#)
 - [Dispute Resolution Process Comparison Chart](#)

Due Process Hearing - How to Explain to the Family

- A due process hearing is the most formal dispute resolution option available under IDEA Part C.
- It may be used to resolve disagreements related to screening, evaluation, or eligibility of your child, or your child and family's IFSP services.
- An impartial hearing officer who is knowledgeable about Part C will make a decision about the dispute and may order specific actions to be taken.
- You will be given a written copy of the hearing decision at no cost.
- The hearing officer's decision is legally binding.
- Either side is able to appeal the decision.
- CADRE has some resources to help explain Due Process Hearings which may be helpful.
 - [Overview of Due Process Complaints](#)
 - [What to Expect After a Due Process Complaint is Filed](#)
 - [Dispute Resolution Process Comparison Chart](#)

Resolving a Dispute Informally

Families may choose to resolve their concern informally or choose both informal and formal dispute resolution.

Informal concern resolution may include one or more of the following:

- SPA leadership support to the team
- IFSP facilitation by SPA leadership
- Support from the AzEIP Office

Topic Specific Reminders

- SCs must provide the family with the Child and Family Rights in Arizona Early Intervention Program booklet and explain their procedural safeguards (rights).
- Procedural Safeguards are more than dispute resolution options.
- It is the family's right to choose whether they would like to utilize formal and/or informal dispute resolution options.
- A family is not required to utilize informal dispute resolution options.
- To request formal dispute resolution, a family can use the AzEIP Complaint Request form or write their request in a letter or email.
- Mediation can be requested by a SPA as well as the family.

General Reminders

- Send the Referral Letter/Thank You Letter so the referral source has your contact information and knows the referral was received.
- Ask families for Consent to Share with Referral Source.
- Families with multiples - Inquire how they would like meetings and service delivery visits to be conducted.
 - If conducted at the same time, ensure each child is treated as an individual.
 - Use the appropriate intensity code (UN or UP).
- Confirm I-TEAMS has pushed to FOCUS when submitting a DDD Eligibility Application.
- The DDD Eligibility Application is only signed if a child is eligible for AzEIP.
- ADE Start Dates in I-TEAMS should only be entered once confirmed by the school district. If ADE Start Date is entered, all AzEIP providers must be notified.

Federal and State Resources

[IDEA Part C Subpart E- Procedural Safeguards](#)

[AzEIP Policy Manual](#)

[AzEIP Procedure Manual](#)

[AzEIP Billing Manual](#)

[Child and Family Rights in Arizona Early Intervention Program](#)

Center for Appropriate Dispute Resolution in Special Education (CADRE)

- [CADRE Home Page](#)
- [IDEA Early Intervention Family Guides and Companion Videos](#)
- [Dispute Resolution Made Easy: Using CADRE's Newly Released Parent Guides](#)
- [Playing Nicely Together: Family-Centered Practices to Help Practitioners and Families Work Together](#)
- [Navigating the Path Forward: Managing Difficult Conversations](#)
- [CADRE Continuum of Dispute Resolution Processes & Practices](#)

Thank you for attending!

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